

Britain: New government attack on asylum seekers

Liz Smith**15 November 2003**

The latest government proposals relating to asylum seekers arriving in Britain are the most prohibitive introduced to date and represent a deepening attack on democratic rights.

The new measures were first hinted at in Prime Minister Tony Blair's speech to October's Labour Party conference, where he blamed the current "ludicrously complicated" system for allowing too much "judicial interference" in dealing with asylum seekers. The proposals include a two-year prison sentence for those who destroy their travel papers en route and reducing the appeals process for failed applicants to just one. They also include measures to speedily return those who have already claimed asylum in second and third countries, and an end to support for those families the Home Office deems able, but unwilling, to return home.

These proposals will form the basis of new asylum legislation to be introduced in the Queen's speech later this month. A central tenet of the proposed legislation turns its fire on those giving legal advice to asylum seekers appealing their cases.

Home Secretary David Blunkett warned: "We must now speed up the appeals process. Too often unscrupulous and unqualified legal advisers are encouraging claimants to lodge appeal after appeal with no prospect of success, all at taxpayers' expense.

"These new measures will introduce a single tier of appeal and give new powers to the regulator to act against the legal advisers who are simply giving advice on how to defraud the system. This will complement new restrictions on legal aid to stop money being wasted on groundless cases.

"We need to call time on dubious legal advisers whose only advice is how to exploit the system at taxpayers' expense."

Claiming that the measures were aimed at clamping down on "exploitation by criminal gangs," Blunkett railed, "Our strategy is not anti-immigration...but facing up to the real challenges posed by the changes in global migration is vital to building tolerance and understanding in our diverse communities."

Currently, someone who is denied asylum is allowed to appeal to an adjudicator and, in limited circumstances, to the Immigration Appeals Tribunal. If an applicant believes the law has been improperly applied, he or she can seek a judicial review in the High Court. The proposed system merges the two appeals into one hearing. The vast majority of appeals will be heard and decided by a single immigration judge with the judicial oversight provided by the designated senior judge.

The move to a single tier of appeal gives enhanced powers to the Immigration Services Commissioner, who would be able to enter solicitors' offices to seize and examine documents or investigate unqualified advisers whom they reckon will not be properly supervised. Additionally, designated professional bodies such as the Law Society will be legally required to provide swift cooperation during investigations.

The proposals also include the introduction of a new criminal offence of advertising or offering immigration advice without appropriate qualifications. This element within the proposed legislation is particularly vicious, as many seeking asylum rely on work carried out by various charitable bodies and law centres whose representation is not necessarily the most qualified in this specialist area. It will increase the pressure on those specialising in immigration, while widening the possibilities for some of making lucrative sums out of those desperately seeking advice.

Consideration is also being given to reduce the legal

aid granted to asylum seekers by introducing thresholds and restricting the advice available.

These proposals will allow the speedier expulsion and further marginalisation of a section of society that already faces a daily barrage of xenophobic propaganda from the media. On the government's own admission, the recent Nationality, Immigration and Asylum Act 2002 enabled it to halve the number of claimants, push removals to record levels, and reduce the number of claims awaiting an initial decision to its lowest in a decade.

Two criminal offences will be created. The first—being undocumented without reasonable explanation—will apply to anyone arriving at a UK port without adequate documentation to satisfy immigration control. The authorities will try to make airlines on certain routes copy passengers' passports before they depart. The second will make it an offence for failing to cooperate with re-documentation.

Refugee charities reacted angrily to the proposals, arguing that the biggest cause of delay in the asylum system is the poor quality of Home Office decision-making. This means that just one in five appeals is successful, rising to 35 percent for some nationals, such as Somalis and Zimbabweans. Maeve Sherlock, chief executive of the Refugee Council, said, "This failure causes delay and misery for refugees, placing them in highly stressful situations. The appeals process exists to ensure that nobody is wrongly refused protection in the UK, and that we do not return people to face persecution."

Sherlock explained, "Part of ensuring that the right decisions are made—which can mean the difference between life and death—is making sure asylum seekers have access to good quality legal representation. While preventing unqualified and unscrupulous legal advisers from being able to practice in this area is a positive step, it is sadly countered by plans to reduce the amount of time quality legal advisers will be able to spend preparing their clients' cases.

"If asylum seekers' cases are inadequately represented, the inevitable result will be wrong decisions. More wrong decisions will by necessity lead to more appeals, therefore contradicting the Government's stated intention to reduce judicial intervention in asylum cases."

Amnesty International said doing away with one tier

of the appeals process could lead to people being sent to their death in oppressive countries. Refugee Affairs director Jan Shaw said, "Further proposals to restrict appeals also risk jeopardising the lives of asylum seekers who already suffer from poor initial decision-making and need safeguards against return to torture, imprisonment or even death.

"Rather than 'cracking down' on asylum seekers, the government should be working to make the decision-making process more reliable and the safeguards against hasty return more robust."

Immigration law expert Alison Stanley of Bindmans solicitors in London said the move to punish people for destroying their travel documents was illegal under article 31 of the 1951 convention on refugees. She told BBC News Online, "It is against the terms of the refugee convention to impose sanctions on people if they enter illegally.

"It would also be wholly objectionable to criminalise people who have fled from countries where they face persecution and are unlikely to have proper documentation or have been told by people to get rid of it."

Two days before announcing this latest raft of anti-immigration measures, the Home Office announced its biggest asylum amnesty by giving 15,000 asylum seekers and their families—an estimated 50,000 refugees—the right to live and work in Britain indefinitely because it had taken so long for their cases to go through the courts. All of the affected families applied for asylum more than three years ago. In Blunkett's own words, it was in order to "clear the decks" for the new proposals. Appeasing his right-wing critics, Blunkett said, "Granting this group indefinite leave to remain and enabling them to work is the most cost-effective way of dealing with the situation and will save taxpayer's money on support and legal aid."



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