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INDEPENDENT ASYLUM COMMISSION INTERIM REPORT

This unofficial body published its interim report on 27 March 2008. Contrary to what its title and the launch of its report at the House of Commons may suggest, it is not an official body and has not been funded or otherwise supported in any way by the government. It is a private ad hoc committee set up by a number of charities to undertake “a truly independent review of the UK asylum system from beginning to end.” The Commission can properly be described as independent but it cannot be described as unbiased.

The Commission are obviously a respected and respectable body who have devoted a great deal of time and effort to taking evidence from many sources, analysing it and producing a coherent report. They took wide ranging oral and written evidence, including from Migration Watch UK. They also heard evidence given anonymously by 90 asylum seekers and by many members of the public.

The obligation to grant asylum to persons who have a well-founded fear of persecution in their own countries on account of race, religion, nationality, membership of a particular social group or political opinion is accepted by the governments of the United Kingdom and of many other countries in Europe, North America and elsewhere, pursuant to the 1951 United Nations Convention relating to the status of refugees. It is an obligation which Migration Watch support, despite the considerable burdens imposed on the taxpayers and on the hospitality of the host country. Since the early nineties the number of asylum seekers has increased enormously, and although in recent years the inflow has diminished, applications in the United Kingdom are still running at 28,000 a year, including dependants. This nowadays amounts to less than 10% of net foreign immigration but it is clearly important that applications should be carefully examined to ensure that they are genuine. Regrettably, most applications are found not to be genuine; in recent years over 60% are rejected either at first instance or on appeal to the Asylum and Immigration Tribunal. Of those accepted, less than 20% have been granted asylum and another 12% have been given permission to stay. This is an aspect of the working of the asylum system which receives no proper mention in the interim report. The report does not include statistics showing the rates of success and failure of asylum applications or appeals, still less is there any comparison between failures and removals.

The unspoken assumption behind the report seems to be that all applications are genuine. The opening paragraph of the Introduction to the report is significant:

“How are we to deal fairly with those who come to our country in search of sanctuary from persecution? How can we ensure that their cases are heard with all speed consistent with justice, and that all are treated with the right balance between firmness and humanity?”

At page 7 of the report the following sentence appears:

“The Independent Asylum Commission is concerned only with those who come to the UK seeking sanctuary from persecution and makes no comment on economic migration.”

Both these statements implicitly assume that all asylum seekers are seeking sanctuary from persecution. There is no acknowledgement that 70% of their applications fail. The fact is, however, that decision takers in BIA and immigration judges hearing appeals against refusal of asylum find that many, possibly most, failed asylum seekers are in fact economic migrants who have no basis for obtaining leave to enter lawfully and are seeking to use the asylum system as a means of doing so. The Commission chooses not to comment on economic migration but clearly, in thus abstaining, it is giving an incomplete picture of asylum, ignoring the true motivation of large numbers of asylum seekers, and is avoiding one of the central difficulties of running the system fairly as between the applicant and the host community.

Throughout the first section of the interim report, dealing with the initial decision making process and appeals, there are large numbers of quotations from evidence given to the Commission. These are given prominence by large red type and double spacing. They are all obviously selected to convey the general impression that the process is unfair and oppressive and they reinforce our view that the report is heavily biased in favour of asylum seekers and their representatives. To take just two out of many examples:

At page 20 : “Interviews are routinely used as opportunities to seek out and highlight alleged discrepancies in the accounts of individuals who are frequently traumatised and bewildered by their experiences, rather than to enable applicants to impart full and relevant information.”

At page 36: “From the experience of our clients it seems clear that the Home Office is hell bent on finding reasons to discredit their stories. Caseworkers who should be assessing whether people are in danger and need protection just seem intent on disbelieving them.”

Lack of credibility is the main reason for the rejection of asylum applications and the dismissal of appeals against refusal. Decision takers at both must inevitably take into account the frequency with which applicants/appellants are found not to be telling the truth; they are not, as the second quotation claims, “hell bent” on finding reasons for disbelieving the accounts offered. In the experience over ten years of Migration Watch’s Honorary Legal Adviser, formerly an immigration adjudicator, who heard some 600 asylum appeals, it was a pleasure to find an appellant who was clearly telling the truth, who had given good evidence of a well-founded fear of persecution and whose appeal was therefore allowed. In most cases there was no need to seek reasons to disbelieve the appellant’s story – the reasons were usually obvious. Appended to this statement is an extract from the written evidence we submitted to the Commission, showing the main reasons for disbelieving evidence given in asylum appeals.

While we respect the labour and care which have gone into taking the evidence and preparing this report, we regret the serious lack of objectivity and balance in its interim findings. We hope that the final report will restore some much needed balance.

27 March 2008

APPENDIX

Extract from Migration Watch evidence.

Credibility

17 Most asylum appeals are dismissed and the principal reason for dismissal is that the appellant’s evidence is not believed. Reasons for not believing it include the following:

- The appellant has told a materially different story at the hearing from what he told the Home Office in interview. Such differences are infinite in number. The appellant may, for example, in a case where he was interviewed on arrival have said that he had reasons for

coming to the United Kingdom which were not based on any alleged persecution or he may even admit that he has come here for economic reasons. This inevitably results in the refusal of asylum and he decides that he needs to improve on his story on appeal - but of course in so doing he digs a hole for himself. He may also give different dates for particular events from the dates he gave previously. He may relate facts which are completely at odds with what he said before.

- A seriously unbelievable story, e.g. an appellant from a large country such as Pakistan claims to fear persecution at the hands of a group of people found in only one part of the country and alleges that they have all pervasive powers throughout the country.
- Doubts about the country of origin. For example, in recent years there has been a general awareness that the Home Office has not been returning asylum seekers from Somalia. This has resulted in people from Kenya claiming to be from Somalia. In the same way, asylum seekers from Pakistan have claimed to be from Afghanistan.
- Long delays in leaving his own country. The appellant may allege e.g. that he was tortured, imprisoned and the rest; but nevertheless remained in his country carrying on a normal life for months or years before deciding that he needs to leave for his own safety.
- Long delays in claiming asylum, e.g. it is not unusual for people who come to the United Kingdom on a visit visa to claim when the six months allowed on such a visa has almost expired.
- A clearly opportunist claim - e.g. when the appellant has been arrested for an immigration or other offence and he thereupon claims asylum.
- The fairy godmother syndrome. This is a variant of the seriously unbelievable story which crops up frequently because the appellant obviously wishes to disguise the means by which he was brought to the United Kingdom. As one example of many, a Tamil from Sri Lanka once told me that he was brought to the United Kingdom by an agent who travelled with him. The agent took him to an underground station and left him, saying that the appellant should wait and the agent would shortly be back. He never returned, but the appellant alleged that he was saved by another Tamil who just happened to be on the spot, noticed him and immediately invited him to go to his home and enjoy free board and lodging indefinitely.

Credibility has always been a central issue in asylum and non-asylum appeals. Its importance is now recognised in statutory form by section 8 of the 2004 Act, on which the reader is invited to refer to paragraph 11 of the website paper on that Act.