

Independent Asylum Commission

CONDUCTING A NATIONWIDE REVIEW OF THE UK ASYLUM SYSTEM

IN ASSOCIATION WITH THE **CITIZEN** ORGANISING FOUNDATION

safe return

**The Independent Asylum Commission's Second
Report of Conclusions and Recommendations**

**How to improve what
happens when we refuse
people sanctuary**

Executive Summary

The Independent Asylum Commission (IAC) is conducting a nationwide citizens' review of the UK asylum system. In its Interim Findings, published on 27th March 2008, it presented evidence gathered from several hundred individuals and organisations, through public hearings, written and video evidence, and research.

Since that publication, the UK Border Agency has issued a comprehensive response to those Interim Findings, and described the Commission's first report of conclusions and recommendations, *Saving Sanctuary*, as "constructive". The Commission has continued to gather evidence on the public perception of asylum in the UK and the values the British people think should underpin how we respond to those seeking sanctuary. Along with the CITIZENS SPEAK consultation on sanctuary in the UK, we have commissioned an opinion poll and focus group research to gain a better understanding of public attitudes to asylum.

This report, *Safe Return*, is the second of three reports of the Commissioners' conclusions and recommendations, to be published in Summer 2008. The Commissioners aim to make credible and workable recommendations for reform that safeguard the rights of asylum seekers but also command the confidence of the British public.

Key findings

- ◆ The Commission concludes that the UK Border Agency has inherited a system for dealing with the 283,500 refused asylum seekers still in the UK that has serious weaknesses and despite some commendable recent reforms, does not yet pass the key tests of practicality and effectiveness, public confidence, and humanity; and recommends that the new Agency should develop a 'New Deal for Safe and Sure Returns' for the future.
- ◆ The Commission concludes that 'what happens when we refuse people sanctuary' should be based on the fifth mainstream, consensus British principle identified in the Commission's *'Saving Sanctuary'* report: *"Once a decision has been made, the UK should act swiftly, effectively and in a controlled way – either to assist integration or to effect a swift, safe and sustainable return for those who have had a fair hearing and have been refused sanctuary."*
- ◆ The Commission concludes that the UK Border Agency is aware of the challenge it faces in dealing with refused asylum seekers and is focusing resources on tackling those issues; and recommends that while it develops the 'New Deal for Safe and Sure Returns' the UKBA must engage swiftly with the 32 recommendations to improve what happens when we refuse people sanctuary in the short term.

Key recommendations

Improve the rate of voluntary return

- ◆ There needs to be independent research into why refused asylum seekers do not return home voluntarily, and a subsequent pilot project to increase take-up of voluntary return.
- ◆ Better access to legal advice should be available after refusal of an asylum seeker's claim.
- ◆ Greater involvement of voluntary sector organisations is needed in preparing refused asylum seekers for voluntary return where return is a viable option.

Make returns procedures more humane and transparent

- ◆ Ensure that wherever possible, 'dawn raids' are avoided by preventative measures.
- ◆ The results of UKBA investigations into allegations of use of improper force by contracted staff should be made public.

End the destitution of refused asylum seekers

- ◆ The use of destitution as a lever to compel refused asylum seekers to accept return is indefensible, is opposed by 61% of the public, and should end.
- ◆ That refused asylum seekers who cannot be returned to their country of origin after six months, through no fault of their own, should be eligible for a time-limited, revocable, permit to work in the UK.
- ◆ That the use of vouchers for Section 4 (hard case) support should be discontinued.

A 'New Deal for Safe and Sure Returns' for the future

The scale and complexity of what happens when we refuse people sanctuary requires a wholesale review of current practice and a new approach that mirrors what the New Asylum Model achieved in improving the asylum determination process. This should be based on the following:

- ◆ Most returns should be voluntary, not forced;
- ◆ Better initial asylum decisions are essential to rebuilding trust in returns;
- ◆ Support to the refused asylum seeker must not be cut off at the point where they are considering return;
- ◆ UKBA must have much closer control of the process of managing refused asylum seekers after their appeal has been refused, and forced return must be a credible sanction;
- ◆ Greater involvement of the voluntary sector is crucial to increasing the uptake of voluntary return;
- ◆ Independent pre-return assessment and monitoring of those facing forced return would encourage further confidence in the returns process;
- ◆ The energy and concern of voluntary and community groups could help make forced returns more transparent, accountable and sustainable.
- ◆ Where there is a barrier to return that is beyond the individual's control, they should be given some temporary status in the UK, and if after a further period the situation remains unresolved, they should be given leave to remain.

For further information see

www.independentasylumcommission.org.uk.

For media enquiries contact Jonathan Cox on 07919 484066.

Conclusions and Recommendations

‘*Safe Return*’ – the Independent Asylum Commission’s Second Report of Conclusions and Recommendations: How to improve what happens when we refuse someone sanctuary.

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.



Shamit Saggarr

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; he holds academic posts at Queen Mary University, UCLA and Yale.



Ifath Nawaz (Co-Chair)

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



Nicholas Sagovsky

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



Countess of Mar

A cross-bench member of the House of Lords, previously sat on the Asylum and Immigration tribunal, for over two decades and resigned when she became disillusioned with the system.



Katie Ghose

Director of the British Institute of Human Rights. A public affairs specialist and barrister with a background in human rights law and immigration, Katie has also worked in the voluntary sector.



Lord David Ramsbotham GCB CBE

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



Zrinka Bralo

A journalist from Sarajevo who has also worked as a researcher and commentator since her exile to the UK in 1993. She is Executive Director of the Migrant and Refugee Communities Forum in West London.



Dr Silvia Casale

Member of the United Nations Subcommittee on Prevention of Torture and President of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.



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.



Earl of Sandwich

A cross bencher in the House of Lords with an interest in international relations and refugee issues.

Jacqueline Parlevliet

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

Authors

Chris Hobson
Jonathan Cox
Nicholas Sagovsky

For more information see
www.independentasylumcommission.org.uk



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A ‘New Deal for Safe and Sure Return’

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AIT	Asylum and Immigration Tribunal
AVR	Assisted Voluntary Return
COI	Country of Origin Information
ECHR	European Convention on Human Rights
FCO	Foreign and Commonwealth Office
HMIP	Her Majesty’s Inspectorate of Prisons
IMB	Independent Monitoring Boards
IOM	International Organisation for Migration
NAM	New Asylum Model
UKBA	UK Border Agency (formerly the Border and Immigration Agency)
UNHCR	The Office of the United Nations High Commissioner for Refugees

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.

Foreword

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

The way we deal with asylum seekers whose claims have been refused is a serious structural weakness in the UK asylum process. The UK Border Agency has inherited an enormous backlog of legacy cases to process and it has inherited inadequate systems and resources to deal with those who do not return voluntarily by its own admission. At least 283,500 refused asylum seekers remain in the UK.

The UKBA should be applauded for its sensible approach to case resolution, piecemeal reforms to improve the returns process, and for its commitment to voluntary return. But these reforms are just that – piecemeal – and cannot disguise the fact that what happens when we refuse people sanctuary fails to pass the key tests of practicality and effectiveness, public confidence, and not least, basic dignity and humanity.

We lose public confidence in the integrity of the asylum system because of our failure to remove refused asylum seekers swiftly and sustainably. We lose control over the movements of the asylum seeker at exactly the point – after refusal – that the incentive for the asylum seeker to maintain contact disappears. And we lose moral authority by using destitution to ‘encourage’ refused asylum seekers to return home ‘voluntarily’.

In our first report of conclusions and recommendations, *Saving Sanctuary*, we identified five mainstream, consensus British principles to underpin UK asylum policy. These consensus principles were the result of extensive consultation with diverse groups – Young Farmers in Herefordshire to a book group in Balham, trainee cabin crew in South Wales to elderly residents in a Somerset home – and were tested in the crucible of 50 ‘People’s Commissions’ in every region of Great Britain and 16 focus groups across the UK.

Principle 5 is highly relevant to what happens when we refuse people sanctuary:

“Once a decision has been made, the UK should act swiftly, effectively and in a controlled way – either to assist integration or to effect a swift, safe and sustainable return for those who have had a fair hearing and have been refused sanctuary.”

In this report, *Safe Return*, we have made recommendations that not only safeguard the dignity of asylum seekers, but also are in keeping with the values of the British public. In short, return of refused asylum seekers who have had a fair hearing should be swift, humane, and sustainable. Voluntary return must be the favoured option, but there will always be the need



Sir John Waite



Ifath Nawaz

to use forced return for those who refuse to comply. Forced return should be used only sparingly, but the prospect of swift return must be a real sanction, rather than a remote threat, in order to encourage greater take-up of voluntary return. Importantly, the public must be confident that the government has the situation under control.

This brings us to destitution of those refused sanctuary. The UK Border Agency claims that it does not operate a policy of destitution. Whatever they may say, we have heard testimony from many refused asylum seekers who are destitute in the UK because housing, access to employment, and benefits are withdrawn from the vast majority of refused asylum seekers. We can quibble over whether this amounts to a policy of destitution or not, but it is simply indefensible for people to be destitute in one of the richest nations of the world because of the lack of an effective system of return for refused asylum seekers. The public are also quite clear in their disapproval of destitution: in our opinion poll, 61% asserted that “no-one in the UK should be destitute, regardless of race or immigration status”.

We hope that in this report, we can point towards a better way of dealing with those whom we refuse sanctuary. We praised the UK Border Agency for introducing the New Asylum Model to improve the quality of decision-making. Now we need the same careful approach to design a new way of handling those at the end of the process – for the future, nothing less than a ‘New Deal for Safe and Sure Returns’ is needed.

CHAPTER 1

Introduction

What is the Citizen Organising Foundation?

The Citizen Organising Foundation supports the development of broad based community or citizen organising across Britain and Ireland. COF's primary affiliate community organization is LONDON CITIZENS: the Capital's largest and most diverse campaigning alliance. 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.

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 UK Border Agency (UKBA).

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 commissioned by the Citizen Organising Foundation to undertake this work. It 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. The final conclusions and recommendations will be presented in three reports to the Citizen Organising Foundation and its member organisations later in 2008.

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 UK Border 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. The Commission has striven to listen to all perspectives on this debate and to 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 fleeing from persecution.

How the recommendations are structured

The Independent Asylum Commission's report of Interim Findings, '*Fit for Purpose Yet?*' published on March 27th 2008, had three main sections, looking at three distinct areas of the UK's asylum system:

- How we decide who needs sanctuary;
- What happens when we refuse people sanctuary;
- How we treat people seeking sanctuary.

In accord with this structure, the Commission's recommendations are set out in three separate publications. '*Saving Sanctuary*' was published on May 20th 2008 and set out recommendations to restore public confidence in sanctuary in the UK, and how to improve the way we decide who needs sanctuary. This report, '*Safe Return*', is the second report and sets out the Commissioners' conclusions and recommendations on 'what happens when we refuse people sanctuary?'.

The Commissioners' concerns on each issue, as set out in the Interim Findings, are listed, followed by the response from the UK Border Agency to those concerns. The Commissioners' conclusions and recommendations are then listed at the end of each section.

Funders

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 Garden Court Chambers
 UNISON Scotland
 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



Advisers

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