Accelerated Procedures for Asylum in the European Union

Fairness Versus Efficiency

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Sharon Oakley

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Abstract

The belief that certain asylum seekers do not deserve a full consideration of their claim first arose in Europe in the 1980s. At the time, many refugee-receiving countries were being overwhelmed with applications for

secondary data the paper suggests that some States may be in danger of violating the principle of *non-refoulement* and returning refugees to places where their lives or freedoms could be threatened.

Introduction

The belief that certain asylum seekers do not deserve a full consideration of their claim first arose in Europe in the 1980s. At this time, many refugee-receiving countries were being overwhelmed with applications for asylum (Boswell 2000, p.541). Popular opinion had it that the majority of these applications were not from individuals fleeing persecution and seeking protection, but were from people fleeing economic hardship and seeking a better life. This situation was regarded as problematic for two reasons. First, applications from 'bogus' asylum seekers placed extreme pressure on asylum systems and led to increased administration costs. Second, 'genuine' asylum seekers suffered as the resultant backlog of applications meant that it took longer for them to receive refugee status. Therefore, it became accepted that certain asylum applications should be processed in an accelerated procedure. While there is no standardized definition of an accelerated procedure, it is generally understood that an accelerated procedure processes asylum applications at a significantly faster rate than does the normal asylum system.

Manifestly Unfounded Claims, Safe Countries and Accelerated Procedures

The acceptance of the notion that some asylum applications can be processed more rapidly than others is connected to the idea that certain applications are manifestly unfounded. The United Nations High Commissioner for Refugees (UNHCR) first recognized the need to address the issue of manifestly unfounded or abusive applications in 1982 (UNHCR 1982). In its EXCOM Conclusion No. 30 (XXXIV), UNHCR recognised that applications for refugee status from individuals who clearly have no valid claim are burdensome to the affected countries (UNHCR 1983, c). Conclusion No. 30 allowed that,

> *…national procedures for the determination of refugee status may usefully include special provision for dealing in an expeditious manner it2*

'safe countries of origin' claims and 'safe third countries' claims (among other types of claims) in an accelerated procedure. The 'safe country' concepts require further explanation. Although the 'safe country of origin' concept is often traced to the 1992 London Resolution, it was first implemented one year earlier by Belgium in 1991. Böcker & Havinga (1998) explain:

> *According to this rule, which became known as the '2 × 5 per cent rule', asylum seekers from a country which accounted for more than 5 per cent of the applications of the previous year but for which the refugee recognition rate was lower than 5 per cent, would be refused entry unless they were able to prove that deportation to their country of origin would constitute a threat to their lives.* (p.245)

interviewed again and asked about removal barriers.

Accelerated Procedures in the European Union

Accelerated procedures can either be classed as 'inclusionary' or exclusionary. While the main objective of an inclusionary accelerated procedure is to speedily grant an individual refugee status, the main objective of an exclusionary accelerated procedure is to speedily deny an individual refugee status. It is widely held that the accelerated procedures currently in operation in Member States of the European Union are examples of the latter. The view that accelerated procedures that have been implemented by Member States are exclusionary is supported by Frelick (1997): "In Western Europe, states quickly re-erected the Berlin Wall not with cement but with legal barriers, visa restrictions and fast track [accelerated] procedures designed to keep out the unwanted" (p.12). Additionally, the European Council on Refugees and Exiles (ECRE) has noted that "...many European states have established expedited or accelerated procedures that appear to be based not only on speed but also on "a culture of disbelief" whereby most asylum seekers are presumed to be abusing the system" (ECRE 2005, p.5). The assertion that accelerated procedures that have been implemented by Member States are exclusionary is a serious charge. It is premised on two main points of contention that will be examined in this section. They are: (1) The grounds used by Member States to channel certain asylum applications into accelerated procedures, and; (2) The broad criteria used by Member States to identify 'manifestly unfounded' claims. It is first necessary to provide a brief overview of the introduction of accelerated procedures into the asylum systems of Member States.

The Introduction of Accelerated Procedures in European Union Member States

The 1992 London Resolution urged Member States to incorporate its principles into their national laws no later than 1 January 1995 (The Council 1992, para.12). By the end of that year, just over half of the then 15-member strong European Union had incorporated accelerated procedures into their national asylum policies[4] (Table 1).

Table 1: Accelerated Procedure (AP) for asylum in EU states

Member State	Legal framework of AP	Year AP started
Austria	1997 Asylum Act	1998
Cyprus	2002 amendment to Refugee Law	2003
Czech Rep.	Asylum Law (also known as the 1999 Asylum Act)[5]	2000
Denmark	1994 amendment to Aliens Act	1994
France	1992 amendment to Law on Foreigners	1992
Germany	1993 amendment to Asylum Procedure Act	1993
Greece	1996 amendment to the Aliens Act	1999[6]
Hungary	Asylum Law	1998
Ireland	Procedures for Processing Asylum Claims	1997

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[4] Denmark, Finland, France, Germany, Portugal, Spain, The Netherlands, and the United Kingdom.

fact that asylum seekers who are fleeing persecution are sometimes forced to travel with forged documents or with no documents. That an asylum seeker does not have a valid passport has no bearing on the merits of his or her claim for asylum nor does it satisfy the presumption that such a claim is unfounded or abusive (van der Klaauw 2001, p.180). The presence of a technicality does not alleviate a State of its obligations under international law.

Competing Definitions of 'Manifestly Unfounded' Claims

Since the UNHCR first defined 'manifestly unfounded' claims there has been a proliferation of successive (and broader) definitions of the concept. A brief glance at Table 2 highlights the prominence of the concept of 'manifestly unfounded' claims in connection to accelerated procedures. This has previously been noted by Husbands (2001): "The concept of a "manifestly unfounded" claim for asylum, justifying some form of so-called "fast track" procedure, is now a quite general one throughout Europe, though operationalised somewhat differently in various countries". The accelerated procedure first introduced by Ireland (in 1997) and the Czech Republic (in 2000) both processed 'manifestly unfounded' claims, however, Ireland listed 12 grounds[11] for rejecting a claim as 'manifestly

[11] Ireland introduced an AP for 'manifestly unfounded' claims in 1997. Applications can be considered 'manifestly unfounded' on one of the following 12 grounds: "The application does not show any grounds in support of the claim that the applicant is a refugee; The applicant gave insufficient details or evidence to support his/her claim; His/her reason for leaving his/her country of nationality does not relate to a fear of persecution; He/she did not reveal, without reasonable cause, that he/she was traveling with false identity documents; He/she, without reasonable cause, made deliberately false or misleading representations in relation to the application; He/she, without reasonable cause and in bad faith, destroyed identity documents, withheld relevant information of obstructed the investigation of the case; He/she deliberately failed to reveal that he/she had applied for asylum in another country; He/she applied for asylum with the sole

considering a claim as 'manifestly unfounded' include situations where the safe country of origin or safe third country concepts apply, where "the applicant has not produced within a reasonable degree of certainty his/her identity or nationality…", and where "the applicant has made inconsistent, contradictory, unlikely or insufficient representation which make his/her claim clearly unconvincing in relation to his/her having been the object of persecution…" (art.23(4)(c), (f) and (g)).

So far we have discussed competing definitions of 'manifestly unfounded' claims at the international and supranational level. Guided by the 1992 London Resolution most EU countries have adopted a much broader definition of 'manifestly unfounded' criteria that goes far beyond the more narrowly defined UNHCR understanding of the concept. That the concept is quite commonly used throughout Europe but operationalised very differently has already been generally discussed above; however, some of the more extreme examples are more relevant to the argument here. In Latvia, for instance, under the National Law on Asylum Seekers and Refugees (effective 1 January 1998), one criteria for considering a claim 'manifestly unfounded' is if an asylum seeker has been residing illegally in the country for more than 72 hours before he or she claims asylum (ECRE 2001, p.182, see also *Appendix A*). The decision to deem such a claim 'manifestly unfounded' is made within 5 days and the asylum seeker has no right of appeal. In the Czech Republic one criterion for considering a claim as 'manifestly unfounded' is if it is based on the desire to "avoid a situation of war" (see Bryne 2002). In this situation an asylum seeker loses his or her right to an appeal with suspensive effect if he or she does not lodge an appeal within three days of this initial decision. Similarly, in Germany under 1993 amendments to the Asylum Procedure Act (effective 1 July 1993), one criteria for considering a claim 'manifestly unfounded' is if it is based on the desire to escape from a "warlike conflict" (ECRE & DRC 2000). In this situation applicants whose claims are deemed 'manifestly unfounded' are required to leave the country in one week[14].

The contrast between the UNHCR and the EU definition of 'manifestly unfounded' claims — and the way in which Member States have chosen to operationalise the concept — represents significant cause for alarm. Johannes Van der

[14] During this one-week period, applicants may lodge an appeal with the administrative court. According to ECRE "the court bases its decisions solely on the evidence of written material - no hearing is held" (ECRE & DRC 2000).

major concern. The report concluded that the accelerated procedure presented "...an unnecessarily high risk that the procedure will result in violations of the Netherlands' non-refoulement obligations" (p.31). A common thread amongst these reports is the active part taken by refugee and similar organisations in commissioning or even undertaking the research.

The Fast Track Procedure in the United Kingdom

The accelerated procedure in the United Kingdom is known as the 'fast track' procedure. The fast track procedure was first piloted at Oakington Immigration Reception Centre which opened on 20 March 2000[16]. Prior to the opening of the

are included in the fast track procedure; (2) the Detained Fast Track Process Suitability List ensures that individuals who are unsuitable for the fast track are not included in the pilot scheme; (3) the duty solicitor scheme ensures fast track detainees have access to legal representation throughout the process; (4) the timeframe of the fast track procedure is "flexible", and; (5) legal representatives may make three types of legal applications at appeal, including an application to transfer the claim from the fast track system to the mainstream system. The Home Office believes that these safeguards "...enable appellants who may not be suitable for the fast track process to be transferred from the pilot scheme to the main appellate system" (Great Britain 2004, p.75).

Bail for Immigration Detainee's Concerns about the Fast Track Procedure

Bail for Immigration Detainees (BID) is a small charity that works with asylum seekers and migrants detained under Immigration Act powers, in removal centres and prisons in the United Kingdom. BID exists to improve access to bail for asylum seekers and migrants detained under

personal and emotional nature, and handle confidential legal information. The project

Interviews with detainees and legal representatives took place over the telephone. This is not ideal, and particularly in the case of the detainee interview, it raises questions about informed consent. Piper and Simons (2005) explain the concept of informed consent thusly, "...those interviewed or observed should give their permission in full knowledge of the purpose of the research and the consequences for them of taking part. Frequently, a written informed consent form has to be signed by the intending participant" (p.56). Because interviews took place over the telephone, subjects did not sign the Project Consent Form. Instead, researchers read the form to subjects over the telephone and, with their understanding and permission, signed on their behalf. The reasons that face-to-face interviews are preferable to telephone interviews are clear. Had interviews taken place at the immigration removal centre however, privacy may have been compromised. First, it is likely that interviews would have taken place in a visiting room where conversation between researcher and subject may have been overheard. Second, this would have alerted officials to the fact that detainees were participating in the study. The decision to conduct interviews over the telephone ensured that the privacy of the subject was protected (subjects spoke to researchers over the telephone in their private room), and that the subject's participation in the study was not general knowledge. While it is true that a consent form could have been posted to detainees, mail is monitored and, as such, this may have alerted staff to the subject's involvement in the study. Interviews were conducted in a language chosen by the detainee and the research team is confident that detainees fully understood: (a) that their involvement in the study was voluntary, and; (b) that their involvement in the study would have no bearing on their asylum application. All data was collected and stored in accordance with data protection standards to ensure confidentiality[21].

The first stage of the research — court monitoring — collected quantitative data through passive observation. Court monitors were given a simple 2-page Court Monitoring Form (see *Appendix E*) and were asked to observe court proceedings and note basic details about the hearing (for example, whether the applicant had legal representation or whether a request for adjournment was made). Court monitors had the option to record observational notes; however, the emphasis here was on the collection of quantitative data. The second and third stages of the research — detainee interviews and legal representative interviews — collected qualitative data with the use of a structured interview. The Detainee Interview Form (see *Appendix* G) was designed to gather qualitative information on how asylum seeker's felt about the rapid assessment of their asylum claim. The emphasis here was on the presentation of their asylum claim at the appeal hearing (so for example individuals were asked to describe what happened at their appeal and how they felt about the Judge's decision). Individuals were also asked to comment more generally on the fast track procedure. Similarly, the Legal Representative Interview Form (see *Appendix H*) was designed to gather qualitative information on how legal representatives dealt with the inherent

[21] Additionally researchers signed a confidentiality form to protect the privacy of research participants.

the 'Basic Information' section of the Court Monitoring Form (see *Appendix E*) before the court was in session. 11 researchers (with one researcher assigned to one hearing) monitored all of the fast track asylum appeal cases that were heard before the AIT during this one week period (22 cases).

The second phase of the research detainee interviews took place shortly after appeal hearings were observed. In all but one of the 22 cases, an interpreter translated court proceedings to the detainee. This information was recorded on the Court Monitoring Form and the research team was able to assign detainee interviews to researchers with the appropriate language skills. Researchers contacted detainees whose cases had been observed over the telephone and asked if they would agree to be interviewed about their experience[22]. Interviews took place over the telephone and lasted approximately 10 to 15 minutes. In total, 16 of the 22 detainees participated in these interviews[23]. The third phase of the research legal representative interviews took place after the detainee interviews. With limited success, researchers contacted legal representatives of the 22 detainees whose cases were observed and asked if they would agree to be interviewed about their experience working within the fast track procedure. In total, seven legal representatives participated in these interviews[24].

[22] As noted previously, detainees spoke to researchers over the telephone in their private rooms. Researchers phoned the switchboard at Harmondsworth and were

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form for the research team at BID. In some cases researchers submitted a form with the both the interview language responses and the English translation underneath (although this was not standard procedure).

The language barrier was one factor that contributed to a small sample size. The research was unfunded and in some instances BID was unable to find volunteer researchers who would be able to conduct detainee interviews in the necessary language. BID observed 22 asylum appeal hearings and interviewed 16 of the 22 detainees whose cases were observed. 4 of these 22 detainees were unable to be interviewed because of a language barrier. During the tracking exercise the language barrier meant that BID was able to interview only 4 of the 6 detainees who remained in immigration detention[26]. The

that a medical and psychological assessment appointment had been made for the appellant on a date that was outside of the fast track timeframe. While the Judge did allow for the case to be removed from the fast track it was not on this basis but rather on the grounds of a large amount of supporting documentation that could not be dealt with within the fast track time frame. Neither the appellant's claim that he was a torture victim nor his current mental state was considered in court. Yet it was only once the applicant's case had been removed from the fast track procedure that the torture allegation could be (and was) substantiated.

The Merits Test and Crisis in the Funding Regime

All fast track detainees are entitled to publicly funded legal representation during the initial stages of their asylum application and at interview. This is known as Legal Help. However, they may not be entitled to publicly funded legal representation for any appeal against refusal of asylum depending on the merits of the case as perceived by their legal representative. Fast track detainees at Harmondsworth and Yarl's Wood are offered representation under a duty solicitor scheme that is run by the Legal Services Commission (LSC). Representation by a duty solicitor at the appeal stage (known as Controlled Legal Representation – CLR) is subject to satisfying the merits test for public funding. This means that only those cases that can be identified as having a moderate or better chance of succeeding in court are awarded public funding. Those cases where the chances of success appear to be borderline or unclear may also be awarded public funding (see ILPA 2005, p.250). If the prospects of success are considered poor (less than 50%) the representation for the appeal is to be refused. In a recdera

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excuse not to carry out their ethical duties of providing proper representation, dropping their client at the appeal stage. It is very clearly against Law Society guidance, best practice and is in breach of professional ethics. When asked, "If you did not have a lawyer at your appeal could you explain why not?", another detainee replied: "The lawyer said to me 'I don't have time'. He didn't tell me anything about a poor prospect of success." (Case N).

BID was able to interview nine of the 13 detainees who went before an Immigration Judge with no legal representation. Four of these 13 detainees said that they had been asked to fund their own legal representation. One detainee said: "[The lawyer] said you give me £1200 and I'll deal with your case. I didn't have the money so I represented myself" (Case R). The detainee of Case I was told by his legal representative that his case had merit but that the firm wanted £1,000 to represent him at appeal. He could not afford to pay so was unrepresented at his appeal. This is clearly in breach of the LSC guidance and also unethical and contrary to Law Society guidance. Legal representatives must refuse CLR in those cases where the prospect of success in court is assessed to be clearly below 50% (see ILPA 2005, p.250). However, the responsibility of legal representatives does not end once CLR is refused. Representatives must inform their client of their decision to refuse public funding and also give them a review notification form (also known as a CW4 form) which, in theory, enables them to challenge that decision[31].

BID was interested in finding out how many of the detainees in this sample were actually given a CW4 Form. Of the 9 detainees interviewed who went before the Immigration Judge without any legal representation, four said they had received a CW4 form and five said they had not. One detainee who received a CW4 form said that he did not know what it was, suggesting that some legal representatives may fulfil their obligation to give their client a form but fail to fully explain the situation tunds (ofe]TJu s(t)4.4e,t a fo( )-6laine)6(of theT*1.20361cer1 T7eciftu)y9 fow[("6(y)6(cli)6.8(ly given

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> *is better... You don't have to overload the client with information and then start taking instructions on a potentially traumatic history. In fast track you have to do this all at once. Any longer than the three hours [allocated for the meeting], you or the client are not thinking straight...I wouldn't advocate this system, it has huge problems. It would be better to have time to go away and clarify and have time to come back and take further instructions*. (Case K)

In six of the 22 cases a request was made for more time at the appeal stage, in order to gather supporting evidence. This request was granted in four cases. Of the 16 fast track detainees that were interviewed, eleven said that they were unable to gather evidence in time for the appeal. It is clear that this lack of time leaves detainees feeling harshly-treated and disadvantaged by the system. The following statement was made by a detainee whose request for more time was refused in court:

> *To appeal you need grounds and evidence to show in court. Two days is not enough for someone to find evidence to work on his case so he can stand strong in court. You do appeal because you can but you are not appealing in confidence. You have no time and the lawyer*

in. They even asked her, at the guard house, to wait in the MacDonald's!

Widespread Confusion About the System Amongst Detainees

The Office of the Immigration Services Commissioner (OISC) includes in its training to immigration caseworkers a list of information that the client needs to be given at initial interview, which includes explaining fairly complex legal points. This list includes: confidentiality procedures; organisational procedures including complaints; the role of the representative; the role of any interpreter present; the asylum application process including refugee and European Convention of Human Rights definitions; that removal cannot take place pending the outcome of the claim unless it is certified as manifestly unfounded; that the application lapses if the applicant leaves the UK; the implications of the different grants of leave; the implications of a failed application.[33]

BID's research suggests that there is pressure on fast track legal representatives to take short cuts when giving initial information, adding to detainees' confusion, bewilderment, frustration and stress. In three cases, the detainee said that they didn't know that their case was being dealt with in the fast track and didn't understand what it was (Cases F, K and S). In response to the question "Who explained the process to you?", the detainee from Case K responded, "No-one. They just said your case is being fast tracked. When they said this, I didn't know what fast track was. I didn't know anything."

Lack of Legal Representation in Court at Appeal

Thirteen of the 22 detainees in our sample (approximately 60%) went before an Immigration Judge with no legal representation. Statistics released to BID under the Freedom of Information Act show that in January and February 2006, of 132 appeals, 72 appellants (55%) were not represented,[34] demonstrating that BID's sample was broadly representative. Our court observation data documents four cases where Immigration Judges assured applicants that their lack of legal representation would not prejudice their case. Through the court interpreter, one appellant was told by the presiding Judge, "The Home Office Presenting Officer and I are here to help you. You are not disadvantaged by your lack of representation". The Judge presiding over Case C said that since the applicant was un-represented, she herself would "try to assist his presentation". In another case the Judge explained to the un-represented applicant that she would ask him the questions that his representative would have asked (Case O). In BID's view it is not acceptable for Judges to suggest that the role of an absent legal representative could be assumed by either the Immigration Judge or the Home Office Presenting Officer (HOPO). The role of the Immigration Judge is to adjudicate the case, while the role of the HOPO is to argue against the asylum claim. It is not the responsibility of either to argue for the asylum claim and to suggest otherwise may give the detainee the misapprehension of the court process and the false impression that he would be wrong to assert his need for a legal representative.

In BID's view, it is not accurate for a Judge to suggest to an applicant that his lack of legal representation will not prejudice his case, especially when the case is being processed within the fast track procedure. It is unrealistic to assume that an individual who finds himself detained in a foreign country, who may be dealing with trauma and who may not understand English would be able to present his subjective case. It is out of the question that a detainee without legal representation could familiarise himself with UK immigration law within the given timeframe in order to adequately represent himself. Yet over half of the detainees in our study were forced into a position where they had to try to present their case without legal assistance.

Failure to Make Applications to have Cases Taken out of Fast Track

The advantages of taking the case out of the fast track for the preparation of evidence and the ultimate success of the case have been highlighted above. Yet the picture which emerged from the research was of a great proportion of un-represented detainees who had no capacity to make the legal applications to adjourn their case or to remove it from the fast track[35]. Out of a total of 22 hearings observed, only four applications to remove the case from the fast track were made, only three applications for adjournment were made and only one application for bail was made[36]. A legal representativeayssia.0041(e ca)

[33] OISC training materials, 2005

[34] 2006, 69 appellants were represented at their appeal and 31 were not. In February, 63 were represented and 41 were not.

had made an application commented, when explaining why her client's application was refused: "...[the] Judge was confused about whether he had the power to de-fast track the case and that was why it had to be argued on the day of the appeal" (Case E).

One of the major reasons given for the lack of applications is the intense time pressures experienced by legal representatives. When asked if he had made any application at any stage for his client to be removed from the fast track, the legal representative involved in Case K replied,

> *No, there was insufficient time. We were battling even to present his case. There wasn't time to interview him properly and we had to conduct the interview by phone only. The only day I saw him was for five minutes on the day of his hearing.*

The solicitor involved in Case T also suggested that the time constraint was the major reason why he did not attempt to get his client's case

to remove may not, however, immediately be followed by physical removal of the applicant. Administrative delay, difficulties in obtaining travel documents and non-cooperation or bureaucratic delay by the country of origin may mean that an unsuccessful applicant continues to be detained well after the decision to remove has been made. BID was able to learn about the decision from the appeal hearing we observed in all of the 22 cases. The decisions reached by the Immigration Judges are as follows: In 14 of the cases the appeal was refused; in two of the cases the appeal was adjourned; three cases were removed from the fast track procedure and therefore released from detention; in two of the cases the applicant chose to withdraw his claim for asylum, and; in one case the refusal of asylum by the Home Office was successfully appealed. At the end of the court observation period, 18 of the 22 detainees were still being held in immigration detention. This includes those cases where the asylum claim was refused (14), those cases where the case was adjourned within the fast track (2), and those cases where the claim for asylum was withdrawn and the applicant was awaiting voluntary return (2).

Several of the detainees raised problems about their removal without prompting. They expressed frustration and desperation that they remained in detention following the exhaustion of their appeal rights, either because it is impossible in practice to remove them to their home country, or because there are considerable administrative delays by the Immigration Service in processing their removal. The following exchange from an interview with one of the fast track detainees (Case V) is representative of that frustration:

> Interviewer: *Have the Immigration Service given you a date for when you are going to be removed from the UK?*
>
> Applicant*: No, they don't tell me anything.*
>
> Interviewer*: If the Immigration Service are not sending you home quickly, do you know why?*
>
> Applicant

Current Implications

This paper suggests that that the accelerated procedures that are in operation in European Union Member States are an example of an exclusionary asylum policy. It has argued that these procedures are underpinned by an emphasis on speedily *rejecting* an individual's asylum application rather than on speedily *accepting* it. This is supported by the expansive criteria used in many Member States to deem a claim manifestly unfounded. It is also supported by the overwhelming reliance on procedural and formal grounds, rather than on grounds related to merit, in assessing the speed at which an asylum application should be processed. The concept of exclusionary asylum policies can be examined further by introducing the concepts of 'physical exclusion' and 'procedural exclusion'. Physical exclusionary asylum policies are those policies that physically block an asylum seeker's access into a country (for example, visa restrictions and carrier sanctions). Procedural exclusionary asylum policies are those policies that inhibit an asylum seeker's access to a fair hearing of their asylum claim when they are *in* a country of asylum (for example, restricted access to legal aid and diminished rights of appeal). The speed at which an application for asylum is processed in an accelerated procedure means that asylum seekers and their legal representatives often struggle to adequately present their case. In this sense an accelerated procedure may be said to be an example of an exclusionary asylum policy that involves procedural exclusion. It can also be argued in some cases that accelerated procedures also involve physical exclusion. In some Member States, individuals whose asylum applications are processed in an accelerated procedure are detained throughout the application process. The exclusionary nature of immigration detention is summarized by Bloch and Schuster (2005): "While deportation is an explicit form of exclusion from the territory of the state, detention is both 'enclosure' within a camp or prison, and exclusion from the receiving society" (p.493). In such instances then, an accelerated procedure is the ultimate example of an exclusionary asylum policy since it involves both procedural exclusion *and* (internal) physical exclusion.

The Way Forward

At the time of writing, the fast track procedure was being piloted in 3 of the 10 Immigration Removal Centres in the United Kingdom. It has been indicated that the fast track pilot scheme will

process). This proposal, known as ‘frontloading’, “...is the policy of financing asylum determination systems with the requisite resources and expertise to make accurate and properly considered decisions at the first instance stage of the procedure” (p.38). This is supported by Bryne

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