

## LEGAL AID CUTS RELATED TO ASYLUM DECISION MAKING

I am writing about The Legal Aid Sentencing and Punishment of Offenders Bill. I am also drawing your attention to the Asylum Improvement Project affecting decision making as the combination of cuts with this project will have a devastating effect on decision making, the most crucial aspect of any asylum system, as it should be able to identify those in need of protection.

The legal aid cuts proposed in the Bill come on top of previous cuts. Since this government came to power two major charities providing legal advice to refugees have gone bust, affecting thousands of people. It is no longer clear there are sufficient providers and certainly sufficient providers of quality to make sure those who have lost their lawyer, have a new one. The Legal Services Commission is unable to provide clear evidence i.e. that Client A with lawyer A at such and such a date is now with lawyer B. Their statements are always rather vague and general. They appear to be just assurances.

For years asylum seekers have not received any legal advice at the screening interview though this is part of a legal process. Some have only accessed their lawyers (some of questionable quality and some downright charlatans) before the substantive interview. Others have only accessed them after the substantive interview. Many have lost their lawyers after appeal. So many asylum seekers have not had a lawyer at all at the beginning and end of the process; access in between being variable. Those in detention fair far worse.

Instead of addressing this erratic and inadequate system, the proposal is to cut further. Immigration Advisory Service, which has just gone into receivership, faced a 10% cut on its refugee services.

The human rights issues raised are: lack of access to legal advice; the quality legal advice; the amount of access when this does happen – legal advice for a fraction of the time of a claim, is inadequate and unfair and makes for wrong decisions. It is essential that those in detention are included.

The Asylum Improvement Project has been set up by UKBA. This has been given the go ahead by Damien Green and is to speed up decision making in order to save money. This is only feasible if the decision-making system is running very well plus is particularly slow. Unfortunately neither is true.

In fact UK has a fast system. I understand it is the fastest in the world. (Perhaps UKBA could confirm this to you). In my experience decision-making is very fast in between gaps (often of completely arbitrary length) and is therefore flawed.

Decisions are made in a matter of days in detention (with or without a lawyer – see above); outside detention there are 10 days to put in an appeal and 5 days to make further representation before the Tribunals. These are very short timescales when the onus is on the client to prove their case and they have to struggle to obtain evidence from countries like Congo DRC or Somalia. For those who put in a fresh claim, when this is refused, the only way to challenge is by judicial review. Yet there appears to be no timescale to put in a judicial review on refusal of a fresh claim. So this can lead to further injustice. The client can be a) first detained. (UKBA has probably already booked a removal flight) b) then served with refusal letter. This gives the client no time to act. c) Disoriented. UKBA moves people around the detention estate, sometimes to 2 or 3 detention centres) d) The client has usually lost their lawyer so they are unprotected. The process is quick and ruthless. It does not seem designed to allow any correction of mistakes.

There is a wealth of evidence to show asylum decision-making is poor, from the Independent Asylum Commission, to the Medical Foundation for the Care of Victims of Torture, to the Immigration Advisory Service, to the Home Affairs Select Committee who pointed to poor initial decisions by UKBA decision makers. The Chief Inspector of UKBA has recently pointed to inconsistencies in the use of country of origin material and also pointed out that decision makers are using the wrong material i.e. UK government policy documents. UKBA decision makers are not properly trained to identify torture victims. If someone says they were detained in their country instead of testing this, UKBA decision makers will usually move on to another area of questioning completely rather asking what happened in detention and understanding the detail. This is obviously crucial to a person's claim. This is a dereliction of duty on the part of UKBA. I meet people time and again who complain that people who are not knowledgeable about the human rights situations in their countries, interview them. It is this knowledge that is essential to test claims, with good interviewing by properly trained people.

I have experience of people being refused and then being granted status after a long battle. These are the lucky ones who happen to get adequate legal support to overturn previous unsafe decisions. This should not be a matter of luck. These are people who have been through the court system and been refused. How many more are there out there who have reasonable claims as well? Some are torture victims and those who have suffered terribly, whom the system failed to properly identify at an early (and I should emphasise cheaper) stage. This lucky element is also set diminish. This cannot be right without wholesale reform

UKBA needs to be challenged to produce credible information to show that asylum decision-making is sound from start to finish. I very much doubt they can do this. The high number of initial decision overturned at the appeal stage remains as evidence against them. UKBA has not implemented all the UNHCR recommendations on improvement. There is no overall monitoring of the process

including the opaque area of fresh claims; nor is there any monitoring of returns. So there is no feedback into the system to make decision making improve. This is crazy. It is also dangerous for those entering the system .Forced removal is implemented despite cuts in other areas ( money would be better spent sorting out decision making) and so under the current, unreformed system, the wrong people can be removed.

The human rights issues raised are the problems of imposing more speed on an inadequate system. Making a system faster because it is supposedly cheaper is not sufficient when we are dealing with life and death issues. It is highly reprehensible that UKBA and Damien Green have not addressed this matter directly. The most important aspects of good decision making remain unaddressed i.e. access to early, quality legal advice, good decision making by properly trained people and time in which to gather evidence.

The attack on decision making through speeding up with no emphasis at all on quality ( it is just stated that the system is doing really well- UKBA Progress Report May 2011) plus cuts in legal aid is a lethal cocktail. The result is surely less justice and worse decisions as each of these changes will result in a deterioration. It is saddening to find that the UK , a supposedly civilised country, has got to this.

UKBA, known as a government within a government, is not sufficiently held to account. However it is essential that MPs find the will to tackle this area where human rights of the most vulnerable are being eroded steadily and shockingly.

Yours sincerely

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Education worker in refugee projects with local communities. Also campaigner. More than 10 years experience and increasingly concerned by the poor decision making system. Currently working on one aspect of support -the Azure card- the cashless system replacing the discredited vouchers. Those on the card cannot even take a bus and must walk everywhere, even if they have children or have medical conditions. A cash system would be cheaper as well as more practical and humane.