

# Churches' Refugee Network

An informal network of



## **Notes of the Churches' Refugee Network Seminar 30 November 2007 Cheneygates, Westminster Abbey**

### **Independent Asylum Commission**

#### **Present**

John Alleyne, Gillian Ashmore, Michael Bartlet, Douglas Board, David Bradwell, Luke Bretherton, Chris Brice, Malcolm Brown, Shari Brown, Rachel Carmichael, Nicholas Coulton, Geoff Duncan, Katie Garner, Puck de Raadt, Daniel Groody, Anthony Harvey, Farrukh Husain, Helen Ireland, Margaret Okole, Julian Prior, Robina Rafferty, Patrick Ramazani, Chas Raws, Nicholas Sagovsky, John Waite, Gareth Wallace, Shireen Weston, Louise Zanre.

#### **Welcome**

Anthony Harvey welcomed everyone to Westminster Abbey and the CRN Seminar. He outlined the purpose of the Seminar: to examine some of the issues arising out of the work of the Independent Asylum Commission at the end of its evidence-gathering phase. It was hoped that this Seminar would be an opportunity to look at larger issues, to reflect, to think about ways forward and for people with expertise to offer advice and opinion.

#### **Introduction**

Nicholas Sagovsky gave a presentation. He is a member of the Independent Asylum Commission and the Churches' Refugee Network Steering Committee. He said he was delighted to be able to participate in this Seminar. He welcomed everyone to Cheneygates, once part of the Abbot's lodgings and a place of sanctuary, a theme that related to discussions of asylum. Nick introduced Sir John Waite, co-chair of the IAC, and thanked the CRN for helping to arrange the meeting.

The final public hearing of the IAC took place the day previously. The Seminar was offered as a place to take a broad look back and begin to think about some of the issues that could be confronted. The IAC will aim to report in mid-2008, following discussions with the Home Office and the Border and Immigration Agency.

Nick began by saying that he was speaking personally, not on behalf of the IAC. He explained what the IAC is. Its members are independent, representing a range of non-party political interests, including lawyers, representatives of faith communities and people with particular expertise. Its funding has all been from charitable sources. The Citizen Organising Foundation, an alliance of community organisations including churches, mosques and other groups which promote citizenship,

commissioned and facilitate the work of the IAC. The IAC builds on work done by South London Citizens about the Lunar House immigration centre in Croydon.

The focus of the work of the IAC is to do with the UK asylum system, which is set in a context of wider issues relating to migration generally. The IAC is in an excellent position to comment on the current situation, and make recommendations. It remains independent and non-party political. The IAC cares about citizenship, and can perhaps be prophetic about difficult issues. A key aim is to engage people of good will, regardless of party allegiance or religious or cultural background.

Nick said that he had identified 20 key issues that could be a useful starting point for discussion about the work of the IAC.

## **Issues**

### **1. Who are we?**

The IAC needs to make clear its expertise and competence. The Government say that if they wanted a commission to examine the asylum system, they would have established one themselves (though this probably would not have been quite the same thing as what the IAC is trying to do).

To be effective, the IAC needs a clear, coherent message that can be understood and appreciated by politicians, civil servants and community leaders.

### **2. On what basis do we argue?**

The IAC has now developed a great deal of knowledge of what is going on in the UK asylum system: but what are the principles on which the recommendations and ideas of the IAC will be based?

Arguments must be deeply rooted in human rights, jurisprudence and observance of the Refugee Convention. These should be the key emphases. Current practice must be held up against a legal framework.

### **3. How do we choose our approach and recommendations?**

This should be done carefully. Some of the wishes of some asylum activists will never be accepted by the political parties' leadership. Policy recommendations need to include some that are 'win-win'. The Lunar House report was successful because it made life better for those operating the system – morale was low, decisions were quixotic, the work was very difficult. These strains in BIA need to be acknowledged. Recommendations should look at how bureaucracies can work for human beings. How can we care for those operating the system? Is reconciliation needed? How can it work better for all involved?

### **4. A rapidly changing system**

In recent years there has been a succession of legislation. The system by which applicants claim asylum is changing even now. We can see a difficulty whereby criticism by the IAC will be deflected by the Government as 'those problems were with the old system, the new one is much better...'. Therefore it is important to commend good practice. The new asylum model and other measures, where shown to be an improvement, need to be welcomed.

## **5. Access to the system**

There are serious questions about whether people can come, and how they come, to the UK as asylum seekers. The numbers have dropped in the last three years – which is worrying as it could mean that access to asylum in the UK is being made more difficult. It must be nigh on impossible for someone such as an Iraqi to come to Britain as an asylum seeker: they require a visa and legal documents that will not be granted to them. A shadow to this issue relates to human trafficking. The more you turn the screw and make it harder for people to reach the UK, the more people will turn to traffickers to flee situations of persecution and danger. The incentives are great: one Chinese person working in the UK can support up to 30 people in China.

## **6. Making claims: arriving in the UK**

What does it mean to claim asylum as soon as someone arrives in the UK? They are in a foreign place, a different culture. They might be afraid of being interviewed by officials, or be worried that an interpreter they do not know might be deliberately misinterpreting them. There are also questions about how all this might affect people traumatised by their flight from their home country.

It is unreasonable to demand people to go through this process. It is very likely that they will not be able or willing to tell their full stories at this stage – but evidence of inconsistencies are used as grounds for refusing an asylum claim. Obsession with minute accuracy is misplaced. This needs to be improved.

Who should be in the room when a person is telling their story? What level of knowledge do officials have about the person's country of origin? What can be done to help this process?

## **7. Quality of decision-making**

Decisions should be based on a good knowledge of country of origin information. Work has been done to improve this, but more needs to be done. Should reports be 'independent', or remain with official sources used by the BIA? How much emphasis should be given on COI reports for individual circumstances?

There is a culture of disbelief. People are treated as guilty of deceit until they can prove themselves innocent. "Your story is not credible" is a phrase often heard – but credible to whom? Who makes this judgement? What are their qualifications?

Relating to recent problems in Burma and Darfur, there are examples of decisions which leave people outraged. Information and updates needs to be regularly passed on to officials making decisions.

## **8. Support and operations of NAS**

NAS is a byword for inefficiency. It has to become more accountable and effective.

## **9. Appeal**

Asylum seekers going to appeal need good quality access to legal advice. There are increasing pressures across the board on the legal aid budget. Related to this is a need for good quality medical reports. What can be done to help?

Other countries systems are not adversarial. Would an inquisitorial approach be better?

## **10. Detention**

Removal centres are run by private companies. There are issues relating to contracts and commercial pressures.

Removal centres are used as places where criminals are kept before deportation, as well as refused asylum seekers and their families. This situation is far from ideal.

Torture victims are being detained, in contravention of agreed guidelines.

There are also issues related to detention and healthcare, children, movement around the country, confiscation of possessions, access to bail, access to chaplains and others.

## **11. Removals**

There have been a number of reports about removals, including involving dawn raids. The way these removals are carried out, especially on women and families, is very distressing. There are also traumas for school children when their friends disappear with no explanation.

It was moving for the IAC to hear in Scotland that 'these kids are our kids', and how can this be done? Asylum is not a devolved issue for Scotland.

There are related issues to do with the inappropriateness of restraint, what happens at the other end of the removals process, and about access to opportunities for voluntary return.

## **12. Alternatives to detention**

Some people are on bail, and have to report to a police station or a BIA office. Some people have to report weekly to Becket House. This is an awful experience as you can be told that you have to remain behind, and you do not know if that means you will be taken to a removal centre. It can be a gothic nightmare for some people – who cannot sleep the night before reporting for fear of what the next day might bring. For people who have come here following trauma, the fear of being returned is a real issue concerned with their well-being and mental health.

Could electronic tagging be an answer?

## **13. Destitution**

Is it Government policy to keep refused asylum seekers destitute? Can this be challenged? How do asylum seekers reach a destitute position? A poor bureaucracy means that people who are entitled to subsistence can slip easily under the radar. There are also people who cannot be returned, and live on in a shadowland. There are issues here relating to Section 4 accommodation, poor standards of housing. £35 vouchers instead of cash is also not ideal.

## **14. Timeframe for decisions**

Decisions appear to be either fast-tracked or left in limbo. The NAM aims for six months, whereas some cases have dragged on year after year. There must be a better way for reviewing the timeframe. It would be far more humane to look at a case, resolve it, and deport if necessary, rather than letting people rot in the system for years.

## **15. Prohibition on employment**

Asylum seekers' inability to work is a major issue. They want to have an occupation. They do not want to be a burden – they want to pay their own way.

Some people argue about 'pull factors' and macro economics – but thinking theologically or within a humanist framework, the place of work is very important.

## **16. Vulnerable groups**

There are specific issues relating to children (such as detention), women (gender guidelines are not always followed), disabled people and LGBT people.

## **17. University access**

Young people who have been in the UK for several years and have passed exams might want to go to university, but they cannot afford overseas fees. What can be done to help?

## **18. Target-driven system**

The system is unhelpfully driven by targets – especially the 'tipping point' of more people being removed than arriving. This leaves little room for humanity.

## **19. Other models**

Other countries can teach us much. Canada, for instance, has an asylum system independent from political to-ing and fro-ing. It is not perfect, but there are other examples. We need to set out a framework for action – where are we going?

## **20. Public attitudes**

How can we change public attitudes? Why is the media so negative? There needs to be more effort to change hearts and minds.

## **Conclusions**

Nick said that this list was not comprehensive. There may be some issues missing, whereas others could be misrepresented. He said the aim of the IAC was to make recommendations for a better asylum system. Now was a time to reflect, and discuss.

## **Discussion**

Following Nick's talk there was a wide-ranging discussion, summarised below.

**How does the IAC proceed?** There are many nettles which need to be grasped. This is basic, fundamental and controversial. Three issues could be highlighted:

- Credibility – the current system entitles a case owner to deny credibility. Should the IAC say all asylum seekers should be entitled to be believed? How can we determine a burden of proof?
- Detention – can the IAC look at whether any form of detention can be justified at all? It is virtually unknown in Canada. In a land where habeas corpus was formed, what are we doing?
- Right to work – is there any reason at all why people who have been here for x months should be denied the right to work?

**Issues relating to conversion.** The Evangelical Alliance have produced a report on aspects of religious conversion. There has also been work done to improve religious

literacy amongst Immigration Officers, and engagement to improve the quality of COI reports. The quality has improved considerably, but there are still problems. The COI can only include information which is objectively verifiable – but any ordinary person with evidence can send it in for inclusion.

**Operation Guidance Notes** – short summaries of detailed reports on different countries – are used widely by busy Immigration Officers who do not have time to read several large documents that are frequently updated. The system does not work. In terror states, proving verifiable evidence is sometimes not possible.

**Accountability** – The Home Office / BIA needs to be held to closer scrutiny. For instance, previously some kinds of statistics were regularly published whereas now they are not. No figures are released about the number of children being held, or the numbers of people passing through removal centres each year or month. There needs to be more accountability in all areas, as well as detention.

HMCIP is helpful – but it can only recommend changes to the Home Office, which can choose to agree or disagree.

**Contracting services** to do with detention makes it harder for any one group to be held accountable for failures. How can the state make private companies accountable?

**Transparency** and accountability are different issues. The IAC could tease out the nuances and suggest improvements in both areas.

**Freedom of Information** is not adequate to respond to some of these concerns. Requests are being denied on grounds of commercial confidentiality. There is an inconsistency of practice.

**Staff well-being** – the IAC should also consider the motivation and ideas of the contract company employees, who have to work in difficult situations.

**Key issues** need to be identified – for instance the top ten key recommendations by which meaningful progress can be judged. Make recommendations realistic – giving a right to work and closing detention centres saves money.

**Mentality** – We need to show that we want the best system, not just that we are unhappy with the current one. We want to build a system that we would be proud to have our sons or daughters working in. We need to restore justice and humanity to the system. We should be positive about what we are doing.

**Access to legal aid** remains a crucial issue. November 2007 saw the 30<sup>th</sup> anniversary of the Housing and Homeless Persons Act – the UK remains the only country with this type of legislation. However, cuts in legal advice jeopardizes access to this groundbreaking legislation. If the body of advocacy disappears, it leads onto further consequences.

**Credibility** – people must be presumed to be innocent unless and until proven otherwise. The IAC needs to bring out the extent to which things that are ‘not credible’ do actually happen.

**Solidarity** – The Government is afraid of allowing the right to work as it will mean immediately that asylum seekers have colleagues and friends who will try to protect them and will speak out for them.

**Burden of proof** – What is in an Immigration Officer's head? They tend to err on the side of caution and say: "no, this person's claim is not justified." Is this fear? A need to meet targets? Or based more on what they read in the paper than the case details? We have an opportunity to challenge assumptions and revise them. The asylum seeker has to make his or her case on the basis of probability.

**Adversarial vs Inquisitorial** – two different approaches to justice. Is one better than another? Perhaps a more important issue would be to make it clear why a case has been refused – on what grounds has asylum been denied.

**Human dignity** – is this what the IAC should bat for? How do theological positions and public influence meet? What about issues to do with globalisation, movement of goods and services etc? Do the BIA need to be reminded that they are dealing with human people? Is talking about human dignity a cliché? The IAC should instead focus on the evidence of psychological problems, and on the opinion of health care professionals. Mental and physical problems should be mentioned.

**Detention centres** – what is the role of chaplains? Who appoints them? What is their role? Does this vary from centre to centre? Is there an opportunity for a more co-ordinated approach? The skills needed by chaplains to prisoners and asylum seekers are different. Medical issues – some removal centres buy in services from the private sector, whereas prisons use the NHS. This is a difficult area.

**Public attitudes** need to be addressed. Politicians are frightened of how asylum issues are reported in the media. We need to speak out. Immigration and asylum are still mixed up in the public mind. Whilst they do overlap, they need to be separated. Lots more work needs to be done. Daniel Groody's film 'Dying to Live' (see [dyingtolive.nd.edu](http://dyingtolive.nd.edu)) and similar productions can be helpful.

**Resources** – an argument about time and money is pragmatic and realistic. Many MPs spend a lot of time on asylum cases. A time and money saving recommendation should be well-accepted.

**Language** is a key issue. People need to learn to use the phrase 'refused asylum seeker' rather than 'failed asylum seeker'.

**Human Rights Law** must remain the key focus of the IAC – talking about public attitudes and language can make us lose sight of the goal. Refugee law should be part of human rights legislation, not necessarily part of immigration legislation.

**City of Sanctuary** schemes, such as in Sheffield and Leicester can be important. Getting local people engaged through e-mail networks is one way to keep people motivated.

## **Wrapping Up**

Sir John Waite thanked all for what had been a very helpful discussion. He asked whether the fast track system was too fast. People said that it was.

Nicholas Sagovsky also thanked the group. The principles and ideas would be continued to be worked on and developed over the coming months.

He said that we all shared a concern for those who suffer through the system, and also for the body politic. He said it would have been helpful to have had someone from the BIA present [none had been invited] not to complain or to make recriminations, but just so that they can hear our voices and wishes – and we theirs. The question now is: where do we go from here? Urgent change is needed, for the benefit of all.

David Bradwell  
10 January 2008