

Independent Asylum Commission

CONDUCTING A NATIONWIDE REVIEW OF THE UK ASYLUM SYSTEM

IN ASSOCIATION WITH THE **CITIZEN** ORGANISING FOUNDATION

Fit for purpose yet?

The Independent Asylum Commission's Interim Findings

A nationwide review of the UK asylum system in
association with the Citizen Organising Foundation

Report of Interim Findings

The Independent Asylum Commission's nationwide review of the UK asylum system in association with the Citizen Organising Foundation.

Commissioners

Sir John Waite (Co-Chair)

A former Judge of the High Court (Family Division) and of the Court of Appeal, former President of the Employment Tribunal & until recently Chair of UNICEF UK.

Ifath Nawaz (Co-Chair)

President of the Association of Muslim Lawyers, member of the Policing and Security working group appointed by the Prime Minister in the wake of the bombings of 7 July 2005, a Commissioner on the Lunar House Report.

Countess of Mar

A cross-bench member of the House of Lords, and the holder of the original Earldom of Mar, the oldest peerage title in the United Kingdom; previously sat on the Asylum and Immigration tribunal, the panel hearing immigration appeal cases, for over two decades and resigned when she became disillusioned with the system.

Shamit Saggat

Currently Professor of Political Science at the University of Sussex and Chair of the Law Society's Consumer Complaints Board. Previously a Senior Policy Advisor in the Prime Minister's Strategy Unit, Cabinet Office; a Reader in Political Behaviour at Queen Mary, University of London; a Harkness Fellow at UCLA, and a Yale World Fellow at Yale University.

Nicholas Sagovsky

Canon Professor Nicholas Sagovsky, Canon Theologian at Westminster Abbey. A Commissioner on the South London Citizens Lunar House Report.

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Her Majesty's Chief Inspector of Prisons between December 1995 and August 2001 and a former army general.

Dr Silvia Casale

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Bishop Patrick Lynch

Rt Reverend Patrick Lynch is the Auxiliary Bishop for the Roman Catholic Archdiocese of Southwark. He has worked extensively with many different migrant communities during his ministry and was ordained bishop in 2006.

Jacqueline Parlevliet

Deputy Representative of the United Nations High Commissioner for Refugees in London (Observer status)

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For more information see
www.independentasylumcommission.org.uk.

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Executive summary

The Independent Asylum Commission (IAC) is conducting a nationwide citizens' review of the UK asylum system. It has collected evidence from several hundred individuals and organisations, through public hearings, written and video evidence, and research. The provisional findings of the Commissioners are set out at the end of each Section headed *Commissioners' Interim Findings*.

In 2006 the then Home Secretary, John Reid, included the asylum system in his condemnation of a department that was "not fit for purpose". These Interim Findings provide a provisional assessment of whether the UK asylum system is 'fit for purpose' yet. The Commission will publish its final conclusions in May, June and July 2008, and will make credible and workable recommendations for reform that safeguard the rights of asylum seekers but also command the confidence of the British public.

Key Conclusions

- 1. The Commission has found almost universal acceptance of the principle that there must be an asylum system, and that it must be applied fairly, firmly and humanely. These criteria must be fulfilled for the UK system to be 'fit for purpose'.**
- 2. The Commission has found that the UK asylum system is improved and improving, but is not yet fit for purpose. The system still denies sanctuary to some who genuinely need it and ought to be entitled to it; is not firm enough in returning those whose claims are refused; and is marred by inhumanity in its treatment of the vulnerable.**

How we decide who needs sanctuary

- ◆ The Commission commends the strenuous efforts being made by the Border and Immigration Agency to deal with asylum claims more effectively.
- ◆ Despite these efforts, a 'culture of disbelief' persists among decision-makers. Along with lack of access to legal advice for applicants this is leading to perverse and unjust decisions.
- ◆ The adversarial nature of the asylum process stacks the odds against asylum seekers, especially those who are emotionally vulnerable and lack the power of communication.

How we treat those seeking sanctuary

- ◆ The Commission has found that the treatment of asylum seekers falls seriously below the standards to be expected of a humane and civilised society.
- ◆ The detention of asylum seekers is over-used, oppressive and an unnecessary burden on the taxpayer, and that the detention of children is wholly unjustified.
- ◆ Some of those seeking sanctuary, particularly women, children and torture survivors, have

additional vulnerabilities that are not being appropriately addressed.

What happens when we refuse people sanctuary

- ◆ The Commission recognises that refused asylum seekers should not be treated over-generously. However, the enforced destitution of many thousands of refused asylum seekers is indefensible and runs the risk of placing a shameful blemish on our nation's proud record of providing for those who come here in search of sanctuary.
- ◆ The current arrangements for returning people who have been refused sanctuary are not effective enough and are sapping credibility and public confidence in the asylum system.
- ◆ There can be no criticism of cases where refused asylum seekers are encouraged, by fair and positive means, to leave the UK. Enforced returns, on the other hand, have not always been handled with the necessary sensitivity.

For further information see

www.independentasylumcommission.org.uk. For media enquiries contact Jonathan Cox on 07919 484066.

Contents

Introduction

- List of Commissioners
- Authors
- Executive Summary
- Contents
- Glossary
- Co-chairs' introduction
- Aims
- Methodology
- Participants
- Funders
- Volunteers

Section 1: How we decide who needs sanctuary

- Chapter 1: How asylum decisions are made
- Chapter 2: How asylum decisions are appealed
- Commissioners' Interim Findings

Section 2: How we treat people seeking sanctuary

- Chapter 3: Material support for asylum seekers
- Chapter 4: Detention of asylum seekers
- Chapter 5: How asylum seekers with additional vulnerabilities are treated
- Commissioners' Interim Findings

Section 3: What happens when we refuse people sanctuary

- Chapter 6: Destitution of refused asylum seekers
- Chapter 7: How refused asylum seekers are returned
- Commissioners' Interim Findings

Glossary

Abbreviations

AIT	Asylum and Immigration Tribunal	IRC	Immigration Removal Centre
APCI	Advisory Panel on Country Information	JCHR	Joint Committee on Human Rights
API	Asylum Policy Instruction	LGBT	Lesbian, Gay, Bisexual and Transgender people
ARC	Application registration card	LSC	Legal Services Commission
ASAP	Asylum Support Appeals Project	NAM	New Asylum Model
AST	Asylum Support Tribunal	NASS	National Asylum Support Service
ASU	Asylum Screening Unit	NCADC	National Coalition of Anti-Deportation Campaigns
AVR	Assisted Voluntary Return	NGO	Non-governmental organisation
BIA	Border and Immigration Agency	NHS	National Health Service
BID	Bail for Immigration Detainees	NSA	Non-suspensive appeal
CAB	Citizens Advice Bureau	OEM	Operational Enforcement Manual
CGC	Country Guideline Cases	OGNs	Operational Guidance Notes
CMR	Case Management Review	OISC	Office of Immigration Services Commissioner
COI	Country of Origin Information	RCO	Refugee Community Organisation
CRC	(UN) Convention on the Rights of the Child	RST	Refugee Survival Trust
DDA	Detention Duty Advice	SEF	Statement of evidence form
DL	Discretionary leave	SIAC	Special Immigration Appeals Commission
ECHR	European Convention on Human Rights	STHF	Short Term Holding Facility
EU	European Union	TA	Temporary admission
HP	Humanitarian protection	UASC	Unaccompanied asylum seeking children
IAA	Immigration Appellate Authority	UNHCR	The Office of the UN High Commissioner for Refugees
IAT	Immigration Appeal Tribunal	VARRP	Voluntary Assisted Returns and Reintegration Programme
ICMPD	International Centre on Migration Policy Development		
ILPA	Immigration Law Practitioners' Association		
IMB	Independent Monitoring Board		
IOM	International Organisation of Migration		

Introduction

by Sir John Waite and Ifath Nawaz, Co-chairs of the Independent Asylum Commission

Asylum is one of the most prominent issues in contemporary politics. 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? How far does the present system show itself to be fit for that high purpose?

To answer these questions, a wide body of citizens, drawn from all parts of the country, has invited our team of Commissioners to conduct a truly independent review of the UK asylum system, from beginning to end. We have been gathering evidence since October 2006, and now present our Interim Findings. After a period of consultation and constructive dialogue we will publish our final conclusions and recommendations in subsequent reports in May, June and July this year. Our aim will be to produce recommendations for reform that are fair as well as forceful, and realistic as well as humane. We must have an asylum system that safeguards the rights of asylum seekers but also commands the confidence of the British people.

We have heard hundreds of testimonies, read hundreds of submissions and received evidence from a wide range of individuals and organisations: the government; individual asylum seekers and refugees; NGOs from the Refugee Council to Migration Watch; three ex-Home Secretaries; and the general public – specifically those who are worried about abuse of the asylum system.

In all these numerous encounters, every single person has expressed their commitment to providing sanctuary to those who are fleeing persecution. So the question is not *should* we be providing sanctuary, but *how* are we



Sir John Waite



Ifath Nawaz

providing sanctuary? In these Interim Findings, the Commissioners set out their provisional assessment of the asylum system in the UK and address the question: is our asylum system fit for purpose yet?

We hope that this Report of Interim Findings will do justice to all those who submitted evidence to the Commission, and will pave the way for our final recommendations that will strive toward an asylum system which serves those in need of sanctuary with the dignity they deserve, and which deals effectively and humanely with those whose claims to sanctuary have to be denied. A system, in short, of which we can, as a nation, be proud.

We commend this report to you, the reader, and to the ordinary members of the Citizen Organising Foundation who asked us to conduct this enquiry.



What is the Citizen Organising Foundation?

The Citizen Organising Foundation is the UK's primary Training Institute supporting the development of broad based community or citizen organising across Britain and Ireland. It is both a 'Guild of Community Organisers' and a Training Organisation – and has trained over 2,000 grass roots community leaders in 'community organising techniques and campaigning tactics' since the Institute was founded in 1989. COF's primary affiliate community organization is LONDON CITIZENS. London Citizens has earned a reputation for taking effective action to pursue change. Members include churches, mosques, trade unions, schools and other civil society organisations. In their own words:

"We work together for the common good, acting out of shared humanitarian values of justice, dignity and self-respect."

Member communities re-build public relationships locally and work together for the common good on the problems facing their communities. TELCO (The East London Citizens Organisation) launched the first 'Living Wage' campaign in the UK and has had a major impact on low pay in the Capital's institutions, from hospitals and global banks, to universities and City Hall. During 2004 London Citizens won agreement for 'ethical guarantees' in the London Olympics bid. For further information see www.cof.org.uk

History of the Independent Asylum Commission

In 2004 South London Citizens, a coalition of churches, mosques, schools, trades union branches and other civil society groups who campaign for the common good, conducted an enquiry into Lunar House, the headquarters of the Immigration and Nationality Directorate (IND), now the Border and Immigration Agency (BIA).

They published their report, *A Humane Service for Global Citizens* in 2005, and it was well-received by IND, who have since implemented a number of its recommendations and continue to liaise with a monitoring group from South London CITIZENS.

The report's final recommendation was that there should be an independent citizens' enquiry into the implementation of national policies on asylum. The Independent Asylum Commission was launched in 2006 in the House of Commons, and has since been collecting evidence from a wide range of witnesses across the UK – from asylum seekers and refugees to those citizens who feel the system is being abused.

Aims

The Independent Asylum Commission aims to:

- Conduct an independent citizens' enquiry into the UK asylum system
- Identify to what extent the current system is effective in providing sanctuary to those who need it, and in dealing with those who do not, in line with our international and human rights obligations
- Make credible and workable recommendations for reform of the UK asylum system that safeguard the rights of asylum seekers but also command the confidence of the British public

- Work constructively with the Border and Immigration Agency and other appropriate bodies to implement those recommendations.

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. Resettlement of refugees and integration of those granted refugee status are also beyond our remit. The Commission has striven to listen to all perspectives on this debate and work constructively with the major stakeholders while retaining its independence from the government and the refugee sector. We hope that this report will uphold the UK's proud and historic tradition of offering sanctuary to those who are fleeing from persecution.



Methodology

The Independent Asylum Commission is the largest enquiry on this issue ever undertaken. The Commission used a number of methods to ensure that the widest possible range of voices were heard: from those concerned that the asylum system is too generous, through to those concerned that the rights of asylum seekers are not being respected.

As with the South London Citizens enquiry, the Independent Asylum Commission is seeking a constructive dialogue with the Border & Immigration Agency and other stakeholders, and has adopted the formula that proved so successful with the Lunar House enquiry:

- i. Identifying key issues of concern and good practice to affirm
- ii. Presenting the supporting evidence from hearings and written testimony
- iii. Seeking a response on each issue from stakeholders
- iv. Assessing the stakeholder response
- v. Publishing final conclusions and recommendations

The following methods were used to gather evidence:

- Seven themed public hearings in Birmingham, West London, Cardiff, Glasgow, Leeds, Manchester and South London;
- Special hearing in Belfast;
- Seven closed evidence sessions held at Westminster Abbey;
- Comprehensive thematic briefings on all aspects of the UK asylum system produced by the Information Centre about Asylum and Refugees (ICAR) based at City University;
- 180 submissions to the written call for evidence from January to November 2007;
- Over a hundred video submissions to the call for evidence from January to November 2007;
- Key stakeholder interviews on public attitudes to asylum in Barking and Dagenham, Hackney, Birmingham, Plymouth, Sheffield, Oxford, Cardiff and Glasgow;
- Focus groups to be held in Barking and Dagenham, Hackney, Birmingham, Plymouth, Sheffield, Oxford, Cardiff and Glasgow;
- The CITIZENS SPEAK consultation asking for the public's views on sanctuary in the UK;
- People's Commissions held across the UK to recommend the values and principles that should underpin UK asylum policy.

For more copies of this report write to IAC, 112 Cavell St, London, E1 2JA, email evidence@cof.org.uk or call 020 7043 9878.

Participants

The Commission received evidence from the following individuals and organisations.

Private Sessions

Allen Mackey, Immigration Judge
 Ann Owers, Her Majesty's Chief Inspector of Prisons
 Bob Orr, Minister, Immigration, Canadian High Commission
 Chris Nash, Head of Policy and Advocacy, European Council of Refugees and Exiles
 Dr Ann Barker, Chair of Border and Immigration Agency Complaints Audit Committee
 Ed Owen, former Special Adviser to Rt Hon Jack Straw MP (Home Secretary 1997-2001)
 Gavin Lim, Quality Initiative Team, United Nations High Commissioner for Refugees, London
 Jeremy Oppenheim, Director for Social Policy & Stakeholder Champion, Border & Immigration Agency
 Jon Cruddas MP, Barking and Dagenham
 Justin Russell, Head of Asylum Policy, Border and Immigration Agency
 Marek Effendowicz and Jan de Wilde, International Organisation of Migration
 Maurice Wren, Co-ordinator of Asylum Aid and Chair of the Asylum Rights Campaign
 Miranda Lewis, Senior Research Fellow, Institute for Public Policy Research (ippr)
 Most Rev'd Rowan Williams, Archbishop of Canterbury
 Nancy Kelley, Head of Policy, Refugee Council
 Neil Gerrard MP, Chair of the All Party Parliamentary Group on Refugees
 Rt Hon Charles Clarke MP, Home Secretary 2005-2006
 Rt Hon David Blunkett MP, Home Secretary 2001-2004
 Rt Hon Michael Howard MP, Home Secretary 1993-1997
 Sarah Cutler, Assistant Director, Bail for Immigration Detainees
 Sehba Haroon Storey, Chief Asylum Support Adjudicator
 Sile Reynolds, Protection Sensitive Borders Officer, Refugee Council

Sir Andrew Green and Harry Mitchell, Migration Watch
 Steve Moxon, Home Office whistleblower
 Syd Bolton, Legal and Policy Officer, Medical Foundation for the Care of Victims of Torture

Written submissions of evidence

Agnes Orosz, Yarl's Wood Befrienders, Bedford
 Amnesty International
 ASIRT
 Association of Visitors to Immigration Detainees
 Asylum Aid
 Asylum Link
 Asylum Support Appeals Project
 Asylum Welcome
 Bail for Immigration Detainees
 Bath Centre for Psychotherapy and Counselling
 Black Women's Rape Action Project
 Boaz Trust
 British Red Cross
 Careers Scotland
 Cath Maffia, Nurse and Midwife, Manchester
 Churches Together in Britain and Ireland
 Citizens Advice Bureau
 Craven and Keighley Area Quakers Refugee Care Group
 Crossroads Women's Centre
 Derby Refugee Centre
 Dr Ashton, Leicester City NHS
 Dr Colson Bashir, Clinical psychologist, Prestwich
 Dr Nancy Darrall, Bury
 Dr Patricia Hynes, Middlesex
 Eagles Wing Support Group, Bury
 Elaine Montgomery, Supported Housing Officer
 Friends of Oakington
 George House Trust
 Guy and Judy Whitmarsh - Ludlow
 Haslar Visitors' Group
 Helen Bolderson
 Helen Weir – ESOL coordinator,

Middlesbrough
 Immigration Advisory Service
 Immigration Law Practitioners' Association
 Institute of Race Relations
 Inter-Agency Partnership on Asylum Support
 International Lifelink
 Justice First
 Kurdish Community Forum North East
 Lazarus Refugee Concern
 Leicester City NHS
 Lewes Group in Support of Refugees and Asylum Seekers
 London Detainee Support Group
 Marina Bielenky, Psychotherapist, Cirencester
 Margaret Trivasse, Primary Care Counsellor, Bradford
 Marion Grant - Counsellor, Manchester
 Maryhill Integration Network
 Medical Foundation for the Care of Victims of Torture
 Migration Watch
 National Aids Trust
 NCADC
 North Glasgow Framework for Dialogue
 Nottingham and Nottinghamshire Refugee Forum
 NSPCC
 Oxfam
 Patricia Holden
 Peterborough Action on Asylum
 Positive Action for Refugees and Asylum Seekers
 Psychologists Working with Refugees and Asylum Seekers
 Refugee Action
 Refugee and Migrant's Forum
 Refugee Children's Consortium
 Refugee Council
 Refugee Resource
 Refugee Survival Trust
 Refugee Voice Wales
 Refugee Women's Strategy Group
 Religious Society of Friends (Quakers)
 Rev David W Joynes, Oldham
 Rev Dr Dick Rodgers, Birmingham
 Rev Larry Wright, former chaplain manager, Yarl's Wood
 Save the Children
 Scottish Refugee Council
 Scottish Refugee Policy Forum

Scottish Trades Union Congress
 Shirley Wise, volunteer befriender, Otley
 Slough Refugee Support
 South London Refugee Association
 Southampton and Winchester Visitors Group
 St Paul's Methodist Church, Blackburn
 Stanley H Platt, Adviser on Immigration and Asylum, the Methodist Church
 The Children and Young People HIV Network
 The Churches Commission for Racial Justice
 Toryglan Framework for Dialogue Group

United Nations High Commissioner for Refugees, London
 University of Hull
 Wages Due Lesbian
 Watford and Three Rivers Refugee Project
 Welsh Refugee Council
 WinVisible
 Zacchaeus 2000 Trust
 Zimbabwe Action Group
 Zimbabwe Association
 90 asylum seekers gave evidence anonymously.

Members of the Public

1,100 mailing list subscribers
 600 members of the public who attended Hearings and Roadshows in Birmingham, West London, Cardiff, Glasgow, Leeds, Manchester and South London
 Listeners to BBC Radio Manchester, Leeds and Cambridgeshire who responded interactively
 50 members of the public who wrote to the Commission independently
 173 viewers of www.friction.tv who submitted their views

Funders

The Citizen Organising Foundation is a registered charity that receives no government money and is funded by the annual dues from member communities and grants from charitable trusts. The Independent Asylum Commission owes much to the generosity of the charitable trusts and individuals that have provided funding:

The Diana, Princess of Wales, Memorial Fund



The Society of Jesus
 The Esmée Fairbairn Foundation



The Joseph Rowntree Charitable Trust
 The M.B. Reckitt Trust
 The City Parochial Foundation
 The Waterside Trust
 The Bromley Trust
 The Network for Social Change



The United Nations High Commissioner for Refugees, London
 St Mary's Church, Battersea
 Garden Court Chambers
 UNISON Scotland
 Mr T. Bartlett Esq.

Staff and Steering Committee

The Independent Asylum Commission has been supported by three staff members:

Jonathan Cox
 Commission Co-ordinator
 Chris Hobson
 Commission Associate Organiser
 Anna Collins
 Commission Communications Officer

A debt of gratitude is also owed to previous staff members Bernadette Farrell, Fran Smith and Roxanne Abdulali.

The Commission has been guided by a steering committee:

Neil Jameson
 Executive Director, Citizen Organising Foundation
 Maurice Wren
 Chair of the Asylum Rights Campaign (ARC) and Co-ordinator, Asylum Aid
 Louise Zanre
 Director of the Jesuit Refugee Service UK
 Nicholas Sagovsky
 Commissioner
 Michael Bartlet Religious Society of Friends (Quakers)

Volunteers

The Commission has received invaluable support and assistance from its Regional Organising and Advisory Committees across the UK:

West Midlands:

Andrew Crossley, Claire Daley, Dave Stamp, Sami Aziz, Shari Brown and many others.

West London:

Catherine Howarth, Helen Ireland, Jerome Phelps, Kat Lorenz, Louise Zanre, Maurice Wren, Sarah Cutler, and many others.

Wales:

Anna Nicholl, Gill Dowsett, Pierrot Ngadi, Sian Summers, Sian Thomas, Temba Moyo and many others.

Scotland:

Aideen McLaughlin, Akhلام Souidi, Anna Ritchie, Beltis Etchu, Claire Paterson, Gary Christie, Mary Senior, Mick Doyle, Naomi McAuliffe and many others.

Yorkshire and the Humber:

Charlotte Cooke, Dave Randolph Horn, Max Farrar, Ian Martin, Richard Byrne, Vicky Williams and many others.

North West:

Nigel Rose, Dave Smith, Emma Ginn, Hermione McEwan, Julia Ravenscroft, Liz Wilkinson, Rachel Finn, Sophie King and many others.

South London:

Louise Zanre, Maurice Wren, Matthew Bolton and many others.

Belfast

Mark Beal, Christopher Common and many others.

Human Rights TV

With thanks to Jack Adams and all the volunteers at Human Rights TV (www.humanrightstv.com) who have recorded and archived every public hearing for posterity.

Human Rights TV is established to "empower the voice seldom heard". They work with individuals and organisations to create an on-line historical archive of activities in human rights. The organisation is run by volunteers and has completed its pilot year. The work with the Independent Asylum Commission seeks to provide a level of media interactivity for the Commissioners Report that is completely innovative.

Credits to the Human Rights TV team:

Akane Takayama

Mike Smith

Marcus Ballard

Cyrus Azizzian

Joan Morris

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Sandy Mgingqi

Jack Adams

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The report was written by the Commissioners and staff with expert support provided by Sophie Wainwright, Gareth Morrell, Jonathan Price and Kim Ward at the Information Centre about Asylum and Refugees (ICAR) at City University who produced thematic briefings to guide the Commission's work, with Dr Chris McDowell providing academic oversight.

The writing team included:

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