

PAFRAS NEWSLETTER

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Issue 19



Photograph: Graeme Robertson/The Guardian

Death of father of five during forced deportation under investigation by Met homicide unit

The tragic death of Jimmy Mubenga during his forced deportation to Angola on October 12 can have come as no surprise to the Home Office, which has been warned of the likelihood of just such an occurrence on numerous occasions in recent years.

Mr Mubenga died, seemingly from suffocation, while being heavily restrained by three private security guards immediately prior to the departure of his scheduled BA flight. The three guards were later arrested and released on police bail.

The forty-six year old Angolan and former student leader fled his country in 1994 but was initially denied asylum. Only after a protracted legal battle was granted exceptional leave to remain in the UK. He is survived by wife and five children between the ages of 16 and seven months old.

As recently as June 2009 the Chief Inspector of Prisons, Anne Owers, wrote of forced deportations that safeguards in process were 'singularly lacking' while noting that this 'heightened the risk of ill-treatment or abuse'.¹

A report published in March 2010, commissioned by the Home Office and intended to rebuff criticisms of the UKBA raised by lawyers and human right groups,² found that the use of force by private security companies was 'inadequately managed', resulting in 'failures properly to account for [its] use'. It is instructive that the report's author, Dame Nuala O'Loan, felt it necessary to reiterate that: (*continued page 3*)

¹ Anne Owers, forward to *Detainee Escorts and Removals: A Thematic Review*, HM Inspectorate of Prisons, August 2009.

² Their report, *Outsourcing Abuse*, can be downloaded from www.medicaljustice.org.uk

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PAFRAS Drop-in
St. Aidan's Community Hall
Elford Place West
Harehills
LS8 5QD

Tuesdays & Thursdays
10:00 - 12:30

79% of asylum applicants are wrongly denied Legal Aid at appeal

A recent report by Devon & Cornwall Law Centre brings into question the system of funding legal aid for asylum seekers and the behaviour and practices of the both the Tribunal Service and legal representatives.

The report, which details the findings of the Asylum Appellate Project, shows how in 59 of 75 cases referred to it, the project successfully appealed decisions to withdraw legal aid after the Home Office had refused asylum.¹ Thirty percent of these people went on to win their appeals and receive some form of protection from the state.

For asylum applicants, securing legal representation is of vital importance to winning their case. As the report notes:

'Compared with a 23% success rate for all appellants (represented and unrepresented) at appeal, appellants with representation have a 53% success rate.'

Nevertheless many people are refused legal aid—and effectively denied representation—at the appeal stage.

Legal aid for asylum seekers is split into two stages: Legal Help and Controlled Legal Representation (CLR). For each stage a fixed fee is paid by the Legal Services Commission to the representative. The fee for Legal Help covers work conducted up to the acceptance or refusal of a case. The fee for CLR is paid for work undertaken in representing an applicant at appeal.

Legal aid suppliers can only grant public funding when a case satisfies certain conditions, one of which is whether it passes the 'mer-

it test'. Public funding for appeals can be granted if, in the opinion of the legal representative, the case has a 50% chance of success at tribunal.

The Legal Service Commission enforces this rule upon legal aid providers through performance indicators that require them to achieve at least a 35% success rate in their asylum appeals. The findings of the Asylum Appellate Project suggest that too many asylum seekers are being refused legal aid for CLR.

Given the poverty of UKBA decision-making (in quarter one of 2010/11 27% of asylum appeals before the tribunal were granted²) the opportunity to appeal Home Office decisions is a vital one. For many people it can be the difference between life and death.

Everyone has the right to appeal a refusal of legal aid to the Independent Funding Adjudicator. However, the project's findings show that only 30% of appeals to the made by unrepresented asylum applicants were granted, compared to the 79% success rate for appeals prepared by the project's legal caseworker.

The report's findings are critical of the Tribunal Service which all-too-often refuses to adjourn hearings to allow sufficient time for asylum seekers to find new representation, or for their representative to prepare their case.

To read the full report, which includes a number of very interesting case studies, go to: www.lawcentres.org.uk/uploads/Asylum_Appellate_Project_Final_Report.doc

Child detention set to continue for five more months at least

On Monday 8 November the Guardian newspaper reported that Home Office officials were further postponing any end to child detention until March 2011.

The coalition government promised to end child detention immediately after taking office last May. Since then however they have done little other than launch a consultation (the findings of which have yet to be published) and two pilot projects which have been much criticised.

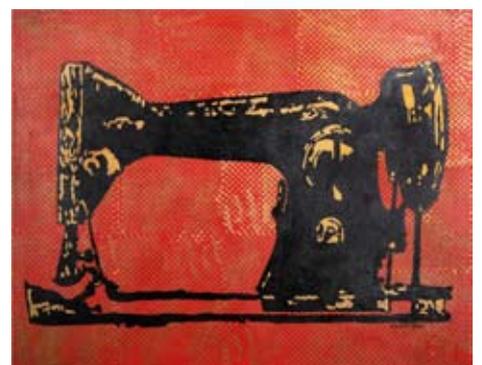
In the interim the UKBA's Control of Immigration: Quarterly Statistics for Q2 2010 show that 115 children were detained between April and June this year.

Responding to a Freedom of Information request made by PAFRAS, Richard Jeffries of the UKBA said that 25 children entered detention within five days of the government making its pledge to end detention.

The full response to our Freedom of Information Request can be downloaded from the new website after its launch on 20 November. www.pafras.org.uk/wp-content/uploads/2010/11/FOI-16254-Child-Detention.pdf

Thanks for all the sewing machines!

We are very pleased to announce that we've had a truly overwhelming response to our request for donations of sewing machines. In all nine machines were donated which stands us in excellent stead to begin sewing activities at the drop-in. A big thank you to all those who donated!



¹ Appeals against refusal of legal aid have only a 30% success rate when not supported by a legal caseworker.

² Tribunal Services Statistical Tables. Accessed on 25 October 2010 downloaded from: www.justice.gov.uk/publications/docs/tribunals-stats-tables-q1-2010-11.xls

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(Continued from page 1)

'On all occasions on which force is used, officers should be required to justify that use of force by reference to the necessity, proportionality and legality of the particular use of force.'³

Whatever the outcome of the criminal investigation now launched into Jimmy Mubenga's death it appears clear that these warnings have been poorly heeded.

Eye witness descriptions of the minutes prior to Mr Mubenga's death paint a disturbing picture of him pleading with his escorts as they forcibly restrained him for over forty-five minutes while the plane prepared for take-off.

One witness recalled how 'You could hear this guy screaming at the back of the plane. He was muffled because they were holding him down... He just then [sic] went quiet.'⁴

Another recalls Mr Mubenga protesting that he could not breathe, Kevin Wallis said:

'He was shouting in English, saying "I can't breathe, get off me". And the guys were holding him very strongly: They were saying: "He'll be quiet once we take off".'⁵

In a statement made shortly afterwards, G4S said only that a detainee had 'become unwell whilst being escorted' and had 'sadly... passed away upon arrival at hospital'; words echoed by the Home Office.⁶

On October 27 it emerged that the Home Office had lifted a temporary ban on the use of force in deportations imposed immediately after the death (ostensibly) while checks were conducted on safety of restraint techniques used G4S. The ban was however only ever applied to public scheduled flights, away from the public eye on chartered removals flights, the use of force continued.⁷

Indeed, almost as soon as forced removals on scheduled flights restarted, authorities indicated their intention to brook no dissent from the wider public. On 31 October two students travelling from Heathrow to Nairobi were arrested and held for several hours under counter-terrorism powers for challenging the way in which a deportee on their flight was being treated.⁸

Despite the warnings of both state and non-state actors about the potentially fatal application of restraint methods used by Home Office contractors, and despite official acceptance of recommendations

"In the beginning his voice was strong and loud but with time passing by, the voice was losing its strength"

made my Dame Nuala O'Loan in March of this year in appears that little has changed.

Just days after the death of Mr Mubenga the UKBA announced that G4S⁹ had lost its

contract to provide deportation escorts; they were however at pains to make it clear that the decision was unrelated to the company's record of abuse or to the death of Mr Mubenga.

In the wake of Jimmy Mubenga's death the Home Affairs Select Committee that it intends to scrutinise the use of restraint in deportations.

On 16 October the Independent newspaper reported that former Chief Inspector of Prisons, Lord Ramsbottom, was calling for the establishment of an independent inspectorate to scrutinise the private companies involved in the detention and deportation of asylum and immigration detainees.

We urge readers to contact their local MP in support of this initiative and of a full and thorough investigation of the circumstances surrounding Mr Mubenga's death that includes in its remit looking at the corporate responsibility of both G4S and the UKBA.

Volunteers Needed

PAFRAS are looking for two dedicated volunteers for high responsibility roles within the organisation.

Driver

We are looking for a driver able to transport food parcels from our food store on Ashton Road Industrial Estate two minutes down the road to the St Aidan's drop-in.

You'll need to work closely and co-ordinate with the staff and volunteers at the drop-in and in the kitchen. You will need to be available one or two mornings a week, to start at Ashton Road Industrial Estate at 9 am.

Cook

Secondly we are looking for an experienced cook to lead our team of dedicated volunteers in the drop-in kitchen. You'll need to hold a current Food Safety Awareness Level 2 Certificate and be comfortable in the kitchen and happy working cooperatively with and leading others.

You will need to be available twice a week on Tuesdays and Thursdays between 09:30 am and 12:30 pm.

If you are interested in either of these positions and would like further information or an application form please email info@pafaras.org.uk

Harvest generosity

As regular readers will know from past issues of the newsletter in the months between April and September we suffered a real shortage of food and, for long periods, were forced to reduce the supply of food parcel to just twenty per drop-in.

We are therefore very happy to say that, thanks to the enormous generosity of so many individuals groups and churches this harvest, we have been able to recommence distributing forty desperately needed food parcels at each drop-in.

Both our service users and ourselves offer a big **thank you** to all those involved, your continued support is invaluable to us!

We'd like also to say a special thank you to the young lady who baked fifty fairy cakes for our service users, thank you Ella!

3 Nuala O'Loan, *Report To The United Kingdom Border Agency On "Outsourcing Abuse"*, March 2010

4 The Guardian, *Jimmy Mubenga death: Witness accounts*, Friday 15 October 2010

5 Ibid

6 The Daily Telegraph, *Witnesses blame security guards over deportee death*, Friday 15 October 2010 (emphasis added)

7 The Guardian, *Chaos over restraint rules for deportees*, Wednesday 27 October 2010

8 The Guardian, *Witnesses 'thrown off plane' during deportation flight*, Sunday 31 October 2010

9 G4S, the firm that employs the three guards under investigation for Mr Mubenga's death, is the world's second largest private sector employer and, according to the Financial Times, has been paid a staggering £30 million a year for its involvement in deportations.

New PAFRAS Website

Positive Action For Refugees and Asylum Seekers
Registered Charity No.1120950
Company Limited by Guarantee No. 5751987



We're very pleased to announce that we will be launching a new website on 20 November.

Intended to provide a straightforward to use and easy to read portal for anyone one wishing to access up to date information about our destitution work as well as the findings of research undertaken by us.

In the News section of the site we hope to publish regular updates and articles about destitution and the policies and practices that impact upon our service users.

As ever we are interested in encouraging participation in this and anyone who is interested in contribut-

ing articles or stories to the website is encouraged to get in touch. The easiest way to do this is to visit www.pafras.org.uk and browse to the Contact Us page.

The site will provide a convenient way to sign up and receive updates about our work, including notification of the publication of newsletters and research papers.

To sign up simply go to: www.pafras.org.uk/wp-login?action=register on 20 November.

We hope that you will find the site interesting and useful and welcome your feedback on it.

Donations

After a tricky period from April to September we again have enough food to provide forty food parcels at each drop-in. Nevertheless, this will not last forever and we very much welcome donations of:

Tins:

Tomatoes, spaghetti, vegetables, fruit, fish (tuna, sardines, mackerel), meat (not pork), vegetables (all kinds) and beans (all kinds).

Dry food:

Sugar, tea, rice, pasta, cereal (these are split down into portions, so catering size bags are useful), small jars of coffee.

Sweets:

Chocolate bars and chocolate biscuits.

We also need:

Long-life milk, fruit juices, biscuits, nuts, and dried fruit.

Toiletries:

Shampoo and, shower gel (small bottles), soap, mouth wash, sanitary towels, toothpaste, tooth brushes,

(safety) razor blades, shaving foam/gel, deodorant, toilet rolls.

Alternatively, PAFRAS accepts financial donations. These are especially useful as they can go to meet all kinds of needs; including money for bus tickets to attend Home Office appointments (see issue 17).

If you would prefer to donate money you can do so easily by completing the standing order form that comes with this newsletter or by following the instructions on our website.

If you are going to donate money, please don't forget to complete a Gift Aid form, if you do so for every £1 you donate the Inland Revenue will give us an additional 28 pence.

To request a Gift Aid form immediately, email info@pafras.org.uk or download the form www.pafras.org.uk/wp-content/uploads/2010/10/Gift-Aid-Form.pdf after 20 November.

If you have any queries please get in touch with us by telephone. If you can help distribute food appeals then please contact us and we will send you leaflets and appeals.