Reasons for Refusal: an audit of 200 refusals of Ethiopian asylum-seekers in England

Dr Trevor Trueman

Reasons for Refusal: an audit of 200 refusals of Ethiopian asylum-seekers in England

Dr Trevor Trueman

For presentation at:

Seeking Refuge: caught between bureaucracy, lawyers and public indifference?
April 16th-17th, 2009 at the School of Oriental and African Studies, London

1. Abstract

Non-Governmental Organisations claim that barriers to being granted political asylum in Britain include unfair and incorrect decisions made by Home Office immigration caseworkers and judges.
The author has twenty years of experience of the human rights situation in Ethiopia, particularly that affecting Oromo people. Since 2000, he has written 200 expert witness reports for Ethiopians who had been refused asylum in the UK, of whom 137 were Oromo.
The results of an audit of the grounds used by the Home Office for refusing asylum in these cases, at the initial stage and at appeal, form the basis of this study.
Decision-makers attempt to discredit claims rather than establish their substance.
Decisions are often based on inaccurate or distorted information and subjective assertions regarding an applicant's credibility which do not stand up to even superficial examination. The standard of reasoning is poor.
Expert reports are disregarded or discounted without reasonable justification.
The consequences of refusal of asylum claims are discussed with particular emphasis on the effects of refusal and detention on mental health.
The rationale behind the culture of disbelief which characterises asylum decision-making is discussed.

2. Introduction: the problem with asylum-seekers

Alongside climate change, international terrorism and the current economic downturn, large scale movement of people, including those claiming asylum from persecution in their countries of origin, is reported by national and global media to be a major contentious issue of our times. These issues are linked in many complex ways by insecurity from state and non-state violence, abuse of human rights and competition for increasingly scarce natural resources.

Antonio Guterres, UN High Commissioner for Refugees, wrote on 18 December 2008 'International migration is a defining characteristic of the contemporary world'. [1]
Immigration Minister Phil Woolas said in November 2008 'As immigration is the second biggest issue in communities, we have to bloody well talk about it'. [2]

Between 1988 and 2000, there was a 20 fold increase in people claiming asylum in Britain (fig. 1). Despite the subsequent drop to below one third of this peak, asylum-seekers are met with hostility – in the media, among politicians, and among professionals working within the asylum system. Antipathy and fear characterise the public response.

Hostility

In their 2005 report on Service Provision by the Immigration and Nationality Directorate, legal experts, Home Office staff and clergymen of the South London Citizens Enquiry wrote of the increase in scaremongering stories in the press about immigration, especially asylum-seekers and refugees. [3]

The parliamentary Joint Committee on Human Rights, in 2007, expressed concern about hostile newspaper reports and their effect on public attitudes and physical assaults on asylum-seekers. The committee complained of the impact of press reports on government policy and called for ministers to use more measured language in order to reduce inflammatory and misleading articles in the press. [4]

Despite the reduction in asylum claims, the Conservative and Labour Parties compete in showing the strength of their policies to deter asylum-seekers. Michael Howard, when leading the Conservative Party before the 2005 election, placed a full-page advertisement in the *Sunday Telegraph*, stating 'I believe we must limit immigration. There are literally millions of people in other countries who want to come and live here. Britain cannot take them all. Immigration has more than doubled under Mr Blair. He believes that immigration should be unlimited. The Liberal Democrats agree. A Conservative government will set an annual limit on immigration and a quota for asylum-seekers.' [5]

According to *The Guardian*'s interpretation of Mori poll data, in 2005, immigration and asylum was the only issue on which the Conservative Party had a consistent and substantial lead over Labour. [6] Labour Immigration Ministers appear keen to change this. In May 2008, Liam Byrne announced that the government was making it harder than ever for asylum-seekers to enter the UK illegally.[7] In November, his successor Phil Woolas, spoke aggressively on the topic, telling the press that most asylum-seekers were economic migrants who were given false hope of gaining asylum by NGOs and migration lawyers, who played the system 'to the nth degree'. He said of a successful applicant 'after six layers of appeal', '[t]hat person has no right to be in this country but I'm sure that there is an industry out there that is a vested interest'. The prime purpose of the government's immigration policy, he says, is reassuring the public that the state is in control of immigration. [2] Woolas has called for the UN Convention to Protect Refugees to be revised, [8] to the horror of Dame Helen Bamber, who has worked with exiled torture victims for over 60 years. [9]

Public perception of asylum-seekers is often negative. Those working with asylum-seekers were found to be prejudiced against them, according to Amnesty International research. Detained asylum-seekers are mistakenly thought to have committed criminal offences by those entrusted with their care and complain of inhuman and aggressive treatment in detention. [10]

Perspective

Britain's responsibilities regarding asylum-seekers should be seen in perspective. The numbers involved should be considered in comparison to other industrialised countries and to those less able to afford to house and support refugees. Europe's need for immigration, the numbers of legal immigrant workers, the numbers of non-

asylum-seekers who are settled, and the cost of measures taken to exclude and expel asylum-seekers must also enter the equation.

In 2007, there were 16m refugees and 51m displaced people in their own countries. Another 12m were categorised as stateless. [11] Most of the world's refugees are in developing countries; nearly one third were in the world's poorest 49 countries in 2004. [12]

Iraq was the source of the highest number of asylum-seekers in 2006 and 2007. [13] Their distribution merits attention. During 2007, out of over 2m Iraqi refugees, only 45,000 claimed asylum in the 44 industrialised countries. Of these, only 1,825 applied for asylum in Britain and of these, only 275 were allowed to stay. [14, 15, 16] This, despite an easing of criteria for accepting Iraqi cases which was forced on the Home Office by the Court of Appeal in 2005 and High Court hearings in 2006. [17]

Among the approximately 300,000 asylum claims made in the 44 industrialised countries in each of the last three years, the USA has taken the largest share, 16-19%. Britain lies fourth in the league table for early 2008, below 10%, with Canada and France in second and third place. [15] By size of population however, Britain takes less than the European average for asylum applicants (0.46 per 1000 population compared to 0.48 for 29 European countries) and lies eleventh among the countries of Europe in accepting applicants. [16]

In 2007, there were 28,300 new applications for asylum in Britain (23,430 excluding dependants). In all the 27 countries of the European Union, there were 224,900 including dependants. [16]

During the 1970s and 1980s, Britain was a net exporter of people at a rate averaging 160,000 per year; asylum applications were under 5,000 per year. [6, 18] The US National Intelligence Council reported in 2004 that with a fertility rate of only 1.4, well below the 2.1 replacement level, the ageing population and shrinking work force in Europe will face serious economic challenges by 2020 unless it accommodates a growing immigrant population, a view shared by some western commentators. [19, 20]

The number of asylum-seekers is small compared to the legal immigrant work force already in the UK. In addition to the unknown number of foreign nationals working in Britain in 1997 another 1.1m were employed in 2007, half a million from EU countries, among a total working population of 29m. [21] At its peak, the number of asylum-seekers permitted to stay in the UK, including appeals allowed, was 45,145 in 2002. In 2007, 9,520 were allowed to stay. [16]

Asylum-seekers account for only a small fraction of those who are settled from abroad in the UK. For most of the 1970s, about 70,000 people were settled in the UK each year. [22] In 1979, when the Home Office began recording asylum statistics, 740 out of 1,563 applicants were granted asylum or leave to remain – barely more than 1% of the total number of immigrants. [23]

A similar pattern pertained during the 1980s. From 1979 to 1988 there were 39,000 asylum claims – an average of 3,900 per year. There were around 2,800 decisions per year, most of whom (2,160 per year) were either granted asylum or given permission

to remain. [23] During this time, the total number of people resettled was approximately 555,000, which is over 14 times the number of asylum claims and over nine times the combined number of asylum claimants and those refugees admitted under separate arrangements. [24]

Over the next ten years, from 1989 to 1998, asylum applications rose from 11,640 to 46,015 per year and totalled 314,605. Decisions were made in 229,930 cases and 51,069 were granted asylum or leave to remain. [25, 26] In the same period, yearly resettlement figures ranged from 49,000 to 67,000 and in total were about 555,000, as in the previous decade – more than ten times the number given refugee status or leave to remain. [24, 27]

In the latest ten years for which figures are available, 1998 to 2007, there were 508,760 applications for asylum. Because some earlier applications were considered, 564,090 decisions were made, of whom 163,500 were granted asylum or leave to remain. [16] In the same period, more than 1,237,000 were settled in the UK. [27] This figure does not include nationals of other European countries who settled in Britain. Asylum-seekers thus accounted for less than one seventh of those accepted into the UK during the decade.

The vast majority of immigrants in the last 38 years have been employees, who have been working under permits until eligible for settlement, or their relatives. [16, 24, 26, 27, 28] In 2007 for example, of 127,000 settlements, 37,210 (29%) were employment related, 50,820 (40%) were family of those already in the UK, and 14,190 (11%) were asylum related, including a backlog clearance for families. An additional 18,750 (15%) were settled outside the immigration rules on a discretionary basis. Admissions to the UK for those not applying to stay included 358,000 non-EU students and 124,000 work permit holders and their dependants. [27]

During the last decade, there has been a four-fold increase in Britain's expenditure on dealing with asylum-seekers. The annual budget of the Immigration and Nationality Directorate in 1998/9 was nearly £358m. For 2003/4 and 2004/5, it had increased more than five-fold to £1,890 and £1,709 million, respectively. [3, 29] Despite numbers of asylum-seekers falling to one third of 2002 figures, the cost of the Border and Immigration Agency, which replaced the Immigration and Nationality Directorate, fell only by 23% to £1,460m for 2006/7. [30]

The National Asylum Support Service (NASS) alone cost £1,070m in 2003-4, although accommodation costs (£439m) and subsistence costs (around £125m) were only responsible for 56% of this. NASS administrative costs were therefore approximately £456m. The overall cost per assisted asylum-seeker (averaging 60,000 in accommodation and 27,000 receiving subsistence support only) was therefore approximately £12,300 per year. [29, 31]

In 2003/4, the cost of removing a failed asylum-seeker was £11,000, most of which was paid to private security firms providing detention facilities and escorts. The detention of failed asylum applicants and their dependants prior to removal cost £155.6m in 2003-4. Although the unit cost was £5,800, only 15,095 were actually removed, making the cost of detention per removed person over £10,000. [29]

In answer to a Parliamentary Question in 2006, then Immigration Minister Liam Byrne stated that the average weekly cost for holding a person in 2005-6 in an Immigration Removal Centre was £1,230. [32] Without accounting for increased numbers of detainees since the Home Office snapshot occupancy figure on 29 December 2007 of 1,455, [16] the yearly cost of detaining asylum-seekers, excluding those held in Short Term Holding Facilities and prisons, and excluding other immigration detainees, is therefore over £93m.

Total Home Office spending was just over £9 billion in 2006-7, of which just over £3 billion was spent on public order and safety and £1.5 billion on control of borders and migration. The Border and Immigration Agency accounted for over 18,000 of the 25,299 total staff of the Home Office in 2007-8. The Prison Service employed just below 50,000 before its incorporation into the Ministry of Justice in 2007. [30]

Rise and fall in number of asylum-seekers

Home Office records of asylum applicants, including dependants, are available from 1979, and of principal applicants, i.e. without dependants, from 1984. In 1979, there were 1,563 applications for asylum. Applications, including dependants, rose from 2,352 in 1980 to over 6,000 in 1985 and remained above 5,000 thereafter, averaging 4,250 per year from 1979 to 1988. [33] See figure 1.

Applications, including dependants, rose from 5,739 in 1988 to 16,775 in 1989; principal applicants numbered 3,998 and 11,640 respectively. [33] Since 1984, the ratio of principal applications to applications including dependants has averaged 0.78. The proportion of single applicants has steadily risen over the period. The ratio was 0.75 or below until 1991 and has been 0.82 or above since 2002. Henceforth, numbers refer to principal applicants, unless otherwise stated. [16, 25, 26, 33]

Asylum applications increased to 26,205 in 1990 and 44,840 in 1991, [25] with increased numbers from Africa, Asia and the Middle East. Other western European countries experienced a similar rise. [33] In November 1991, in order to deter multiple and other fraudulent claims, applicants were required to attend an interview to establish their identity. This measure was credited with a reduction in applications of about 50% in the next two years (to 24,605 in 1992 and 22,370 in 1993). [25, 34]

Applications rose again, to 43,965 in 1995, and fell back to around 30,000 in 1996 and 1997. [26] In 1996, the Home Office claimed that the reduction in applications followed the restriction of non-contributory benefits to port applicants in February of that year. [24] The proportion of applications made in ports, rather than in-country, did increase from 30%, between 1992 and 1995, to over 50% in 1997 and 1998, before reverting back to 30% by 2000, but there was a steady increase in the absolute number of port and in-country applications, nonetheless, throughout the decade. [26]

Applications increased sharply to 46,015 in 1998 and again to 71,160 in 1999 [26] with over 11,000 from former Yugoslavia and more than 1,000 applicants from each of 18 countries in Asia, Eastern Europe, Africa and South America. [16, 18] Over 80,000 principal applications were received in 2000 and 2002, and over 71,000 in 2001. [16]

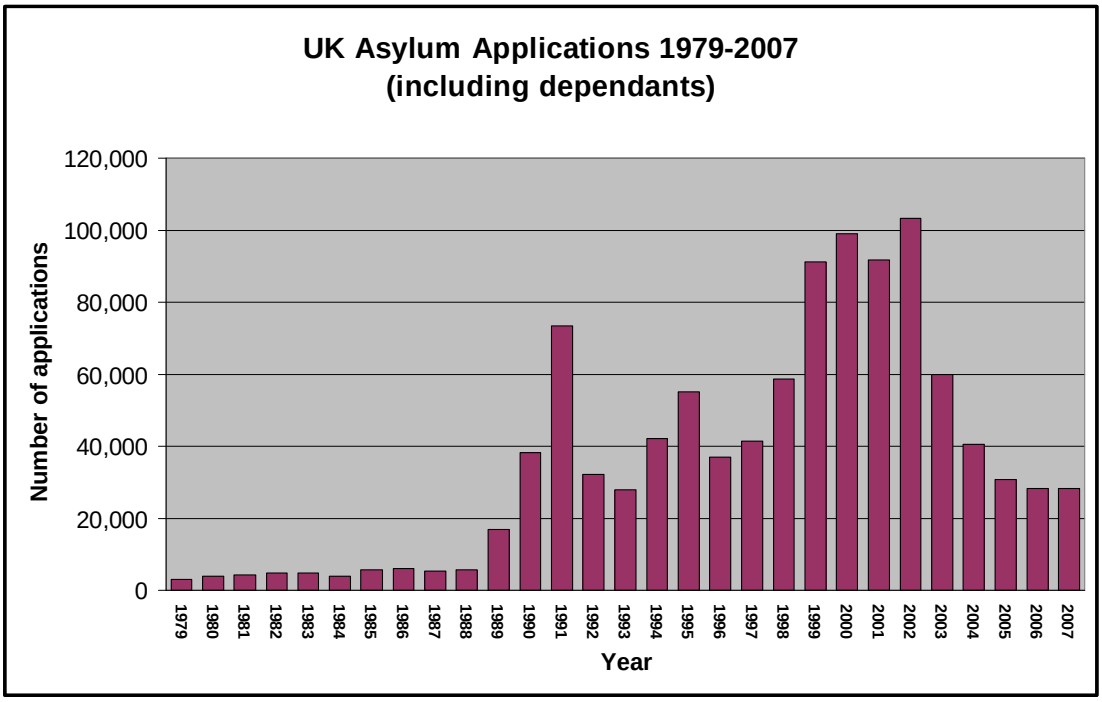

Figure 1. Early figures of applications without dependants are not available in Home Office Statistical Bulletins. Numbers of applications with dependants were taken from the bulletins for 1988 (years 1979-1983), 1994 (years 1984-1992), 2001 (years 1993-1997) and 2007 (years 1998-2007). [23, 25, 26, 16]

There followed a dramatic decline of applications in Britain, which was mirrored to a less extreme extent across the world. Within three years, principle applications in the UK fell to 25,710 in 2005, less than one third of 2000 and 2002 figures. [16] A less marked peak of applications between 1999 and 2002 in the rest of Europe and the USA was followed by an approximately 50% decline by 2005. [16] See figure 2.

This decline reflects measures taken by governments throughout the industrialised world to deter asylum-seekers from entering their countries.

3. Dealing with asylum-seekers

Immigration control is based on the Immigration Act 1971, which came into force in 1973. The British Nationality Act 1981 defined categories of British citizenship and amended the 1971 Act in relation to the right of abode in the UK. The Immigration Act 1988 reduced the rights of Commonwealth Citizens to settlement on arrival in the UK and removed some restrictions to deportation decisions. The Asylum and Immigration Appeals Act 1993 introduced finger printing of asylum-seekers, increased the appeal rights of refused asylum-seekers, attempted to impose time limits on decision making and was the first attempt to introduce a fast track process, 'a swifter procedure for dealing with manifestly unfounded cases'. [24, 27] The Asylum and Immigration Act 1996 extended the accelerated appeals procedure to a wider range of refused asylum-seekers, marked the first introduction of a list of safe countries, from which asylum claims could be assumed unfounded, and restricted appeals against return to safe third countries. [27]

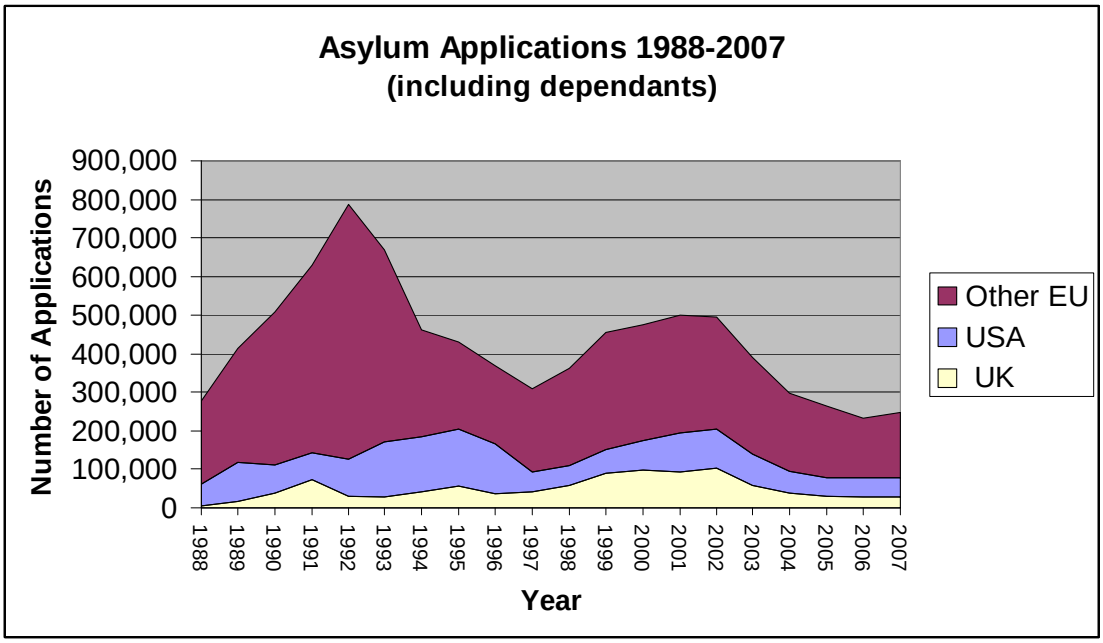

Figure 2. Numbers of applications in the UK, other EU countries and the USA, including dependants, were taken from Home Office Statistical Bulletins for 1994 (years 1988-1992), 2001 (years 1993-1997) and 2007 (years 1998-2007) [25, 26, 16]. 12 EU countries were included in all years. Portugal and Luxembourg were included in other EU totals from 1993 onwards.

Legislation aimed to prevent, restrict and discourage applications for asylum in the UK has been a hallmark of the Labour government. Immigration acts were introduced in 1999, 2002, 2004, 2006 and 2007. Another, 'the biggest shake-up of our immigration system for 40 years' is proposed for 2009. [7]

The Immigration and Nationality Directorate was renamed as the Border and Immigration Agency on 1 April 2007 to 'reflect the move to agency status'. [4] It was combined with 'UKvisas' and HM Revenue and Customs border staff to form the Border Agency in April 2008. [30]

Restricting legal access

The UK is one of the most difficult countries in the world to enter for the purpose of seeking asylum. [12] Visas were introduced to reduce the flow of refugees as long ago as 1985, when there were 'particular problems' because 2,300 Sri Lankan Tamils claimed asylum. [23, 35] By 1999, along with many other states, the UK had introduced visas for nationals of all main refugee-producing countries. [36] Visas were required for visitors from 19 countries in 1991, and 108 countries, including those bordering refugee-producing states, by February 2005. [12] Visas are now required for nationals of some countries who are in transit through an airport with no intention of entering the UK. [16] The Home Office 'UKvisas' network turned down over half a million of the 2.7 million applications in the year to April 2007. [30]

A computerised fingerprint database has been shared with the rest of Europe since 2003. [16] Compulsory biometric ID cards, an automated immigration clearance system based on iris recognition and electronic checks on all travellers in and out of the UK

were introduced in 2007-8, through the 'rollout of e-borders' and the 2007 UK Borders Bill. [16, 30, 37]

Preventing illegal access

'Juxtaposed controls', UK Immigration Officers at ports and rail stations in Europe and Airline Liaison Officers in over 30 locations worldwide, have been established since the Nationality, Immigration and Asylum Act 2002. [12, 16, 38] In 2007, they were responsible for 20% of 28,000 refusals of entry to the UK. [27] The Home Office announced that it screened 30m passengers over 90 routes during the 2007-8 financial year and at least 85% of detected illegal immigrants were stopped before reaching the UK by document checks and juxtaposed controls. [30]

The Red Cross camp for asylum-seekers at Sangatte, Calais, was closed at the request of UK authorities in November 2002. [38] New technology to detect immigrants hiding among freight was introduced in 2003 and the search capacity of the UK Immigration Service in Calais was stepped up in 2005. [12, 16]

The European Union, supported by the UK, provides financial support, training and equipment to countries outside Europe to prevent illegal access. Mediterranean coastal patrols work closely with North African countries to 'improve the management of migration' and an EU mission was sent to Ukraine and Moldova in 2005 to curb illegal migration to the EU. [12, 16]

During 2008, over 1,500 died trying to reach Europe by crossing the Mediterranean and Aegean Seas, trying to reach the Canary Islands or crossing the desert in North Africa. About 2,000 died in each of 2006 and 2007. [39]

Punishment of asylum-seekers

In a 1999 High Court judgement, Lord Justice Simon Brown stated 'The combined effect of visa requirements and carrier's liability has made it well nigh impossible for refugees to travel to countries of refuge without false documents.' [36] The UN Refugee Convention prohibits punishing asylum-seekers for arriving illegally. [38]

However, since 1994, increasing numbers of asylum-seekers with false documents, often in transit to America and Canada, were given prison sentences of 3-6 months. [36] The law was changed in 1999 to protect genuine asylum claimants, but a new offence was introduced in the 2004 Asylum and Immigration Act to penalise those who destroyed or disposed of their travel documents. [16, 38] Several hundred asylum-seekers, including minors, the elderly and victims of torture, have been imprisoned under this law each year since then. [27, 38, 40] An unknown number have then been deported without being allowed to make asylum claims. [3]

Punishment of carriers

Financial penalties for airlines and other carriers bringing in improperly documented passengers were introduced in the 1999 Immigration and Asylum Bill [36] and carriers' liability became compulsory in all EU member states in 2001. As a result, ships

rescuing ship-wrecked immigrants have been impounded and their captains criticised; stowaways have been thrown overboard. [38, 41]

Punishment of traffickers, supporters, employers and campaigners

On average, only 275 refugees have been resettled in the UK each year since 2004 under UN programmes. [16] The great majority arrive illegally, being forced by visa requirements and carriers' liability to use trafficking agents. Most do not choose or even know that they are coming to the UK and know little or nothing of the UK asylum process. [17, 36]

Harbouring an illegal immigrant was theoretically punishable with a 6 month prison sentence after the 1971 Immigration Act, but this was rarely enforced. Since the 2002 Act, helping an asylum-seeker enter the UK and providing sanctuary, for solely humanitarian reasons, are both punishable by imprisonment, to the same maximum as trafficking for profit – 14 years. Trafficked victims of sexual exploitation may themselves be detained and deported from EU member states. [38]

Fines and prison sentences have been imposed for aiding entry and harbouring illegal immigrants and failed asylum-seekers in Britain and elsewhere in Europe. Churches, convents and mosques in Spain, Germany, Switzerland and Britain have been prevented from playing their traditional role as places of sanctuary, when police have forced entry, removed failed asylum-seekers and prosecuted priests, nuns and imams. In Spain and France, camps and centres run by NGOs for asylum-applicants and undocumented migrants have been closed down. Organisations which work with failed asylum-seekers and which challenge government asylum policies in Britain and Netherlands have had funding threatened or suspended. [38]

Asylum-seekers have not been allowed to work since July 2002, [42] because the 'Government's policy is to remove incentives for people to come to the UK to work illegally.' [4] Illegal employees have been imprisoned since 2004 and heavy fines have been imposed on their employers since the Immigration, Asylum and Nationality Act 2006. [27, 38] In 2007-8, the Border Agency carried out over 7,000 operations against illegal working and arrested 5,589 suspected immigration offenders. [30]

Across Europe, campaigners about conditions and abuses in asylum detention facilities have been banned and prosecuted. Protesting asylum claimants have been deported from the UK. [38]

Immigration Officer powers

Home Office immigration caseworkers were given the power to detain asylum seekers in the Nationality, Immigration and Asylum Act 2002. The need for training in exercising powers of arrest, search, entry and seizure was acknowledged by the government in 1999 but no provision for regulation has been enacted despite increasing powers of Immigration Officers to parallel those of police in the Immigration Acts of 2002, 2004, 2006 and 2007. Immigration Officers remain without the same level of training, without codes of practice for arrest and detention and are 'pretty well unaccountable'. [10, 36, 43, 44]

The draft 2009 Immigration and Citizenship Bill proposes that Immigration Officers be given the power to stop people on the street and demand proof of entitlement to be in the UK. [45]

Detention of asylum-seekers

Detention under Immigration Act powers is permitted in Immigration Removal Centres (IRCs), Short Term Holding Facilities (STHFs), Prison Service establishments and police cells. [16] Government policy is to detain asylum-seekers to prevent absconding, to establish identity, to facilitate removal at the end of the asylum process, and to enable a fast decision to be made on claims which are deemed straightforward. [10, 16]

The scale of absconding has never been assessed by the Home Office [10] and less than 10% of former detainees, who were released on bail in 2000-1 despite Home Office objections, were lost to follow-up by volunteers one year later. [46]

There are no official data on the proportion of detained asylum-seekers who are eventually deported, released on bail or given temporary leave to enter the UK after spending long periods in detention. [10] Despite early Home Office assurances that detention is only used as a last resort and for the shortest possible period, many thousands of asylum-seekers are detained every year. [44]

There are no statutory criteria for detaining asylum-seekers; it does not need to be ordered or sanctioned by a court. [10] There is no judicial oversight of decisions to detain, or supervision of detention, no statutory limit to the duration of detention, no guarantee of legal representation during detention, no upper or lower age limit of detainees and no statutory limitation of the power to detain children. [10, 36, 45]

The decision to detain is arbitrary. [10, 46, 47] Immigration Officers themselves claim there is 'little or no consistency or logic' in deciding who is detained. [47] In its 2005 report, the National Audit Office was critical of the lack of clarity of criteria for detention of asylum-seekers. [29] If there are no vacancies, asylum-seekers may be given temporary admission to the UK and detained on reporting back 48 hrs later, because they are 'potential absconders' and/or suitable for fast track determination. [10, 47] The decision to detain and subject an asylum-seeker to the fast track process thus 'boiled down to bed availability', rather than necessity, proportionality and appropriateness, according to Amnesty International in 2005. Failed asylum-seekers who comply fully with reporting requirements are more likely to be suddenly taken into detention, in preparation for deportation. [10]

Fast track processes

The Nationality, Immigration and Asylum Act 2002 removed the right of appeal against decisions to refuse asylum to applicants from designated countries as part of the Non-Suspensive Appeals (NSA) process. [10] All applicants from 16 countries (in addition to the 29 countries of Europe, cooperating with the UK on asylum claims) and male applicants from another 8 countries are eligible to be fast-tracked under this process. [16] From November 2004, another 32 non-European countries were included in a Fast Track Processes Suitability List. Claimants from any of the 56 countries on

these lists are now automatically considered candidates for detained fast track consideration. Applicants from other countries can also be considered suitable if it appears to the immigration caseworker that their case can be decided quickly, according to criteria which Amnesty International considers to be broad enough to include the majority of asylum-seekers. [10] Fast track claimants are detained in Oakington Reception Centre, Harmondsworth IRC or Yarl's Wood IRC.

NSA cases were earmarked for Oakington, where they were meant to be processed within 10-14 days with on site Immigration Advisory Service and Refugee Legal Centre staff. [10, 16] However, by 2008, detainees were restricted to single males and only a minority were NSA cases. Legal advice was still available but only from a reduced number of Immigration Advisory Service staff, working under Legal Service Commission restrictions. [40] Asylum applications from Oakington fell from 2,335 in 2006 to 320 in 2007. [16]

In April 2003, an accelerated Detained Fast Track procedure for single male applicants was set up at Harmondsworth IRC. Initial decisions should be made in 2-5 days and appeals are heard on site. Thus, unlike at Oakington, where an applicant who is not subject to the NSA procedure could be released pending appeal, at Harmondsworth, detention continues throughout the process. As a 'result of the success' of Harmondsworth, a Detained Fast Track facility for single women was opened in May 2005 at Yarl's Wood IRC. [16]

The detention estate

In the early 1990s, up to 200 asylum-seekers were detained at any one time under the powers of the 1971 Immigration Act. [44] By 1999, more than 800 were in detention. [36] The capacity of the detention estate for asylum-seekers and undocumented migrants increased to 2,750 by March 2005, [29] more than three times the number of places available when the Labour government came to power in 1997. [10]

There are ten IRCs, including Oakington Reception Centre, with a combined capacity of over 2,700 (see table 1). [48] In addition, there are 5 residential STHFs, where detainees may be held legally for 5 days before transfer or release, 7 days if deportation is possible within that time. These have 144 spaces, of which 64 are separate to IRC totals. Police stations may also be classified as residential STHFs. There are over 25 non-residential STHFs, in rooms at airports, ports, asylum screening units and elsewhere in major cities, which are intended to hold detainees for a few hours only, but have been reported to hold people for up to 36 hrs. [44, 48]

All but one of the companies which operate IRCs are experienced in detaining prisoners. G4S plc, also known as Group 4 Securicor, Global Solutions and GSL, is an 'international security solutions group' running privatised prisons, and most of the non-residential STHFs as well as facilities shown in table 1 (44, 48, 49). [44, 48, 49] Kalyx manages four privatised prisons in the UK. [50] Serco Home Affairs, Serco Ltd., which runs Colnbrook IRC and took over Yarl's Wood from G4S in April 2007, is a defence organisation which manages the UK Atomic Weapons Establishment. [51] GEO Group specialises in 'custody, care and control' and runs privatised prisons and young offenders institutions. [52]

Table 1. Immigration Removal Centres

Site	Capacity	Operator
Oakington (nr Cambridge)	352 men	G4S
Harmondsworth (Heathrow)	252 men	Kalyx
Yarl's Wood (Bedfordshire)	284 women 121 family beds	Serco
Colnbrook (Heathrow)	383 men and women	Serco
Campsfield House (Oxford)	216 men	GEO
Tinsley House (Gatwick)	116 men 5 women, 25 family beds	G4S
Dungavel (South Lanarkshire)	190 mixed	G4S
Lindholme (Doncaster)	112 men (low risk)	HMP
Dover	316 men	HMP
Haslar (Portsmouth)	160 men	HMP
Residential Short Term Holding Facilities		
Manchester Airport	32	G4S
Yarl's Wood	40 (included above)	Serco
Colnbrook	40 (included above)	Serco
Dover	20	Dover Harbour Board
Harwich	12	Abbey Security Ltd

From Home Office UK Border Agency Immigration Removal Centres. Website accessed 2 and 4 January 2009 ukba.homeoffice.gov.uk/managingborders/immigrationremovalcentres… [48]
and
Noborders Network, August 2007, Britain's Detention Estate
wiki.noborders.org.uk/workspace/Britain's_detention_estate accessed 4 January 2009

Immigration Removal Centres are basically prisons. Colnbrook IRC was built to Category B prison standards in 2004. Dungavel is a remote converted shooting lodge in South Lanarkshire, formerly an open prison. Lindholme IRC is formerly part of an RAF base adjacent to Lindolme Prison in a remote area 11km from Doncaster. Dover IRC was a prison for young offenders before becoming an IRC in 2002. Haslar IRC was originally a naval barracks and then a young offenders detention centre until converted to house male immigration detainees in 1989. The other IRCs are purpose built. [7, 44, 48]

All detained asylum-seekers in Northern Ireland are held in Hydebank or Crumlin Road prisons. [10] Despite declared intentions not to do so, the Home Office also routinely detains asylum-seekers in prisons on mainland UK. [10] Around 190 were being held in prisons in December 2005. [44] The number of claimants detained in STHFs and prisons is not published by the Border Agency or included in Home Office Statistical Bulletins.

The capacity of the detention estate must grow to keep pace with record numbers of asylum-seekers being removed each year, according to the Border Agency. In May 2008, the government announced plans to open Brook House, a new 420 bed centre near Gatwick airport in 2009, to add another 370 spaces at Harmondsworth, by Heathrow, and to increase capacity at Dover IRC and Oakington Reception Centre by 100 places. Planning permission for new IRCs is being sought at two other Home Office-owned sites; at Yarl's Wood, permission for another 500 bed centre is being sought and at Bicester, an 800 bed unit is intended. If planning permission is given at both sites, the expansion in the total number of places will go beyond the planned 60% increase, providing 'room for hundreds more detainees in the future'. [7, 48]

Number detained and duration of detention

About 25,000 asylum-seekers, including 2,000 children are estimated to be detained each year. [10, 53, 54]

According to the Home Office, of 16,120 who were removed from the UK after periods of detention during 2007, 7,355 were asylum-seekers, of whom 380 were children, 160 under five years old. [16] The Border Agency, in May 2008, announced that a total of 63,140 illegal migrants (including 12,705 asylum-seekers) were removed from the UK in the previous year, all of whom must have been detained in IRCs or STHFs before removal. [7, 27]

The Home Office and National Audit Office only publish snapshot figures of asylum-seekers detained at any one time and no longer show the average duration of detention for adults currently detained, [16] despite recommendations of the Home Affairs Committee in 2003. [10] The duration of detention of children, from examination of individual case records is, however, still included in the snapshot figures. [16]

On 25 December 2004, two thirds of approximately 1,500 asylum detainees had been detained for over two weeks, 42% for more than a month, 23% for more than two months and 13% for four months or more. Some detainees were reported to have been held for more than one year, and one for two years. [10]

Of 1,455 asylum-seekers who were in detention on 30 September 2006, 81% (1,180) had been in detention for more than one week, 69% (1,000) for over two weeks, 53% (730) for more than one month, 120 for over six months and 35 for more than one year. [31] Fast track detainees at Harmondsworth, who were removed from the UK in 2005-6, spent an average of 65 days in detention there. The average was 57.5 days for Yarl's Wood fast track detainees. [44]

In June 2008, detainees at Oakington, originally intended for fast track NSA cases, had been kept an average of eight weeks, with one detainee still present after 20 months. [40]

Detention of children

Following visits to Tinsley House, Oakington and Dungavel detention centres in 2003, HM Inspector of Prisons wrote critically of the detention of families and recommended that children should not normally be detained at all. If detention was necessary it should be for a few days only and governed by independent assessment very shortly after it began. [10] In 2008, treatment of children by the UK immigration system was described by the Children's Commissioner for England as 'positively cruel' and 'inhuman'. [53]

On 29 December 2007, 2,095 immigration detainees were being held, of whom 1,455 were asylum-seekers. Two thirds of the 35 children in detention on that day had been held for more than two weeks and 44% had been held for more than four weeks. [16] In Yarl's Wood IRC alone, on 9 January 2009 there were 43 children and one 5 yr-old was held for 69 days before being deported with her mother to Nigeria on 12 February 2009. [55, 56] Children as young as 7 months have been held at Yarl's Wood IRC. [10, 53]

In Oakington Reception Centre, for men only, increasing numbers of age-disputed cases are referred to Cambridgeshire Social Services. In the first half of 2008, from an average monthly intake of 450, 134 had been referred for age assessment. Of the 83 completed assessments, over half were determined to be under 18 yrs old, after spending an average of two weeks (up to nine weeks) in detention. [40]

Benefits, Dispersal and NASS

In February 1996, later confirmed in the Asylum and Immigration Act 1996, the Department of Social Security withdrew non-contributory benefits from asylum-seekers who did not apply in ports on arrival and from those who were appealing against refusal. [27]

The National Asylum Support Service (NASS), a directorate of the Immigration and Nationality Directorate – now the Border Agency – was set up in April 2000 when the responsibility for supporting asylum-seekers was taken over by the Home Office from the Department of Work and Pensions, pursuant to the Immigration and Asylum Act 1999. NASS was disbanded in 2006 and its functions were taken over by Regional Asylum Teams. Support consists of accommodation in dispersal areas, mostly in the north of England or in the Midlands, and/or subsistence support. For those without children, subsistence support since the 1999 Act has been in the form of vouchers to

the value of £35 per week, redeemable at designated outlets for food and essential items, without provision for change being given. [4, 16, 36]

Although the government claimed to have improved its record since 'unacceptable delays' in the provision of support in 2005 and 2006, the parliamentary Joint Committee on Human Rights in 2007 reported 'countless examples' of Home Office inefficiencies in processing support claims, 'institutional failure' to protect asylum-seekers from destitution and unfair denial of support to poorly represented asylum-seekers. [4]

Under Section 4 of the Immigration and Asylum Act 1999, support ceases after claims for asylum have been finally refused, unless there are dependent children or other special needs, in which case support continues until removal from the UK. Support also continues if failed asylum-seekers have been given permission for Judicial Review of their case; if they have taken reasonable steps to leave or make themselves available to leave, but are temporarily prevented from doing so for physical or medical reasons; or if there is no viable route for return. [16] Theoretically under the 1999 Act, failed claimants are eligible for continued support if their human rights would otherwise be breached, but as receipt of support depends on making themselves available for removal, many failed asylum-seekers prefer destitution to Section 4 support. [17]

Under Section 55 of the Nationality, Immigration and Asylum Act 2002, support under Section 4 of the 1999 Act is not available to asylum-seekers without dependent children even before their cases are heard, if they have not applied for asylum 'as soon as reasonably practicable after arrival in the UK'. [16] A period of 72 hours was deemed sufficient according to the Home Secretary in 2003, but ten working days is allowed. [57] In 2007, 990 out of 16,175 applications for support were denied on these grounds, [16] although a 2005 House of Lords ruling should have prevented those at risk of street homelessness being denied support. [37] Support may be withdrawn 'if asylum-seekers do not abide by the regulations . . . for example if the asylum-seeker does not move in to the allocated accommodation.' [16]

The voucher scheme was regarded by the parliamentary Joint Committee on Human Rights in 2007 as inhumane and inefficient, stigmatising, discriminatory and inadequate for basic living needs. Specifically, essential needs of pregnant women and mothers and babies in the post natal period were not being met by vouchers nor was there any provision for travel or telephone costs, both necessary to access legal representation and pursue asylum claims. [4]

In response to the Joint Committee's recommendations that the voucher scheme be replaced by cash, the Home Office wrote that a 'more limited support regime endorses the message that the asylum seeker has exhausted his or her appeal rights and should take steps to leave the UK once the barrier to leaving has been resolved', [4] which appears to ignore those who are awaiting initial decisions and the outcome of appeals.

At the end of 2007, 1,440 asylum-seekers were living in NASS emergency accommodation and 34,150 were living in dispersed long term housing, figures very similar to those in 2005. Only 1,295 were in Greater London while most were in the north-east, north-west, Yorkshire and the Midlands. Those receiving subsistence only

at the end of 2007 numbered 8,900, a drop of more than a third from 14,290 at the end of 2005. Most of these (6,150) were in Greater London, indicating a preference to live in areas other than those to which the majority were dispersed. [16]

Emergency short term NASS accommodation, intended for only two weeks, was typically being occupied for six months at the end of 2004. Families of four or more were in emergency accommodation for an average of 356 days. [29]

Possible decision outcomes and the New Asylum Model

Asylum-seekers may be granted refugee status, leave to remain or refused. **Exceptional Leave to Remain** was created in 1984 for those who did not fully meet the criteria for asylum under the 1951 UN Refugee Convention or the 1967 Protocol. It was designed for 'those individuals or groups of nationals who could not reasonably be expected to return to their country of origin in the prevailing circumstances'. Before 1984 they were treated as refugees and granted asylum. Settlement (indefinite leave to remain) was granted to refugees and individuals with exceptional leave to remain after 4 yrs and to groups of nationals with exceptional leave after 7 yrs. [35]

Since October 2000, human rights issues have been considered in claims, under the European Convention for the Protection of Human Rights and Fundamental Freedoms, which was incorporated into UK law in the 1998 Human Rights Act. Humanitarian Protection and Discretionary Leave replaced Exceptional Leave to Remain in April 2003. [16]

Humanitarian Protection is granted to anyone at risk of being killed or tortured in their country of origin. **Discretionary Leave to Remain** was created for the Home Secretary to allow some of those who fell outside of the Humanitarian Protection policy to remain on a discretionary basis, for example those who are under 18 years old or with serious medical problems. Unlike Humanitarian Protection, Discretionary Leave is granted outside the Immigration Rules. [57] It was initially indefinite but was replaced with five years temporary leave in August 2005, allowing deportation of individuals excluded under Refugee Convention clauses or whose country conditions no longer merited international protection. The refugee is eligible for settlement after five years. Those admitted for Humanitarian Protection were given 5 instead of 3 years temporary leave from August 2005. [16]

The government Five Year Strategy, announced in February 2005, and the Immigration and Nationality Directorate Review, in July 2006, outlined closer management of asylum claims under a **New Asylum Model**. [16] Implemented in March 2007, this aimed for faster and more closely managed processes for all claimants. It made use of detained fast track processes at Harmondsworth and Yarl's Wood IRCs as well as the already established (2002 Act) Non-Suspensive Appeals process at Oakington Reception Centre. Closer management of non-detained cases was also achieved 'through the use of managed accommodation, regular reporting requirements, by serving the outcome of appeals in person and by linking an applicant's access to support to their compliance to the process.' [16]

Integral to the new model is the 'focus on the single case owner: one professional responsible for managing both the case and the claimant throughout the asylum

process.' The case owner manages all aspects of the claim; meets the asylum-seeker a few days after application, explains the system and answers any questions, conducts the substantive interview with the claimant and takes the initial decision. He or she represents the Home Office at appeal, is the point of contact on the progress of the case for the claimant or their representative, and deals with applications for subsistence and accommodation. Case owners operate in six regionally-based case management teams, first piloted in June 2005, and are responsible for all new claims since March 2007. [4, 16, 17, 30] A key feature of the New Asylum Model is a new screening process to identify those who should be sent directly to a fast track detention centre. [29]

Initial decisions and trends

In 2007, 22,890 asylum decisions were made, including reconsiderations after additional information was obtained on the applicant or their country of origin. Asylum was granted in 17%. Humanitarian Protection or Discretionary Leave was given in a further 10%. The remaining 73% were refused, 6% on safe third country grounds and 10% on non-compliance grounds. [16]

Although these rates are broadly similar to those since 1994, there were two substantial changes in rates of granting asylum, leave to remain and refusal between 1979 and 1994. The first was a shift from granting asylum to granting leave to remain in the early 1980s. The second, from 1990 to 1994, was a huge increase in refusals, at the expense of both of the other categories, more markedly and persistently at the expense of leave to remain. See figures 3-5.

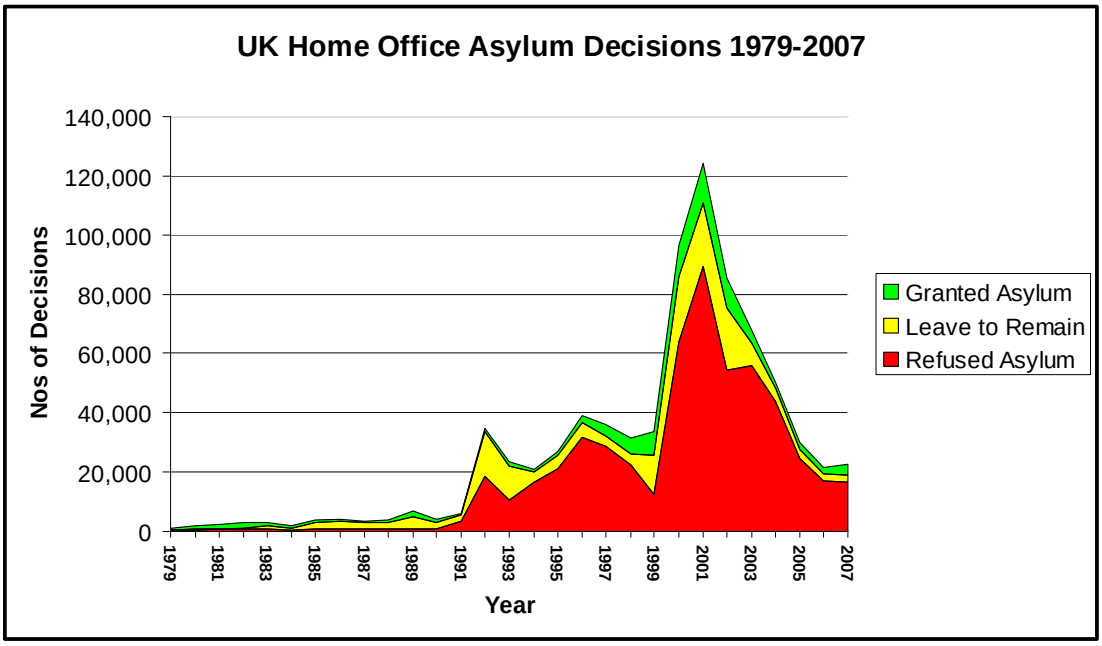

Figure 3. Initial decisions by year, taken from the Home Office Statistical Bulletins for 1988 (years 1979-1983), 1994 (years 1984-1992), 2001 (years 1993-1997) and 2007 (years 1998-2007). [23, 25, 26, 16] Figures for 1979-1983 include dependants. The remainder do not.

Most applicants (55-64%) were granted asylum up to and including 1982 (fig. 4). Over the next three years, there was a modest fall in refusal rates but an increasing proportion of those who were allowed to stay were granted leave to remain rather than asylum. From 1982 to 1985, refusals fell from 31% to 19%. Grants of asylum fell from 59% to 24% and leave to remain increased from 11% to 55%. In 1986 and 1987, grants of asylum fell by almost half to 13%. The Home Office reported that criteria for refugee status remained the same and that the fall in grants of asylum mirrored changes in other western European countries. The subsequent increase in 1988, back up to 25%, was due to an increase in refugees from Somalia, Ethiopia and Sudan and 'revised working procedures aimed at clearing the backlog'. [23]

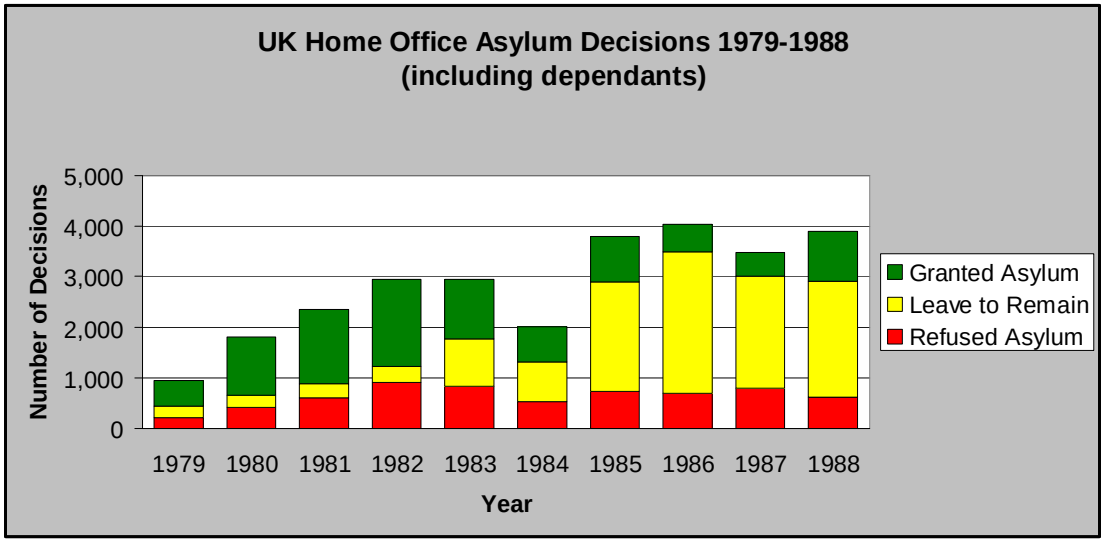

Figure 4. Decisions made on asylum claims, including dependants, 1979 – 1988. From Home Office Statistical Bulletins for 1988 (years 1979-1983) and 1994 (years 1984-1988). Revised figures for 1984-8 from the 1994 report are used instead of those from the 1988 report. Only figures which include dependants are available for the whole period. [23, 25]

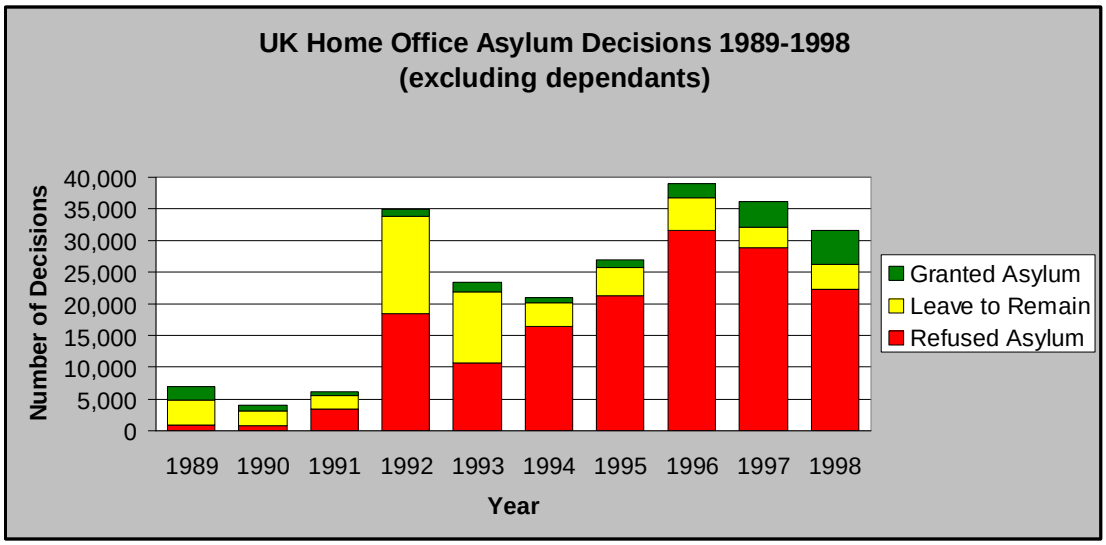

Figure 5. Decisions made on asylum claims, excluding dependants, 1989 – 1998. From Home Office Statistical Bulletin for 1994 (years 1989-1992) and 2001 (years 1993-1998). Revised figures for 1993 and 1994 are taken from the 2001 report in preference to provisional figures in the 1994 report. [25, 26]

From 1990 to 1994 (fig. 5), grants of asylum fell from 23% to 4%, exceptional leave from 60% to 17%, and refusals increased four-fold from 18% to 79%. By 1998, grants of asylum had risen back to 17%, but exceptional leave remained low at 12% and refusals accounted for 71% of decisions.

From November 1991, applicants were requested to attend for an interview to establish their identity in order to deter multiple and other fraudulent claims. Failure to respond resulted in refusal on grounds of non-compliance. [25, 33] The majority (82%) of refusals in 1992 and nearly half (49%) in 1993 were on non-compliance grounds. From 1994 to 1996, refusals for non-compliance fell yearly from 18% to just over 5% of total refusals. [24, 25] Since 1994, these grounds have continued to be used to refuse a small percentage of applications (10% in 2007). However, these applicants have merely failed to attend interview within ten working days rather than failed to attend at all. They have therefore had their cases heard for the first time at appeal. [16, 57] From 1994, the majority of refusals were stated to be 'after full consideration or on safe third country grounds' in Home Office reports.

Refusals rose from 18% to 79% between 1990 and 1994, being consistently high after shooting up to 77% in the second half of 1993, after the Asylum and Immigration Appeals Act. According to the Home Office, there was no change in the determination criteria following the Act. Nevertheless, the Home Office stated that the increase in refusals was due to the introduction of the 1993 Act, as well as increased staff resources and the confining of exceptional leave to remain to cases with compassionate grounds for staying in the UK, [34] where there were 'genuine humanitarian factors'. [25] According to psychiatrists working with detained asylum-seekers and to NGOs in subsequent reports, the Home Office merely stopped believing asylum applicants in 1993 and cases which would have been granted asylum or given leave to remain before the Act were refused thereafter. [58]

Rates of refusal have remained high since 1994 but have shown significant variation (fig. 6). In 1999, only 36% of decisions resulted in refusal, due a large number of claimants from former Yugoslavia and a backlog clearance exercise (see p.23). One third of decisions were for asylum or leave to remain in the exercise to clear the pre-1996 asylum backlog. Using standard criteria, another 23% were granted refugee status and 7% leave to remain. [36, 60] The number granted leave to remain under backlog criteria in 2000 was only slightly lower than in 1999 but this was a much lower proportion (9%) of total decisions because of the huge increase in decisions overall. Since 1998, the proportion granted asylum or leave to remain has varied from 22-29% in most years, but was higher (37%) in 2002. It was significantly lower in 2003, 2004 and 2005, when it was 17%, 12% and 17% respectively. [16]

Cases considered under fast track processes have virtually no hope of acceptance. Of 260 cases considered at Oakington Reception Centre in 2007 (where the majority are no longer Non-Suspensive Appeal cases), 99% were refused. [16, 40] Of the much larger number of initial decisions made in 2006 (2,180), 90% were refused. [16] In February 2005, just under 200 fast track cases had been heard at Harmondsworth. Only 7 were given refugee status and one Humanitarian Protection. [10] In 2006 and 2007, 99% of fast track applicants at Harmondsworth and 98-99% at Yarl's Wood were refused. [16]

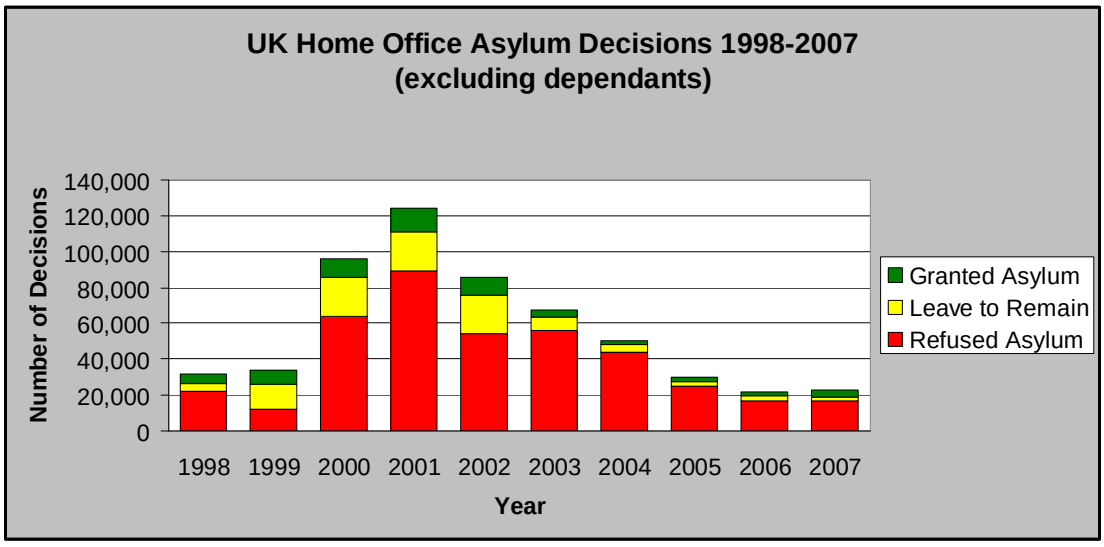

Figure 6. Decisions made on asylum claims, excluding dependants, 1998 – 2007. From Home Office Statistical Bulletin 2007, [16] including provisional figures for 2007. The 1999 and 2000 figures include 11,140 and 10,325 respectively, who were given leave to remain under backlog criteria. They also include 1,275 and 1,335 refusals under backlog criteria.

Appeal process

Although some decisions were appealed before its introduction, the Asylum and Immigration Appeals Act 1993 formalised the appeal mechanism. Appeals were heard by special adjudicators at the Immigration Appellate Authority. If their cases were dismissed but not 'deemed as without foundation', appellants were entitled to apply for leave to then appeal to the Immigration Appeals Tribunal. [25]
As well as introducing the list of countries for which appeals were not allowed (the Non-Suspensive Appeals system – see p.12), the Nationality, Immigration and Asylum Act 2002 clarified the 'one-stop' appeal process which had been brought in with the Immigration and Asylum Act 1999. Under this, all reasons to justify an appeal against refusal of asylum had to be stated in the first instance. [16, 27]
Nonetheless, after refusal of an appeal by an adjudicator at the Immigration Appellate Authority, permission could still be sought for an appeal to the Immigration Appeal Tribunal on asylum grounds. [16]

When the Asylum and Immigration Act 2004 came into effect in April 2005, these stages were effectively combined, with appeals heard by an Asylum and Immigration Tribunal judge, or a panel of judges in complex or important cases. [16, 27] No further appeal is now allowed unless it can be demonstrated to a senior immigration judge that the deciding judge(s) made a material error in law. [4] In the proposed Immigration and Citizenship Bill for 2009, new statutory limitations will further restrict the Asylum and Immigration Tribunal from allowing appeals because the decision was too harsh, as long as it was correct as a matter of law. [45]

Judicial Review, by a High Court judge examining the papers, may order a rehearing, or, if the original decision was made by a panel of three legally qualified members, a hearing at the Court of Appeal, but again only if there was a material error in law. [16]
Claimants who are refused asylum on safe third country grounds lost their right to Judicial Review following the 1999 Asylum and Immigration Act. [36] In the planned

2009 Bill, further restriction of access to the Court of Appeal will be applied. [45] On 30 January 2009, the Border Agency stopped the practice of suspending removal proceedings after application had been made for Judicial Review if such an application had been made within the previous three months. [61]

The rate of successful appeals has varied between 17% and 23% since 2000, after anomalous success rates of 9% in 1998 and 27% in 1999. In 2007, 14,935 asylum appeals were determined by the Asylum and Immigration Tribunal, of which 23% were allowed, 72% dismissed and the rest withdrawn or abandoned. The number of appeals determined each year follows a similar curve to initial decisions, only delayed by two years, with roughly two thirds of refused claimants making appeals. [16]

In contrast to the high refusal rates of initial decisions made in fast track cases at Oakington, Harmondsworth and Yarl's Wood, appreciably larger proportions of appeals were granted, although less than half that of appeals from outside the fast track system. In 2006 at Oakington, under 10% were granted asylum or leave to remain on initial decision yet 13% were successful on appeal. [16] In 2007 at Oakington and in 2006 and 2007 at Harmondsworth and Yarl's Wood, less than 2% were granted asylum or leave to remain initially, but 4-7% succeeded at appeal. [16]

Judicial Review was permitted in only 12% of the 2,285 applications on which decisions were made in 2007. Of the 40 Judicial Review hearings determined, 14 (34%) were allowed. [16]

Backlogs and clearance exercises

The number of outstanding asylum applications at the end of each year has been reported since 1984, exceeding initial decisions every year until 1992. The number of outstanding cases was a little exaggerated as decisions were underestimated 'because a certain proportion probably fail to reach the computer'. [33]

In 1990 and 1991, only 10,100 decisions are recorded to have been made, on a total of more than 70,000 new applications and a backlog of nearly 7,000 cases inherited from 1989. At the end of 1992, outstanding applications had fallen from the 1991 figure of 72,070 to 49,110, but this was still over twice the number received during that year. [25]

The asylum system became overwhelmed with the 5-10 fold increase in claims in the 1990s, before the even greater surge at the end of the millennium. New applications heavily outnumbered initial decisions in 1994, 1995, 1998 and 1999. [16, 26] In 1997, decisions were taking an average of two years to process. [17, 57] By the end of 1999, there were 125,100 claimants awaiting initial decision, despite over 12,000 being considered under a backlog clearance exercise that year. [16, 26] Unprecedented numbers of decisions were made in each year from 2000 to 2004, by the end of which the number of outstanding claims was reduced to 9,700. [16] In 2007 and the first half of 2008, 35% of initial decisions were made within two months of application. This contrasts with every year since 2001, where 61-81% were made within two months. Nevertheless, by the end of 2007, only 6,800 were outstanding. [16]

Over the years, a number of backlog clearance exercises have been undertaken. In 1988, grants of asylum almost doubled (from 13% to 25%), partly due to backlog

clearance procedures. [23] Another exercise was announced in 1998 for applicants whose claims had been outstanding since 1993 and for many with family or community ties, who had claimed between 1993 and 1995. [17, 26] In 1999, 12,415 backlog cases were decided, nearly all of whom were given leave to remain, as were most of the 11,660 considered in 2000. [16]

The Family Indefinite Leave to Remain exercise to grant settlement to families who had applied for asylum four or more years previously and who had a child under 18 years old, was announced in October 2003. [27] Including dependants, 35,855 (9,235 excluding dependants) were granted settlement in 2004 and similar numbers (34,235 and 11,245) in 2005. In 2006, 11,805 (4,115 excluding dependants) were settled while in 2007, most settlements under the clearance process were reclassified as 'other asylum-related grants' (2,870 principal claimants, 1,385 excluding dependants). [16]

In July 2006, the Home Secretary announced that the backlog would be resolved within five years, giving priority to deciding to remove those who might pose a risk to the public, be removed more easily, and those receiving support and by making decisions on those who might be allowed to stay. [27] A new Case Resolution Directorate was set up for this purpose by the end of 2006. [16]

In 2007, grants of settlement on a discretionary basis included indefinite leave outside the immigration rules to clear the backlog. Including dependants, these rose from 7,720 in 2006 to 18,750. [27] In May 2008, the Home Office announced it had cleared over 52,000 backlog cases up to March of that year. [30]

Home Office asylum target

The Home Office aims to: 'By the end 2011 grant or remove 90% of new asylum claimants within six months. To achieve this milestone, we will ramp up our performance so that we grant or remove 35% of new asylum claimants by April 2007, 40% by December 2007, 60% by December 2008, 75% by December 2009 and 90% by December 2011.' [16] In May 2008, the Border Agency announced that it had met the 40% target in 2007: [7] nearly half (46%) of new applications in June 2007 were concluded within six months, with applicants being given permission to stay or deported by the end of the year. [16]

The asylum application – Lunar House

The asylum process is complex and asylum-seekers are not well informed about it. [58] In 2004, Amnesty International wrote that failure to attend for interview and present a 19-page Statement Of Evidence Form, completed in English within ten working days of application, was viewed as being non-compliant and resulted in refusal of the asylum claim, despite obvious difficulties for non-English speakers who were unacquainted with the asylum process and the UK legal system. [57] Some fail to attend simply because they cannot afford public transport to screening units. [3] In 2007, 10% of applicants were refused on non-compliance grounds [16] – see p.21.

Applications for asylum are now made from ports of entry, from within Immigration Removal Centres or at Asylum Screening Units in Liverpool or Croydon. In 2005, a detailed enquiry by the South London Citizens group into conditions at Lunar House,

the screening unit in Croydon, found a hostile physical environment, characterised by tension, frustration, overcrowding and anxiety. One MP reported 'grave concern about humiliating, degrading and inhumane treatment of people'. There was a lack of available information for claimants, who could spend 12 hours in a queue, fearful of losing their place if they paid to go to filthy toilets or bought inadequate and expensive snacks from vending machines. There was no provision for taking pushchairs up and down several flights of stairs and no facilities for mothers with babies. Claimants were not allowed to leave the building or to use mobile phones. Users were too fearful to complain in case they were branded as trouble-makers, negatively influencing the decision about them. [3]

There was a 'clearly inadequate' telephone system which caused 'much public frustration over insufficient or contradictory advice resulting in unnecessary visits and delays' because telephonists were not immigration trained. [3] The frequent loss of documents (affecting up to 10% of claimants in 2005), delays in returning original documents and inaccurate up-dating of claimant's addresses and contact details should have improved since that report with there being a single case owner for each claimant in the New Asylum Model.

Legal representation

There is no statutory requirement for legal representation at interview. Concerns were expressed in 2005 about the 'steadily growing shortage of competent legal advice and representation'. Investigators for the South London Citizens enquiry met one unrepresented woman who had been raped and deeply traumatised. She was caught between the prospect of detention and being returned to her trafficker but was offered no assistance or advice at Lunar House. [3]

Most claimants who manage to arrange legal help complain about the quality of their help and representation. [3, 17, 57] Some complain that information given to solicitors is not passed on. One reported that vital documents were not translated and therefore not considered at a hearing because of their solicitor's incompetence. [17]

The Immigration and Asylum Act 1999 was criticised because the proposed dispersal of asylum-seekers away from London would reduce their access to appropriately trained solicitors. [36] In 2006, dispersal was reported to have contributed to frequent changes in legal representative. [17]

Public funded legal support for asylum-seekers is of variable quality and was even more so before the introduction of new funding arrangements with tighter financial constraints for immigration legal work in April 2004. [4, 17] The Home Office reported that immigration contracts with the Legal Services Commission fell from 644 in 2003 to 367 in 2006. [4] The 2004 restrictions got rid of some of the worst abuses by unscrupulous solicitors but also discouraged others from continuing immigration work, resulting in a shortage of expertise in the field [4, 17] and contributing to frequent changes of solicitor. In 2006, Amnesty International interviewed several failed asylum-seekers who had had three or more legal representatives, including one who had had six. [17] With fewer solicitors offering legal aided services, many asylum-seekers were left with poor advice and representation at all stages of the process or without legal help at all. [10] Limits to the disbursement of legal aid following the

Asylum and Immigration Act 2004 also reduced the possibility of providing expert medical reports, demanded increasingly by the Home Office in cases where torture was alleged to have occurred. [57]

Proving merit for legal aid from the Legal Services Commission is difficult, even if applying for bail while in detention. Being detained makes getting legal advice and representation even more difficult and it is often of poor quality when obtained, according to Amnesty International. [10] According to Medical Justice, a large proportion of detained asylum-seekers do not have any legal representation and are not entitled to legal aid. [47] The isolation of Dungavel and Lindholme IRCs forces legal advisors to drop their client's cases. [10] Even detention in Dover prevents London solicitors from accepting referrals. [59]

A claimant may meet their solicitor only once before interview. As Amnesty International reported in 2004, legal preparation 'can often involve remembering extremely traumatic, humiliating and distressing events which they have to communicate quickly, often through an interpreter [sometimes by telephone], to a solicitor with whom they have not had time to develop a trusting relationship.' [57] Many asylum-seekers report not being given sufficient time to explain their reasons for claiming asylum to their representative. Charges for legal help are often unexpected and felt to be arbitrary and exorbitant. [17]

Caseworkers and interpreters

The South London Citizens enquiry heard complaints from asylum-seekers of harsh and inappropriate behaviour by case-hardened staff taking out their frustration on the public; of brutal and traumatic cross-questioning of rape victims; of one MA student, who stood to complain about the distance of his chair from the screen, being told to 'shut up and sit down' and being threatened with arrest. They described a culture of suspicion, indifference and disbelief, and caseworkers who were 'very angry' and discourteous.[3]

If caseworkers or interpreters are co-nationals of the claimant, they may be biased against ethnic, political or other groups to which the claimant belongs. Fear of such bias may seriously compromise a claimant's willingness to disclose political allegiances, features of their history which reflect badly on governments, parties or groups, their sexual orientation, and any details which are culturally or otherwise embarrassing. [3, 17, 57, 58] Lack of female interviewers and translators prevents full disclosure of sexual violence, which adversely affects claimants' chances of being granted refugee status or leave to remain. [17]

Many failed asylum-seekers complain about the quality of translation by interpreters. Only government-employed interpreters are allowed; they may be using their second or third language. Instances are given of translators using the wrong language, speaking a different dialect or having insufficient knowledge of English to give a true account of the claimant's history. Asylum-seekers have complained that translators omitted important parts of their histories, inaccurately translated some sections and invented others. [3, 17, 57, 58]

Caseworkers ('case holders', under the New Asylum Model) work under considerable pressure. They conduct interviews in difficult circumstances, in the presence of noise, overcrowding and large queues. They work long hours and are exposed to a hostile press, frequent policy changes and poor management. Yet they are expected to make and write up at least one asylum decision per day in order to meet their weekly targets. Although the new model will have reduced complaints made previously by 75% of caseworkers about ineffective and unreliable file tracking, the pressure to process decisions quickly, which resulted in factual errors in 32% of cases in 2005, remains. A staff survey conducted by the Home Office showed that work load was their main pressure. Half complained of stress-related health problems in the previous year and 19% left the job within the first year, 50% inside two years. [3]

In 2005, over half the staff at Lunar House complained of bullying or harassment within the previous year. Three had been forced to leave because of racial harassment by more senior members of staff, who were found on each occasion to be in breach of employment law. One year later all three were still employed at Lunar House and one had been promoted. [3]

According to the office of the UN High Commissioner for Refugees (UNHCR), determination of refugee status is highly specialised work which should be performed by highly trained people. [63] Yet commentators report that caseworkers' competence and training is inadequate. [3, 57] In 2004, educational requirements were two A level GCEs and five GCSEs; [3] training was in three blocks totalling 27 days followed by a consolidation workshop after three months. Trainees were given 3-4 hour sessions by UNHCR staff on refugee protection, UNHCR and the role of credibility in the determination process. [57] Case owners are now graduates who receive 55 days training. [4] Once in post, one of their cases is reviewed by a senior caseworker each month. External sampling of cases is performed by Treasury Solicitors. The Home Office assured Amnesty International in 2003 that over 80% of decisions were 'truly effective' and that quality was improving. [57] In 2005, a caseworker could earn as little as £13,694 a year. [3] Caseworkers are ill-equipped to consider claimants' histories from a global perspective and are not trained to cope with their own stress nor to assess and handle the mental state and distress of asylum claimants. [3]

The claimant at interview

They should change the way they treat us, because they talk to us badly – yet we need help after being tortured, raped and beaten – and when you reach here it's as if they are also torturing us.

If you can, please improve and ask the person the reason why she is forced to come to the country.

I was treated like a liar at the interview – not listened to and asked questions in front of other people.

Three of the statements taken by the South London Citizens enquiry from asylum-seekers at Lunar House Asylum Screening Unit, Croydon, in 2005. [3]

Asylum-seekers are often tired, frightened and confused. Many have experienced trauma, and separation from family, friends and their own culture. They may be anxious about accommodation and subsistence. If they are detained in an Immigration Removal Centre, the trauma of previous experiences of detention and abuse is rekindled. [3, 17, 57, 58] They are in an unfamiliar environment and for many the whole asylum process is completely alien to any procedure with which they have any familiarity. [57, 58]

Many have fled from authoritative regimes where people in positions of authority are perceived as a threat to personal safety. They may therefore be frightened and distrustful of caseworkers, interpreters and their legal representative, if they have one. Most are naïve and expect to be believed, without having to navigate a tough adversarial style of interview. [3, 17, 57, 58]

The immediate environment of the asylum interview in Lunar House causes great difficulty for the claimant to make their case and for the case owner to establish relevant facts. The claimant's cold, metal chair is fixed, at a distance from the case owner, separated by a glass screen. Booths are open and barely screened from each other, so that claimants can hear others on either side. Claimants are closer to each other than to the caseworker, with whom they communicate through a barely audible intercom system, via an interpreter. They complain of difficulty hearing, being shouted at and being made to shout, even when describing distressing and humiliating events. [3, 17, 57, 58]

Although unrepresented claimants without their own interpreters are entitled to have their interviews recorded, [63] no tape recording of interviews is reported, so independent scrutiny is impossible. The questions and responses are recorded by hand by the caseworker. This is different from the treatment of testimony in any other area of the UK legal system, as pointed out by Amnesty International. It has been commonly reported that answers to questions are inaccurately recorded. The statement is generally not read back to the claimant in their own language before they are asked to sign that it is a true and accurate record and that they are satisfied with the fairness of the interview. Some claimants report that caseworkers refused to change statements when errors had been pointed out. [3, 17, 57, 58]

Natural difficulties in revealing painful and sensitive issues, to strangers, possibly for the first time, are amplified by difficulties and anxieties inherent in the asylum process. They are further exacerbated by fear of authority, cultural and psychological barriers, aggressive questioning and the physical and emotional environment of a screening unit. [3, 17, 57, 58] A victim of rape may have never told anyone about this before and yet is expected to tell a hostile official in conditions which remind her of her own country. [3]

Any involvement with a banned political group may be under reported if the claimant suspects or perceives hostility to that group by the line of questioning or infers it from the nationality of the interviewer or interpreter. Amnesty International reported the case of one refused asylum-seeker who was afraid to reveal his conversion to Christianity because he believed the interpreter was Muslim. [17] [Apostasy is punishable by the death penalty in some countries.] There is real fear among some

claimants that information revealed may somehow leak back to their country of origin, with adverse consequences for their family and associates. [3, 17, 57, 58]

Applicants complain of not being given sufficient time to answer questions which are fired at them quickly, rapidly changing from topic to topic, causing them to become confused. Many say that caseworkers are racist, abusive and hostile; not trying to establish the truth but trying only to undermine their given history. [3, 17, 57, 58]

Importance of correct decisions

However one considers the morality of detaining people who have not been convicted of a crime; whatever one thinks of deporting people with or without families who have spent several years in Britain and have developed ties here; whatever proportion of asylum-seekers one believes are bogus economic migrants; whether or not one agrees with Immigration Minister Woolas that it is time to weaken the UN Convention on the Protection of Refugees, [8] it is illegal under international and European law to refuse asylum to a refugee and return them to their country of origin.

The legality and morality of the treatment of failed asylum-seekers depends absolutely on the fairness of the decision made on their claim for asylum. If a negative decision is correct, then however morally repugnant it is and whatever their individual circumstances are, returning them to their country of origin may be considered appropriate. If they choose to avoid deportation then the destitution and likelihood of detention that they face is a matter of choice.

If a negative decision is incorrect, then not only is Britain failing its obligations under UN and European conventions, not only is our government responsible for failing to provide protection to broken, persecuted people, but by disbelieving them, detaining them, impoverishing them and returning them to face detention, torture, abuse and possibly death in their home country, the UK is guilty of crimes against humanity.

The integrity of the whole asylum process stands or falls on whether asylum decisions are correct. Individuals and organisations that work with asylum-seekers, including Amnesty International, Refugee Council, Oxfam, Asylum Aid, and the Medical Foundation for the Care of Victims of Torture, claim that asylum decisions are frequently incorrect. [12, 17, 57, 58, 64, 81] A systematic analysis of decision making is therefore necessary. The substance of a large number of claims and the reasoning behind decisions made on those claims must be assessed. For this to be done in an informed and objective fashion it must be done from a foundation of considerable experience of human rights and other conditions in the country of origin of the asylum-seekers in question.

4. Oromo asylum-seekers in the UK: background to this study

The author's expertise on Ethiopia began to develop when training Oromo Relief Association health-workers during four visits to Sudan and Ethiopia between 1988 and 1992, when employed by Health Unlimited, a London-based NGO. During this time, he became acquainted with several key Oromo Liberation Front (OLF) personalities and began to learn about the political and human rights situations in Ethiopia. He has studied these now for twenty years.

Background information is included in Section 5 (p.33 *et seq.*), to inform comment on Home Office refusals and appeal determinations. A little background is nonetheless appropriate before the audit results are given.

In the nearly two decades of conflict which eventually toppled the Derg communist military dictatorship, the OLF did not receive the international support enjoyed by the Eritrean People's Liberation Front (EPLF) or the Tigrean People's Liberation Front (TPLF); its fighting force was smaller and without mechanised units. Nevertheless, the OLF made a significant contribution to the downfall of the Derg in 1991 in its bid for more self-determination for Oromo people. Its relationship with the TPLF has always been fraught, and the two narrowly avoided armed conflict in the months surrounding the setting up of the transitional government in May 1991. Under the mediation of the US Assistant Secretary of State for Africa, Herman Cohen, the TPLF established and dominated the transitional government. Its surrogate Oromo party, the Oromo People's Democratic Organisation (OPDO), competed with the OLF for the support of the Oromo people, some 40% of the Ethiopian population.

In the transitional government, the OLF was the largest party which was independent of the governing umbrella party of the TPLF (the Ethiopian People's Revolutionary Democratic Front – EPRDF). The degree and extent of support for the OLF from the Oromo population, signified by its success in snap local elections, surprised both the TPLF and the OLF itself. However, OLF officials and supporters were killed and tortured by government soldiers, during the first year of the transitional government, despite the inclusion of the OLF. [65] In the run up to the 1992 national elections, the OLF withdrew from government, claiming electoral malpractices and intimidation and killing of its supporters. OLF fighters, encamped under an agreement with the US State Department in the pre-election period, were overrun and 20-45,000 fighters and supporters were imprisoned. [66, 67]

The OLF has maintained a minor military presence in the west, south and east of Ethiopia since then, but has never been a serious military threat to the government. However, it enjoys aspirational support of the majority of Oromo people and has an extensive clandestine network of members and supporters throughout all sections of Oromo society. Periodic purges of the OPDO, the government Oromo party, attempt to rid it of OLF supporters.

Any criticism of government by an Oromo, any dissention and any support for other legal opposition Oromo political parties (Oromo Federalist Democratic Movement, Oromo People's Congress) has been met with accusations of terrorism and of supporting the OLF. [68,69]

Regular reports from Amnesty International, Human Rights Watch and the US State Department have catalogued serious and widespread violations of human rights by government actors in Ethiopia. Exiled opposition politicians, former government officials and judges, including the former President of the Oromia Supreme Court, have reported serious and pervasive human rights abuses. A US Congressional Hearing was given an account from the chief investigator of a government commission, Judge Frehiwot Samuel, of the deliberate shooting of 193 unarmed protestors following the 2005 national election in Ethiopia. Much of this information is available in Home Office Country of Origin Information for Ethiopia and all of it is in the public domain. [68, 69, 70]

The Oromia Support Group (OSG) was established in 1994 to collate and publish information on human rights violations, which were being ignored by mainstream media because of the good relationship between the governments of Ethiopia, Europe and America. Since 1995, as Chair of OSG, the author has been asked to provide expert witness reports on the histories given by asylum-seekers from Ethiopia in more than 350 asylum applications. Since 2000, the format of these reports has been sufficiently standardised for the purposes of audit: out of 251 reports, 210 were for asylum-seekers in the UK, of whom 144 are Oromo. A total of 200 (137 Oromo) had had their applications refused by the Home Office and 57 (44 Oromo) had had their appeals against this decision dismissed. The non-Oromo applicants (table 3) were Amhara (mostly supporters of the All Amhara People's Organisation) and mixed Amhara-Eritrean (who fled in response to abuses associated with the 1998-2000 Ethio-Eritrean war), Eritrean residents of Ethiopia and small numbers of Gurage, Sidama, Tigrean and Walaita people who were involved with groups opposed or perceived as opposed to the government. There were 7 with mixed Oromo-Eritrean parentage, whose main problems related to OLF activity and were included with Oromo asylum-claimants.

The 41 reports for asylum-seekers in other countries were all for Oromo claimants, 21 in the USA, 4 in Germany, 3 in each of Australia, Canada, Norway and Switzerland, 2 in Egypt (to UNHCR) and 1 in each of Sweden and the Netherlands. All 251 cases were analysed for detention, abuse, escape, bribery and use of trafficking agent (table 2). The 200 Home Office Reasons for Refusal letters and the 57 Determination and Reasons for dismissal of appeals were analysed.

Table 2. Summary of case histories

Total	251
Detention	199
Two or more episodes of detention	72
Three or more episodes of detention	30
Beaten in detention	182
Torture (including rape)	134
Escape	75
Bribery to facilitate escape	57
Rape, out of 69 female former detainees	33
Use of trafficking agent, of 169* cases	151

* Method of reaching UK or USA noted only in 169 cases

Table 3. Non-Oromo reports, with reasons for asylum claim

Amhara		
	AAPO (± ETA)	21
	EDP, AAPO	1
	Ex-WPE, AAPO	1
	EPRP	1
	Journalist	1
	Army deserter	1
	Total	26
Amhara/Eritean		
All had been deported or threatened with deportation to Eritrea and several had been detained in Eritrea due to the 1998-2000 war.		
	Part Eritrean ancestry only	9
	AAPO	6
	Jehovah's Witness or Pentecostal Church	3
	EPRP	2
	ELF (father)	1
	Trafficked as maid	1
	Total	22
Eritrean		
	Eritrean ancestry only	8
	Jehovah's Witness	2
	Journalist	1
	Total	11
Others		
	Gurage, OLF (husband)	
	Gurage, EPRP	
	Walaita, WPDF dissident	
	Walaita, EPRP	
	Tigray, TAND	
	Tigray, EDP	
	Sidama, SDC	
	Total	7
	Grand Total	66

AAPO	All Amhara People's Organisation	SDC	Sidama Development Corporation
EDP	Ethiopian Democratic Party	TAND	Tigrean Alliance for National Democracy
ELF	Eritrean Liberation Front	WPE	Workers Party of Ethiopia
EPRP	Ethiopian People's Revolutionary Party	WPDF	Walaita People's Democratic Front
ETA	Ethiopian Teachers Association		

5. Audit: Reasons for Refusal

Junior hospital doctor to consultant surgeon, whom he was assisting:
How would you like the stitches cut, sir? Too long, or too short?

Each asylum applicant gives a unique history and, although there are common threads running through many of the reasons for refusal, it is impossible to record all of these reasons without reproducing in full all 200 Home Office Reasons for Refusal letters (RFRLs) and all 57 Determination and Reasons (DARs) for dismissing appeals. Any system of classification of the reasons incurs some overlapping of categories and is of necessity arbitrary.

The findings are classified, albeit imperfectly, thus:
i. Incorrect information
ii. Selective use of available information
iii. Non-substantiated, subjective assertions
iv. Foul play
v. Unsustainable reasoning
vi. Disregard of supporting evidence

Although Reasons for Refusal letters cite the opinions and assertions of the Secretary of State, they are compiled by caseworkers; 'case owners' since the introduction of the New Asylum Model. The term caseworker is used for all initial decision-makers.

i. Incorrect information

Errors occur frequently when cut and paste processes are used. RFRLs contain previously prepared phrases, sentences and paragraphs provided by the Home Office and caseworkers commonly patch these together in ways which are not grammatical or factually correct. The letters often refer to incorrect countries, for example. These errors are not the concern of this analysis, although they reflect the haste in which refusal letters are prepared. The errors considered here are factual errors upon which caseworkers relied to dismiss claims. In these cases, the claimant gave correct information but because it differed from the information used by the caseworker, the claimant's account was dismissed as not credible. Common factual errors included basic information about the OLF; its year of formation and the name of its leader.

Caseworkers claimed that the OLF was formed in 1975. However, 1975 is the only year between 1973 and 1976 which cannot be claimed as the year in which the OLF was established. When claimants stated that the OLF was formed in 1973 (as on the OLF website, the year of the first meeting of concerned individuals), 1974 (the date of publication of its draft political programme) or 1976 (when the OLF had its founding congress and became militarily active in eastern Ethiopia), they were found incredible. This led to refusal on credibility grounds in 14 claims.

Until 2004, caseworkers insisted that the leader of the OLF was Katabe Mayu. After 2004, they asserted that he was Dawud Ibsa Gudina. The OLF General Secretary is Dawud Ibsa Ayana. His first and second names have been spelt in several ways on OLF documents. His third, and therefore grandfather's, name is never used in OLF communications and would not necessarily be known by OLF supporters and

members in any case. (Gudina Tumsa was a prominent figure in the Evangelical Church Mekane Yesus, who encouraged and supported the founders of the OLF and was murdered by the Derg in 1979.) Katabe Mayu has never even been a member of the OLF. He was one of several vice-chairmen of the Islamic Front for the Liberation of Oromia. Failure to name the OLF leader exactly as quoted and spelt by caseworkers led to refusal on credibility grounds in 10 applications.

Solomon, 27, RFRL, December 2003
[Y]ou were questioned on when the OLF was formed and you said 1973 whereas it was 1975. You were asked who the Chairman . . . was and you said Dawd Ibsa. . . . the Chairman is Katabe Mayu . . . Your lack of knowledge damages your credibility and indicates you are not an OLF member as claimed.

Olika, 30, RFRL, February 2004
[Y]ou said Dawd Ebssa . . . Objective Country Information suggests that the Chairman is Katabe Mayu . . . Your lack of knowledge damages your credibility.

Tarakegn, 25, RFRL, March 2006
[Y]ou incorrectly stated that the OLF was founded in 1973 and you incorrectly stated that the current leader is Daud Ibssa rather than the current chairman being Daoud Ibsa Gudina . . . it would have been expected that you would have mentioned that the OLF has had clashes with rival Oromo rebel groups, some of which had come into being through splits in the OLF.
Tarakegn was not asked about splits and clashes; he was expected to have commented on them spontaneously. There have been minor splits within the OLF but none have resulted in armed clashes.

Tolera, 26, RFRL, November 2003
You were asked who the leader of the OLF was and you replied, 'Dawed Ebsa and Abdul Fetal Baye'. The Chairman is Katabe Mayu and the Vice Chair is Abdulfattah Moussa Biyyo.

There were other errors, for example in caseworkers' assessments of the human rights situation in Ethiopia. It was commonly cited, at least until October 2004, that 'Since September 2002 [sometimes September 2001] . . . membership/support of the OLF may now result in detention.' However, suspected supporters of the OLF have been detained, tortured and killed since before the OLF left the transitional government in 1992. This error occurred in at least 34 Reasons for Refusal letters. Three more referred to September 2001 as a watershed date for detention of OLF suspects.

ii. Selective use of available information

Persecution because of Oromo nationality

Whether being Oromo *per se* attracts persecution is a moot point. Discrimination against Oromo is evident in the proportion of Oromo in higher education and in the staff of international organisations, compared on a *per capita* basis to Amhara, Tigrean and Eritrean people. Derogatory terms for Oromo are still commonly used, especially the word *galla* which has similar connotations to *nigger* in Europe and America. The prevalence of human rights violations against Oromo is higher *per*

capita than against other peoples and being Oromo considerably lowers the threshold for persecution in Ethiopia. They constitute 40% of the Ethiopian population and number 30 million. Any degree of Oromo autonomy and control of the rich resources of Oromia Region is therefore perceived as a threat to Ethiopian regimes. Popular support for the OLF results in collective punishment of Oromo, and OLF supporters often state that they are persecuted simply for being Oromo. Accusations of involvement with the OLF are used as a pretext to justify the persecution of supporters of legal Oromo opposition political parties, civil societies, and any Oromo critics of the government. [68, 71]

The Home Office is understandably reluctant to accept that merely being Oromo is a reason for being persecuted in Ethiopia, because of the practical difficulties of offering asylum to a group of 30 million people. Refusals of all except one Oromo claim included assertions, partly on the basis of Ethiopian government statements, that being Oromo *per se* did not attract persecution. Many stated that persecution was impossible because of their large number, which is not logical.

Mekonnen, 36, RFRL, March 2001
The Oromos are the largest single group, comprising over one third of the total population. . . . The Secretary of State is therefore of the opinion that you are not among a persecuted group.

Amansiisa, 17, RFRL, December 2006.
[T]here is no information available to the Home Office which indicates Oromo being persecuted in Ethiopia due to their ethnicity. Therefore your account of suffering persecution and harassment due to your ethnicity in Ethiopia is not accepted as being true.

Although the government Oromo party, the OPDO, is often the vehicle for perpetrating abuse against Oromo people, the Home Office reiterated Ethiopia's official position that the OPDO adequately represents Oromo interests.

Tadesse, 23, RFRL, October 2003
Oromo people account for 40% of the population. . . . It is not believed or accepted that you will be persecuted in Ethiopia due to your alleged ethnic origin. The Oromo people are represented politically by the . . . OPDO which is affiliated to the . . . EPRDF coalition.

Ombudsman, redress in Ethiopia

Recourse to redress for detention without trial, torture and rape in detention is absent in Ethiopia because the authorities themselves are responsible for the abuse. Not one individual has been prosecuted for carrying out torture, [72] yet torture is routine for political detainees and is often lethal.

The long-heralded establishment of a human rights commission and ombudsman in Ethiopia occurred in 2007, according the US State Department in March 2008. Both entities were reported by the State Department to have received and investigated complaints in 2007 but their independence from government interference is hardly likely to be more robust than that of the judiciary. The widespread abuse of human

rights and the particular targeting of Oromo on suspicion of, or the pretext of, supporting the OLF, were amply recorded in the same State Department report.

Nonetheless, failure of detained and tortured individuals to seek redress through the ombudsman and human rights commission, even before they were operational, has been used as a reason to doubt credibility. This is obviously an 'off the peg' reason to refuse, taken from a checklist of possibilities and adapted to fit.

Fekadu, 29, RFRL, February 2007
It is concluded that since you have made no allusion to having made any attempt to contact the Ombudsman or the institution, that you have, in fact, not sought the protection of your home country. Therefore, your claim to be unable to avail yourself of the protection of the state is undermined as you cannot know you have no state protection as you have never attempted to access any. Therefore, it is considered that you still have avenues of redress open to you, which you could pursue were you returned to Ethiopia.
This young man's experience of 'state protection' included detention and torture at Sendafa Police Training College, where hundreds have been detained and tortured.

Aster, 20, RFRL, October 2006
*You could have attempted to seek redress through the proper authorities before seeking international protection. You claim that you were raped by three men that you believed to be the police in June 2002, but have not provided evidence to confirm that it was indeed the police within your area Ethiopia [*sic*]. You state that you did not seek redress from the Police nor any higher authorities within Ethiopia. Therefore, it is not accepted that you attempted to seek redress through the proper authorities before seeking protection in the UK.*

Acceptance of Ethiopian Constitution and official pronouncements

One of the reasons used for stating that non-violent opposition to the government is accepted and does not therefore attract persecution was a statement by the Ethiopian Prime Minister.

Birtukan, 30, RFRL, August 2002
[P]olitical parties are free to operate in Ethiopia provided they remain within the law. . . on 23 August 1995 Prime Minister Meles Zenawi expressed his commitment to the democratisation process and his willingness to work with opposition groups if they renounced violence. . .
'[M]embers of the civilian population . . . have nothing to fear from routine actions and enquiries made by the authorities in Ethiopia in pursuance of their efforts to combat terrorism, and to maintain law and order.
Birtukan's father died under suspicious circumstances a few months after being detained. She was beaten and sexually assaulted when detained.

Although widely reported by the US State Department as well as Amnesty International and Human Rights Watch, the practice of arbitrary arrest and detention in Ethiopia was often denied, on the strength of Ethiopia's Constitution.

Bayisa, 27, RFRL, September 2003
The belief that you were not arrested as claimed is strengthened by the fact that the Ethiopian Constitution and the Criminal and Civil Codes prohibit arbitrary arrest and detention.

Naïve assertions about respect for a wide range of human rights in Ethiopia, again on the basis of its Constitution, were made.

Lelise, 30, RFRL, August 2002
This young lady was an AAPO activist who was detained for four months in early 2002 and repeatedly raped.
The Constitution guarantees all the rights that would be expected in a western country . . . It gives prominence to the respect for human rights. It prohibits arbitrary arrest and detention and the use of torture and mistreatment of prisoners. . . . Therefore . . . it is not credible that your family would not employ a solicitor to obtain your release if your human rights, guaranteed under the Constitution, were being abused in this way. Furthermore, . . . there are several domestic human rights organisations operating within Ethiopia. . . . it is not credible that you or your family did not report your ill treatment and rape in prison, to one of these organisations. Therefore, the Secretary of State does not believe that you were arrested, detained for four months and repeatedly raped as claimed.

Ethiopian government pronouncements regarding deportation of Eritreans and their children after the onset of hostilities in 1998 were also accepted without question. In this example, the caseworker also used his own error to discredit the claimant.

Mekonnen, 16, RFRL, November 2002
Mekonnen's family left Eritrea in 1995 because of persecution of Jehovah's Witnesses. They were deported back to Eritrea in 1999.
*. . . Ethiopian authorities . . . have consistently maintained a policy of not deporting members of Jehovah's Witnesses of Eritrean origin as they might face religious persecution in Eritrea. . . . The Secretary of State finds it implausible that . . . [*you*] would not know about . . . Ethiopia's policy of not deporting them. . . . This seriously undermined the credibility of your overall claim.*

Terrorism

In crackdowns on members of Oromo political parties and civil societies, the government routinely accuses them of supporting terrorist networks of the OLF. However, neither the Foreign and Commonwealth Office nor the US State Department regard the OLF as a terrorist organisation. [73] In its country reports for 2001 and 2002, the US State Department conflated the OLF with the Ogaden National Liberation Front, stating that the organisations regularly used landmines which resulted in civilian deaths. In the 2003-2006 reports, similar conflation with the ONLF occurred regarding civilian deaths in armed clashes with the government.

The strength of the OLF lies in its popular, political support. Less than one percent of its members and even fewer of its supporters have ever carried arms. Many of those who have been detained under the pretext of being OLF terrorists have been classified

by Amnesty International as prisoners of conscience, who have never advocated violence.

The Ethiopian government frequently blames the OLF for bombings and grenade attacks. There has never been any evidence of the OLF's involvement in such attacks, apart from the bombing of a train carrying military equipment in Dire Dawa railway depot in June 2002, where there were no civilian casualties. However, over 28 refusal letters referred to the OLF as a terrorist organisation which was responsible for bombings, reiterating allegations made for propaganda purposes by the Ethiopian government.

Mekonnen, 36, RFRL, March 2001
[T]he OLF have been responsible for a number of human rights violations, committed during terrorist operations.

Solomon, 27, RFRL, December 2003
It is considered that such alleged activities represent the very lowest level of involvement with an organisation that has carried out numerous violent terrorist attacks.

Sabile, 17, DAR, August 2003
The OLF is regarded as a terrorist organisation. I note that one of their landmines blew up a group of UN soldiers. . . . The Ethiopian government has invited the OLF to lay down their weapons and become part of the democratic movement and I find that the appellant would face no interest on her return.
The reference to a landmine blowing up a UN vehicle concerns an incident at Jijiga, in the Ogaden, outside OLF operational territory.

Government pronouncements regarding the Macha-Tulama Association (MTA), the largest Oromo civilian organisation, were accepted without question. The MTA is an Oromo cultural and self-help organisation which has been persecuted by every Ethiopian regime since it was established in 1963. Officials were among those detained in a crackdown on Oromo civil societies in 1997 and 1998, when the last Oromo language newspaper, *URJII*, was closed down and its staff, the staff of the Oromo Relief Association, officers of the nascent Human Rights League and Oromo health professionals were detained. Further waves of arrests of MTA members and officials occurred in 2000, 2002 and 2004, when its offices were finally closed.

Ahmed, 25, RFRL, October 2004
*Federal police officials argue that the M&T [*MTA*] is the terror wing of the OLF. Members of the association were implicated with the recent violence in schools of Oromia Regional State and hand grenade throwing at the Addis Ababa university that killed one student. Some of the individuals who were apprehended red handed with hand grenades and other arms bear Mecha Tulema IDs. . . . It is considered that any interest in the authorities [*sic*] concerning your alleged Mecha & Tulema membership would be seen as investigation for prosecution.*

At the same time as demonising the OLF as a terrorist group, refusal letters whitewashed the Ethiopian government.

Diribe, 16, RFRL, July 2004
[The] *OLF is an illegal organisation that has refused to renounce violence . . . The Ethiopian government remains committed to the democratisation process and opposition groups are allowed to function provided that they do not advocate violence.*
In view of your own admission that your parents have been engaged in activities on behalf of the OLF, and given the nature of the group's activities, any interest or lawful enquiries into their alleged activities by the authorities would be justified and cannot be regarded as persecution . . .
Diribe and her parents were detained in March 2004 because of her parents' peaceful involvement with the OLF. Both parents died in detention.

The terrorist label was used in dismissals of claims by members of other parties opposing the government, including the All Amhara People's Organisation (AAPO), a legal party which has never advocated violence. Both the AAPO and Ethiopian People's Revolutionary Party (EPRP) were blamed for grenade attacks in Addis Ababa, on the basis of government accusations. Selective use of information and emphasis on Ethiopian government allegations of terrorist acts were present in at least 29 letters of refusal of AAPO and EPRP members. In every AAPO refusal, it was also stated that membership did not attract persecution, despite reports of AAPO members being killed and detained. EPRP members were told that only those who had not renounced violence might be targeted by the authorities. Each one was also told that four detained EPRP members had been treated well in detention.

The Ethiopian government claims that opposition political groups are allowed to function in Ethiopia if they renounce violence. However, the Ethiopian Democratic Party, Coalition for Unity and Democracy, Oromo Federalist Democratic Movement, the Oromo National Congress (now renamed as the Oromo People's Congress) and other members of the coalition of United Ethiopian Democratic Forces, have never advocated or been involved with violence yet their members and supporters have been killed, detained and forced into exile.

Selective reference to Immigration Tribunal decisions

The Home Office information for caseworkers is limited and pre-selected. However, there is no reason for their selective reference to previous tribunal decisions.

In the Reasons for Refusal of **Abdullahi**, 20, in February 2007, the caseworker quoted two tribunal decisions, from 1997 and 2002, stating that supporters of the OLF do not face a real risk in Ethiopia. She omitted to mention the 2005 tribunal decision [74] which found that 'the [Ethiopian] authorities make a particular priority of targeting those who are members of the OLF or are known OLF sympathisers'.

iii. Non-substantiated, subjective assertions

Assertions without any evidence base were noted in every refusal letter. Being unsubstantiated, they were often mutually contradictory. Some reached the level of fantasy (see p.73).

Definition of persecution

Persecution is difficult to define according to the UNHCR handbook. [62] However, caseworkers appeared confident in defining what does not amount to persecution. Detention, even if repeated, rape and torture apparently did not.

Fekadu, 29, RFRL February 2007
One arrest and spell in detention does not amount to persecution.

Caaltu, 24, RFRL, June 2004
Commenting on her account of three episodes of detention within two and a half years, the caseworker wrote:
It is not accepted that you have provided an account of sustained and systematic mistreatment from the Ethiopian authorities.

Solomon, 27, RFRL, December 2003
It is not accepted that three detentions in eleven years can be regarded as constituting a sustained pattern of persecution.

Terefa, 26, RFRL, August 2001
He reported a ten day episode of detention in solitary confinement, being severely beaten and kicked, accused of working for the OLF and receiving death threats after his release. The caseworker wrote:
[T]he Secretary of State does not consider that the treatment you received during this detention would constitute persecution as described in the UNHCR Handbook or as interpreted by the courts.

Xayiba, 17, RFRL, October 2003
[I]t is not believed that rape by a person abusing their authority constitutes persecution under the terms of the 1951 Convention.

Certification of abuse

Certificates confirming detention may sometimes be obtained from government sources but they are usually not requested and obviously not by escapees. Torture and rape are never authenticated, nor could they be, because those providing the authentication would be part of the same structure as the perpetrators. Even when health professionals are engaged to treat victims of torture or rape, there is no reason for them to provide certificates or reports in Ethiopia. Nonetheless, failure to provide certification was asserted to undermine credibility in eight cases of detention, seven of torture and four cases of rape.

Kulani, 39, RFRL, January 2003
[Y]ou have failed to provide any evidence to support your claim to have been arrested and detained by the Ethiopian authorities.

Sabile, 17, RFRL, February 2003
[T]he vast amount of your claim is based on your own supposition rather than definite facts. . . . you claim that your father was arrested, though you have not been

able to provide any definite information about this, as you clam not to have heard from him since he left the house that morning. . . .
It is your own belief that your brother has been arrested or killed, but yet again you cannot provide any positive facts.

Ahmed, 25, RFRL, October 2004
You have produced no medical evidence to support your claims that you were beaten or mistreated. Whilst it is accepted that people fleeing from their countries are not always in a position to collect evidence to support their claims, there is no obligation to accept such undocumented claims as being true. Therefore it is not accepted that the ill treatment you described took place.
Ahmed was beaten, whipped, immersed in water and made to walk on his knees on gravel.

Public reports

Unrealistic assertions about the likelihood of abuses being reported by the Ethiopian media and the US State Department were made.

Getachu, 34, RFRL, March 2005
It is considered that the arrest, or even disappearance, of Ethiopian Orthodox Church clergy or OLF members would be high profile and widely reported.

Dibaba, 31, RFRL, February 2005
He had reported that a friend of his had been detained following the bombing of the Tigray Hotel in Addis Ababa in September 2002. The US State Department country report for that year named three of the several hundred who were detained following the incident. The caseworker, referring to the State Department report, wrote
It is noted that there is no record of your colleague . . . being arrested in connection with the bombing as you claim.

Social conditions in Ethiopia

Caseworkers, adjudicators and immigration judges often made assertions based on assumptions that social conditions in Ethiopia are similar to those in the UK.

An adjudicator in 2004 found it incredible that **Diribe**'s aunt in a rural area had no telephone or postal address. If a prison or building had no title, apart from the prison, police station, grain-store etc. of that locality or kebele, a claim might be found incredible. Many homes, hamlets and villages in rural areas have no postal address. Yet, contact is made by people through informal networks and mobile phones. The same adjudicator who found the absence of a street address and telephone incredible was not able to understand this, writing '[q]uite how the aunt became aware of the appellant's position in such circumstances escapes me'.

Tadesse was told by a caseworker in 2003 and by an adjudicator in 2004 that his inability to provide the address of the hamlet, which was 90 minutes walk from the nearest road, in which he hid for a month, 'indicates you have fabricated your entire account'.

Dinkinesh was told by a caseworker in 2007 that her inability to put a name to a kebele prison meant that she was not being truthful. When she said that the prison had no specific name but that her uncle would have found it easy to locate her at that prison, being the obvious place to look in her neighbourhood, she was told that this brought her credibility into question.

Fekadu, 29, DAR, March 2007
The immigration judge did not find it credible that Fekadu would meet other cell members in a hotel because
the appellant was not on holiday in Addis Ababa, he worked there. Arranging meetings in a hotel when he could quite simply have a few guests at his apartment or house is not in my view at all plausible when set in the context of this appellant's evidence that he was being followed.
Fekadu had never said he was followed, merely that he had been watched closely at work when he had previously worked at a Ministry of Defence establishment. Hotels in Addis Ababa are not necessarily places to go on holiday, but places with bar rooms where friends can meet and where some seclusion is possible.

An immigration judge even asserted in 2007 that 'it is not credible that medical staff use the same bathroom as patients' in Ethiopian hospitals.

The difficulties experienced by asylum-seekers in the UK attempting to make contact with relatives in Ethiopia were not appreciated by asylum decision-makers. Secure and reliable postal and telephone access to all areas of Ethiopia was assumed. The fear of government interference with mail and interception of international telephone calls by the security network, was simply not appreciated. Many asylum-seekers who have been out of contact with their families for long periods were told that this lack of contact was not credible.

Human rights abuses and responsibility of the state

Caseworkers, adjudicators and immigration judges asserted that the Ethiopian government was not responsible for human rights abuses.

Helina, 22, RFRL, June 1995
The Secretary of State understands that the predominantly Tigrayan fighters of the EPRDF who have taken over policing have shown remarkable discipline and decency, and are widely respected for their restraint. There have been no incidences of looting or abuses against civilians.

A frequently used paragraph, which is pasted into refusals of claimants from many countries, blamed abuses on lack of discipline and supervision of members of the security forces. More than 20 examples of its use were in the sample.

Dinkinesh, 16, RFRL, March 2003
[T]he Secretary of State does not condone any violations of human rights which may have been committed by members of the security forces in Ethiopia. However, he considers that these actions arise from failures of discipline and supervision rather than from any concerted policy on the part of the Ethiopian authorities and does not accept that they are evidence of persecution within the terms of the UN Convention.

Sabina, 18, RFRL, October 2003
You claim that you were raped by the security forces when they had searched your home. No violations which may have been committed by members of the security forces in Ethiopia are condoned. However, these actions arise from failures of discipline and supervision rather than from any concerted policy on the part of the Ethiopian authorities. They are therefore not evidence of persecution . . .

Human rights abusers are punished in Ethiopia and the police are trained in human rights, according to asylum decision-makers.

Bedane, 16, RFRL, September 2004
*Such violations [*arising from failures of discipline and supervision*] are not knowingly tolerated by the Ethiopian government and action has been taken by the authorities against officers suspected of being involved.*

Rahel, 21, DAR, July 2005
Violations of human rights were failure of discipline and not condoned or tolerated. The Police have basic training in human rights and she should have reported her abuse before she sought asylum.
The widespread and routine use of torture on detainees in police stations is adequately reported in available Country of Origin Information and belies this assertion.

Youngsters are not detained in Ethiopia, according to some caseworkers.

Diribe, 16, RFRL, July 2004
*Furthermore, it is highly unlikely that they [*the Ethiopian authorities*] would be interested in someone so young, to help them with their enquiries relating to your parents['] activities, especially as you were never involved in any political activities.*

Summonses and warrants

Summonses and warrants of arrest were often obtained from Ethiopia and presented at appeal after initial refusal had been made, partly on the basis of the absence of proof of interest from the authorities. They might be crudely copied, pre-prepared blanks with names filled in by hand. They are usually served in person and left with family or neighbours, sometimes long after the departure of the intended victim. They are used to intimidate relatives, friends and neighbours, as well as being summonses for appearance at police stations and neighbourhood administrative offices. The author is not aware of a single instance of one of these being accepted as *bona fide* by an adjudicator or immigration judge.

Simon, 27, RFRL, July 2004
[I]t is considered highly unlikely that the police would issue a warrant for your arrest.

Diribe, 20, DAR, February 2008
In this instance, the summons to the 6th Police Station in Addis Ababa was translated as 'Room Number 6'. A simple enquiry could have satisfied the adjudicator.
It is not credible that the Ethiopian authorities would address a summons to the Appellant at an address which is not specified in the document requiring her to attend

a room in an unnamed building when she had been out of the country for such a lengthy period.

Rather than reconsider adverse credibility findings on the basis of submitted documents in the form of warrants or summonses, the reverse process took place. Adverse credibility findings were used to discredit documents which appeared genuine. For example, two arrest warrants were obtained by **Dinkinesh** for her appeal in July 2007. The immigration judge wrote as pure assertion without any evidence to support his claim 'I am content that neither document contains any evident errors on its face but I have considered the content of those documents in the context of the evidence overall and . . . I conclude that they are not documents upon which any reliance at all can be placed. In short, I find as fact that the two summonses are not documents genuinely issued by the police, or by the authorities, in Ethiopia.'

Security system – everywhere but nowhere; powerful but weak

Assertions about the Ethiopian security system were remarkably inconsistent. When it suited a refusal, the system was regarded as omnipresent and omnipotent. Even short periods between episodes of detention or adverse interest were deemed incredible as were reports of periods of active involvement with the OLF without discovery by the authorities.

Again when it suited a refusal, in contradiction to the presumption of a ubiquitous and all-powerful security system, internal relocation to avoid interest by the same system was stated to be not only possible but reliably safe, and failed asylum-seekers who returned to Ethiopia were unlikely to come to the attention of the authorities.

In at least 17 cases, it was stated that periods without detection and attention from the security system were not credible.

Terefa, 26, RFRL, August 2001
[I]n the 7 months from the date of your release to the date you left Ethiopia you were not re-arrested or harassed further . . . this further suggests that you were of no interest to the Ethiopian authorities.

Diribe, 16, RFRL, July 2004
You claim you were summoned on 28 May 2004 by the authorities but you left the country on 5 June 2004 whilst hiding in your aunt's house. If the authorities wanted to arrest you, they would have searched your aunt's house and interrogated your aunt about your whereabouts. Due to the fact that they did not search for you after 28 May 2004 proves that they were not interested in you any further.

Even staying overnight in the capital city was deemed incredible.

Tarakegn, 26, RFRL, March 2006
[Y]ou claim that after your escape . . . you stayed overnight in . . . Addis Ababa. It is considered that if you had been suspected of involvement with an armed opposition group that you would not have remained in Addis Ababa after your alleged escape albeit for a short period of time. This further damages your claim to be in need of international protection.

However, internal relocation was said to be a safe alternative for at least 11 asylum claimants. Returning failed asylum-seekers were said to be safe.

Mohammed, 30, DAR, December 2006
I am quite satisfied that this is an Appellant who in any event could relocate to another part of Ethiopia away from the areas where the Oromo live and pursue their activities. I am quite satisfied that if the Appellant lived in any of these other areas, he would not come to the attention of the authorities.
Any newcomer, especially an Oromo in a non-Oromo area, would in fact be more prominent and more likely to come to the attention of the security system.

Leensa, 23, RFRL, September 2003
[A]s there is general freedom of movement within Ethiopia you would be able to move to another part of Ethiopia where your ethnic group does not constitute a minority or experience any difficulties.
This is clearly a pasted paragraph and quite inappropriate for Oromo in Ethiopia. There is not general freedom of movement in Ethiopia. There are very few areas where there are no Oromo at all and where they have the most problems are in Oromia Region itself, where they are obviously the majority.
Leensa's case was accepted for privately-funded Judicial Review only one hour before her scheduled deportation on 24 February 2009.

Aster, 19, RFRL, October 2006
*It is believed that if you genuinely feared for your life and that of your unborn child at the time [*she was pregnant after being raped by three police officers*], you would have left the area you faced this harsh treatment and gone to live elsewhere.*

At least seven returnees to Ethiopia have been detained on arrival, to the author's knowledge. One voluntary returnee from Germany was detained for three weeks and tortured in 1995, before fleeing to the USA. A failed asylum applicant in the USA was deported back to Ethiopia in 2003, detained for three months and severely tortured. Another Oromo voluntarily returned from Norway in October 2007 and was detained for over two weeks before pressure was brought to secure his release and deportation back to Norway. At least four have been deported from the UK since 2005 after their claims for asylum were refused. One Oromo disappeared at the airport on arrival in March 2006 and his family are still unaware of his location. Another is detained in Karchale central prison. One CUD party activist who was deported in January 2007 was detained for three months and severely tortured. Another Oromo deportee was detained on arrival in October 2008.

The Home Office maintained that failed asylum-seekers were safe to return, despite acknowledgement in a 2005 Asylum and Immigration Tribunal decision [74] that there was strong evidence that centralised records of OLF suspects were kept in Ethiopia.

Mohammed, 30, RFRL, September 2006
*Even if you were a sympathiser of this party [*OLF*] it is not believed you would face a reasonable likelihood of persecution as a result of your political opinion if you were to return to Ethiopia.*

Rahel, 21, DAR, July 2005
A more recent Tribunal decision . . . found that there was no risk on return for a supporter or even a member of the OLF.

Beletech, 27, DAR, January 2008
There is no objective evidence to which I have been directed which suggests that returning failed asylum seekers to Ethiopia, even if they are identified as such, are subjected to any in-depth questioning.

Marcos, 40, RFRL, January 2007
In the event of your being returned to Ethiopia, no documentation obtained by the UK Government in order to effect this would indicate that you had applied for asylum in this country. There would, therefore, be no indication to the Ethiopian authorities that you had applied for asylum in the UK. Your fear of persecution for this reason is therefore not well founded.
An Oromo who had left Ethiopia without an exit visa and was returned from the UK, escorted by Group 4 Security officers, would almost certainly be assumed by the Ethiopian security system to be a failed asylum-seeker, who, as an Oromo, would be assumed to have claimed asylum on the basis of persecution because of suspicion of involvement with the OLF.

An efficient, strong security system was deemed to exist when the credibility of an asylum-seeker's method of leaving the country was considered. But again in contrast to this assertion, the security system was said to keep no records.

Caaltu, 24, RFRL, June 2004
The ease with which you claimed to have left Ethiopia and entered the UK on a false passport is seen to detract from the general veracity of your claim.

Tadesse, 23, RFRL, October 2003
*[I]t is highly incredible that you left Ethiopia via an Ethiopian airport screening level two interview. Once again your actions are considered to be inconsistent of those [*sic*] of someone who is in genuine fear of the their [*sic*] safety and life.*
Tadesse, an escaped prisoner, left Addis Ababa with an agent.

Tilahun, 32, RFRL, August 2001
The Secretary of State notes that you were able to leave Ethiopia on Ethiopian Shipping Lines without difficulty. He concludes that this indicates that the authorities have no interest in you.

Nuho, 32, DAR, July 2003
Whilst it is plain from the background evidence that the government is still showing adverse interest in OLF members and supporters, the evidence that is before me does not show that the Ethiopian authorities will have maintained a record of this particular Appellant as being of continuing adverse interest to them all these years later. The evidence does not show or tend to show that there would be any central record of his history and his escape from detention in January 1996. The evidence . . . does not show that the Appellant would be subject to serious harm for having left Ethiopia illegally, or because he would be a returned failed asylum seeker . . .

Not one of the documents in the evidence before the adjudicator could possibly have justified the claims that she made.

Aster, 19, RFRL, October 2006
Your fingerprints had not been taken at any other time before entering the UK, therefore, it is not accepted that the authorities within Ethiopia would have your details on record nor can it be accepted that you would come to the adverse attention of them upon your return as here would be no record of your alleged detention in Ethiopia.
The 2005 tribunal decision [74] which was ignored by this caseworker stated 'it is in our view abundantly clear that . . . the authorities make a particular priority of targeting those who are members of the OLF or are known OLF sympathisers. . . . In such circumstances it would be entirely reasonable to assume that the Ethiopian authorities maintain centralised records on persons suspected of OLF involvement. The many instances highlighted in the CIPU and Human Rights Watch report of repressive action taken against the suspected OLF members and sympathisers strongly indicate in our view the existence of a centralised and relatively sophisticated system of record keeping'.

Access of detainees to health care

Access for detainees to medical facilities is poor and the standard of medical care in prisons is low. Because neglect of existing medical conditions and of injuries sustained through torture results in the death of some detainees, it was commonly asserted that all reports of hospital or clinic attendances by detainees were not credible. This assertion is considered under Unsustainable reasoning, p.69.

Escape and bribery

The release of many, if not most, security detainees may be obtained by bribery, with no apparent consequences for those in receipt of bribes. The majority of Ethiopian asylum-seekers give an account of detention (199 out of 251 cases in this study) and just over one third of former detainees (75) reported escaping from detention, most (57) with the aid of bribery. Despite escape with bribery being so common, not one account of escape was accepted and the incredibility of escape was used as a specific reason to deny asylum in at least 42 cases. The use of bribery was also found by unsubstantiated assertion to be incredible, and used as a reason to deny asylum in those 42 cases.

Caaltu, 24, RFRL, June 2004
It is not accepted that you could have escaped from your alleged detention had you been of any interest to the Ethiopian authorities and the fact that you claim this series of events to be true is seen to severely diminish the general veracity of your claim.

Dinkinesh, 16, RFRL, March 2003
[Y]ou would not have been released by the authorities, even after the payment of a bribe, if you were of any further interest to them.

Ahmed, 25, RFRL, October 2004
It is considered utterly implausible that 3 prison guards would facilitate your escape, presumably without any consideration for likely retribution from the authorities. It is considered that the manner in which you claim to have escaped prison completely undermines the credibility of your claim . . .

Magarssa, 21, RFRL, May 2005
You state that . . . the police officers helped you to escape from prison because your brother paid them a bribe . . . if you had been a person of any importance to the Ethiopian authorities, your brother would not have been able to do this as the police officers concerned would have feared possible serious punishment or dismissal by their superiors more than their wish to take a bribe. In light of the above your claim is therefore not accepted.

Tadesse, 23, RFRL, October 2003
*[I]t is not accepted that having arresting and detaining you [*sic*] on the account of being involved with the OLF which is an illegal party that opposes the government in Ethiopia they would then be inclined to accept a bribe for your release.*
In an interesting variation on this theme, the adjudicator made more unfounded assertions in her Determination and Reasons for dismissing Tadesse's appeal in August 2004.
The Appellant in his statements said that the authorities were bribed to release him. If this were so, he would not have had to go to the lengths of escaping over a wall.

Judiciary

The Ethiopian government's interest in Oromo who are suspected of OLF activity was lawful and justified, prosecution not persecution, according to the Home Office in at least 36 cases. This assertion usually followed accusations that the OLF was a terrorist organisation (see p.37), or at least was an illegal organisation which had refused to renounce violence. Assertions about the fairness of the legal system ignored information readily available in reports by the US State Department as well as human rights organisations. The assertion that a fair trial before a properly constituted court was to be expected for an OLF suspect in Ethiopia was made in at least 19 cases.

Two commonly employed paragraphs were pasted into the following refusal.

Yohannes, 30, RFRL, April 2004
In view of your own admission to have been engaged in activities on behalf of the OLF, and given the nature of that group's activities, any interest or lawful enquiries into your alleged activities by the authorities would be justified and cannot be regarded as persecution within the terms of the 1951 UN Convention. . . .
It is considered that if there are any charges outstanding against you or any criminal charges were to be brought against you on your return to Ethiopia, you would be arraigned before a properly constituted, independent court, have access to legal representation, be able to present evidence and cross-examine witnesses, and that any subsequent sentence you might receive would not be disproportionately severe for any Convention reason.

Any release of perceived opponents to the Ethiopian government, for however brief a period, might be used as a signifier to caseworkers that the judicial system in Ethiopia was fair. The Vice President of the Macha-Tulama Association (see p.38), Dr Moga Firissa, was detained and his clinic ransacked in 1996 and he was again detained in August 2000. He was released on 14 or 18 September, according to local press reports, after a large demonstration against his detention. Fifteen other MTA officials were detained before and after the rally.

Kamal, 29, September 2002
*Dr Moga Frissa [*sic*] . . . was released on 24 September 2000 [*sic*]. The Secretary of State therefore considers that you would face a fair trial should you face charges of involvement with [the] OLF upon your return to Ethiopia. . . .*
[I]f there are any charges outstanding against you, and if they were to be proceeded with on your return, you could expect to receive a fair trial under an independent and properly constituted judiciary.

Detainees are commonly released on payment of a bond, which is often translated as 'bail'. It is unusual for detainees to be formally charged or to appear in court. Caseworkers appeared to be ignorant of this and assumed that the legal system in Ethiopia works as it does in Britain.

Lamessa, 45, RFRL, March 2001
You claim to have been detained and released on bail four years before you left Ethiopia however, the Secretary of State notes that you have never appeared before a court and therefore doubts that you have been released on bail as claimed.

Fekadu, 29, RFRL, February 2007
*It is noted that you make no mention in your Asylum Interview of any charges brought against you whilst you were incarcerated, nor any evidence of court proceedings against you. This lends weight to the assertion that your arrest was either arbitrary or as a result of your desertion [*from his job as an engineer with the Ministry of Defence*] . . . and not due to your OLF activity. Therefore, your claim must fail on this point.*
Not only was there a mistaken assertion that most OLF suspects were charged and tried, but detention for other reasons was more likely to be without charge or trial.

Treatment of OLF suspects

Any link, however indirect, innocent or minor, with the OLF, may attract adverse attention. The indiscriminate nature of accusations of involvement with the OLF [75] is included in information used by caseworkers and was often quoted when they wished to demonstrate the impossibility of escaping the security network. However, 'low level involvement' or 'simple membership' of the OLF was reported as not attracting abuse in 53 refusal letters. Only OLF leaders and members involved with violent activities were at risk according to 23 refusals. It was also stated in the early part of the sample period that OLF leaders travelled freely in and out of Ethiopia and that OLF viewpoints were quoted in the press.

Assertions about the level of OLF involvement that may attract persecution varied widely and were contradictory.

Birtukan, 30, RFRL, August 2002
OLF members are not subject to persecution solely on the basis of their membership of the OLF.

Terefa, 27, DAR, November 2002
*It is clear from the objective information that only high ranking [*OLF*] officials are of interest to the government.*

Abdullahi, 20, RFRL, February 2007
[Y]our alleged activities for the OLF were of an extremely low level . . . it is not accepted that collecting money and acting as a cashier at meetings . . . would bring you to the attention of the Ethiopian authorities. . . . Therefore, it cannot be accepted that you were detained for a period of fifteen days on the basis of your alleged OLF activities.'

Amansiisa, 27, RFRL, December 2006
He was a committed OLF member and part of a courier distribution network. He was detained for nine months and tortured. Note that harassment of OLF members was expected and did not constitute persecution, according to the caseworker.
[Y]our activities in support of the OLF appear to have been very low level and do not appear likely to have brought you to the notice of the Ethiopian authorities. There is no reason to believe that you would be recognised as an OLF activist on your return to Ethiopia and the harassment which all OLF members may encounter at some time does not in itself justify a well-founded fear of persecution on your return. Therefore this leads to the conclusion that as your role in the OLF was at a very low level your account of coming to the attention of the authorities due to your OLF activities is not believed to be true.

The OLF was made illegal in 1992 yet this caseworker asserted otherwise.

Munxaas, 26, RFRL, January 2003
[The OLF is] *not banned, continues to function and its viewpoint is reflected in the press . . . low level political activity on behalf of the OLF would not normally attract adverse attention from the authorities.*

In the following refusal the caseworker quoted evidence against her own finding.

Korme, 25, RFRL, June 2007
[M]erely being a sympathiser of the OLF does not establish a well-founded fear of persecution.
In the next paragraph she quoted a Human Rights Watch report from 2003:
Since the government banned the OLF a decade before, thousands of alleged OLF members or sympathisers have been arrested.

The caseworker in the following refusal went to great lengths to differentiate 'supporter' from 'sympathiser' after using the above quote, thereby contradicting himself.

Mohammed, 30, RFRL, September 2006
It is therefore not accepted that you are a supporter of the OLF. However it is believed that due to your level of knowledge regarding this party that you could be a sympathiser to the OLF. . . . Therefore it is concluded that you would not face a reasonable likelihood of persecution on account of your political opinion if you were to return to Ethiopia.
Only six paragraphs previously, he quoted the Human Rights Watch report of thousands of members and sympathisers being arrested.

Other caseworkers, adjudicators and immigration judges stated that OLF membership or sympathy did attract adverse attention.

Dinkinesh, 16, RFRL, March 2003
[M]embership of the OLF may now result in detention and harassment in some areas. However, . . . members of the civilian population . . . have nothing to fear from routine actions and enquiries made by the authorities in Ethiopia in pursuance of their efforts to combat terrorism, and to maintain law and order.

Tarakegn, 25, DAR, April 2006
[B]ackground evidence suggests that those perceived to be OLF sympathisers may become objects of interest to the authorities.

In the following case, the caseworker went so far as to find not credible that the daughter of a murdered OLF member would have been released from detention at all, because the family of those involved would be deemed sympathisers and kept in indefinite detention.

Abaynesh, 23, RFRL, November 2004
It is not believed that you would have been released from prison if the authorities believed you were a member or sympathiser of the OLF. . . they allegedly killed your father because of his OLF membership, therefore they would have had enough background information to hold you as a sympathiser . . . the US State Department . . . noted that 'Security forces detained family members of persons . . . such as suspected members of the OLF'. Your account of release from detention does not correspond with the documented treatment of OLF members or sympathisers in Ethiopia.

Adverse interest, however, was said to evaporate on release from detention. The assertion that release indicated freedom from further interest is not only unfounded, it is made in contradiction to many reports by Amnesty International and Human Rights Watch of repeated episodes of detention. The majority of detentions associated with accusations of OLF involvement are for weeks or months, sometimes one or two years. A minority disappear, die or remain in detention indefinitely or for several years. However, the assertion that release from detention indicated absence of interest by the Ethiopian government was made as a basis for refusal in at least 54 cases. These included some with histories of repeated episodes of detention, belying the concept that release from one episode meant no further interest by the authorities.

Leenco, 19, RFRL, May 2005
The fact that by your own admission you were released on several occasions indicates that you were of no adverse interest to the authorities.

Sabile, 17, RFRL, February 2003
At the end of 2000, 7,500 people allegedly associated with armed opposition groups remained in detention without charge or trial, mostly suspected OLF supporters or guerrilla fighters. The Secretary of State therefore believes that, if you were of such adverse attention to the authorities, you would not have been released on bail – as you have professed.

Dinkinesh, 16, RFRL, March 2003
[The Secretary of State] *is of the opinion that yourself and your parents were arrested and detained as part of the authorities' efforts to combat terrorism, and the fact that you have been released by the authorities suggests that you are no longer a target of harassment. . . . you would not have been released by the authorities, even after the payment of a bribe, if you were of any further interest to them.*

Not only was release from detention said to mean lack of further interest by the authorities, but in absolute contradiction to assertions of safety of OLF sympathisers and members, caseworkers and immigration judges sometimes maintained that the failure of security forces to severely torture or kill OLF suspects meant that either the account was not credible or that there was lack of interest by Ethiopian authorities.

Rape was not severe enough treatment to be credible in Aster's case.

Aster, 19, DAR, December 2006
For the reasons set out in the following paragraphs, I do not find the core of the Appellant's claim reasonably likely to be true.
The background evidence does not tend to support the Appellant's claim. It suggests that active members of the OLF are treated very harshly indeed . . . Whilst the Appellant claims to have been beaten and raped, the background evidence suggests that she would have been severely tortured during interrogation.

Failure to be killed also demonstrated lack of interest.

Aziza, 17, RFRL, July 2002
She was raped by soldiers three months before her claim, when her father, an active OLF member, was killed.
[W]hilst the Secretary of State does not wish to undermine any suffering you may have endured at the hands of the military, he believes that if they were concerned that you would tell anyone that they had raped you, and threatened you if you told anyone, they would have taken the opportunity to kill you there and then. The fact that you were not killed indicates to the Secretary of State that you are of no long-term interest to them.

Sabina, 18, RFRL, October 2003
It has been considered that you are not of interest to the authorities as they have had the opportunity to arrest, detain and kill you in the past but have not done so.

Motivation, knowledge, behaviour and beliefs of OLF claimants

Motives for and the timing of joining the OLF were often found incredible.

Tadesse, 23, RFRL, October 2003
His father had been arrested and killed 13 months previously. Therefore:
[I]t is found implausible that you would then be inclined to join the party.

In contrast, another claimant with a similar story was found incredible for the opposite reason.

Abaynesh, 23, RFRL, November 2004
She joined the OLF 12 months after her father was killed.
It is not credible that such an allegedly and socially active person would need to study for a further 12 months in order to join a party that their own father was allegedly a member of.

As noted above (p.34), most Oromo claimants stated that they were persecuted because they were Oromo, and this claim was duly refuted. Tarakegn claimed that he had no problems because of his Oromo ethnicity but only because of his involvement with the OLF. He was found incredible because he therefore had no motive to join the OLF.

Tarakegn, 25, RFRL March 2006
[Y]ou claim you did not have any problems due to your ethnicity. It is therefore considered that you have not demonstrated what would motivate you to join an armed opposition group.

OLF supporters were assumed to know particular details about the OLF, like the date that Dawud Ibsa became its leader, or the colour of a small star in the OLF flag. Ignorance of each of these details resulted in refusal of claims. Claimants were expected to know each entry in the Country of Origin Information available to caseworkers.

Fekadu, 29, RFRL, February 2007
*You assert in your asylum interview that the OLF has no viewpoint on elections. It is noted, however, that the COI November 2006 report paragraph 6.57 that the [*sic*] OLF advocates the boycott of all elections. It is considered that were you a member of a group affiliated with the OLF, you would know their policy on elections.*

The United Oromo Liberation Forces (UOLF) was formed in 2000 by agreement between the OLF and other smaller and less well known Oromo organisations. This was mainly a propaganda move by the OLF. It had no military and little political significance. Most ordinary OLF members and supporters in Ethiopia knew little or nothing of the event. However, because the formation of the UOLF is included in Home Office information about the OLF, caseworkers have commonly used ignorance of its formation as a reason to refuse asylum.

Ahmed, 25, RFRL, October 2004
After he admitted ignorance of the UOLF, the caseworker wrote:
[T]his lack of knowledge is seen to severely undermine the credibility of your claim to have been an active member and to have told other people about the organisation.

Caseworkers and immigration judges made unfounded assumptions about the structure and workings of the OLF. One immigration judge found it impossible to believe that sentinels were not posted outside OLF cell meetings. **Tadesse**'s caseworker noted that, like most OLF members, Tadesse had attended meetings, distributed literature and recruited for the OLF, despite having no official role or title within the organisation. Assuming knowledge of the structure of the OLF, the caseworker wrote 'it is not found to be credible that you would actively persuade people to join an illegal party that by your own admission you held no official position in.'

OLF members, at least until a few years ago, were given membership cards. Discovery of these cards, predictably, leads to detention and mistreatment. They are prized possessions of many members, presumably because they are an, albeit futile, gesture of defiance against the government. Caseworkers, adjudicators and immigration judges asserted that such cards have never been issued and used this assertion to find at least six of the sampled asylum claims incredible.

Only a very small proportion of OLF members have ever been armed (see p.37) and most members regard it as a non-violent organisation because it avoids actions which endanger civilians. Despite this and the understandable reluctance of claimants to admit to supporting an armed insurgency when applying for asylum, especially when openly accused of belonging to a terrorist group, proclamations of belief in non-violent solutions are found incredible by asylum decision-makers (see p.69).

Timing of departure

The behaviour of persecuted individuals varies enormously. Once warned by the authorities or cautioned by the detention of colleagues, some cease all involvement with the OLF. Others are spurred on to be more active. Some are detained three or more times before fleeing the country.

The decision to flee Ethiopia, to leave behind OLF colleagues, family, friends, culture and educational or career prospects, is not taken lightly. Nonetheless, those who did not leave after their first or second episode of detention were found incredible because they did not do so. Some were found incredible because they did not leave immediately after relatives had been detained.

Early in the sample period, arranging a trafficking agent or false papers could take three months or more. In the last few years the process took a matter of weeks. Even this delay, without any allowance for deliberation and weighing up the pros and cons of seeking asylum abroad, was often interpreted as the claimant not being in need of international protection. Overall, the timing of the departure from Ethiopia was found incredible in 51 cases.

Solomon, 27, RFRL, December 2003
[Y]ou did not leave Addis Ababa until 5 November 2003 . . . [t]hough you claim that you went into hiding since the 10th October 2003, if your fear of persecution by the Ethiopian authorities were genuine you would have left Ethiopia at the earliest opportunity, and the fact you did not casts doubt on your credibility.

Terefa, 26, RFRL, August 2001
Further doubts as to your alleged fear of persecution can be drawn from the fact that you did not leave Ethiopia until . . . some 7 months after your detention. . . . if your fear of persecution . . . were genuine you would have left Ethiopia at the earliest opportunity, and the fact that you did not casts doubt on your credibility.

Bokalcho, 37, RFRL, April 2004
Bokalcho was a leader of an OLF cell and a teacher, attending a course at Addis Ababa University. He was detained and tortured following a large student demonstration in January 2004. His father, a judge and OLF member, was detained in 1996 and died four months later. Bokalcho joined the OLF in 1999. He escaped from detention with the aid of bribery on 7 March 2004. It was found incredible that he failed to leave Ethiopia within one week after his escape and that he did not leave following the death of his father in 1996, three years before he became an OLF member.
*[Y]ou did not leave Ethiopia until 12th March 2004 despite your claim that your father was arrested on the 15th June 1996 due to his membership of the OLF. It is considered that your actions are inconsistent with your alleged fear of persecution. It is believed that if the fear of the Ethiopian authorities were genuine you would have left Ethiopia at the earliest opportunity, the fact that you did not undermine [*sic*] the credibility of the account you have given.*

Language, calendar, presentation and cultural dissonance

The OLF promotes the use of the Oromo language and one of the benefits of their year in government was its introduction as the official language of Oromia Region. Despite this, many Oromo in Addis Ababa and central Ethiopia do not speak Oromo. This reflects the suppression of spoken Oromo for over 100 years. The people of Wollo are often referred to as the 'ones who have forgotten their language'. OLF officials estimate that between 5-10% of its members do not speak Oromo. However, at least before 2005, every non-Oromo speaking claimant was found incredible.

Diribe, 17, DAR, October 2004
[I]t lacks credibility that neither of the appellant's parents spoke Oromo, and that the appellant appears to have no knowledge of the language at all.
This is an exaggeration. All Addis Ababa citizens know at least some Oromo words and phrases.

The Ethiopian calendar causes numerous problems, compounded by the cultural insignificance of accurate dating of events. Discrepancies in transcribing dates between Ethiopian and Gregorian Calendars occur very commonly. There are thirteen months in the Ethiopian Calendar and a confusing relationship of Leap Years between the two calendars. None of the months coincide with those of the other calendar. The Ethiopian year begins on 11 or 12 September of the Gregorian Calendar and is seven

or eight years behind, according to the month concerned. Different sources give date conversions which differ by up to three days. An extra source of confusion is when dates are given as digits, e.g. 3.11.88 E.C. Despite the year being that of the Ethiopian Calendar, the day and month are sometimes interpreted as being Ethiopian – 3rd Hamle, the eleventh month, equivalent to 4th July 1996 in the Gregorian Calendar – or 3rd November, in which case the year would be 1995.

Although many asylum-seekers from Ethiopia are professionals who have reached above average educational levels in Ethiopia, some are illiterate and completely unused to western modes of discourse and cultural mores. In the author's experience of taking histories from victims of human rights violations and from other conversations and interviews in Ethiopia and in the diaspora, it is apparent that the Ethiopian mode of presenting information is fundamentally different to that used by Europeans and Americans. Another commentator has noted this [76] and regards it as a legacy of the predominantly oral culture in Ethiopia.

Whereas in western discourse it is usual to relate events in chronological order and to attach importance to dates and times of events, this is not so in discourse with Oromo and other people from Ethiopia. In Oromo discourse, salient information is given in order of importance or effect, with scant attention to dates and times. Caseworkers, adjudicators and immigration judges commonly asserted that discrepancies in dates between accounts were due to fabrication and dishonesty when this was not the case. The applicant had merely attached little significance to recalling and relating dates and times, which were therefore recorded inaccurately. Nonetheless, discrepancies of a single day were used to discredit accounts (see p.64).

Cultural dissonance between asylum decision-makers and claimants caused other problems which were used as reasons for finding accounts incredible. At the appeal of **Mohammed**, 30, in December 2006, the immigration judge found him incredible because of inconsistencies due to translator error and Mohammed's failure to answer simple questions about times and distances which had no cultural relevance for him. He is illiterate and has never attended school. He was unable to say how far his bed had been from the entrance to the hospital, where he had been admitted from prison with typhoid. This failure had no relevance to whether or not his account was a fabrication, in any case. In situations in which the measurement of distance was culturally relevant, for example the two days' walk from his home to that of his married sister, Mohammed was consistent. Numbers of metres or yards are meaningless to an illiterate rural Oromo. In his culture, distances would be not measured in units but described comparatively, for example, as far as the kebele office is from the road.

Journey to UK

Most Ethiopian asylum-seekers used trafficking agents to reach the UK (table 2, p.31). They rarely held their documents and returned them to the agent before being abandoned at the airport or in London. In recent years, an increasing number arrived by lorry. Many were unaware of their destination until they arrived. They reported being under the strict control of their agent during transit stops, usually at airports, in third countries. Agents do this to protect themselves from discovery and prosecution. Despite features which were common to many of them, most accounts of journeys

from Ethiopia were found incredible for one reason or another. At least 35 claimants were told that if they were in 'genuine need of international protection' they would have claimed asylum in transit in Europe; in strange airports, towns and remote forest areas while under the control of their agents, and in Sudan and Kenya, from where Oromo refugees have been subject to *refoulement.*[77, 78]

In the following case, not only was a brief stop-over asserted by a caseworker to be an appropriate place and time to claim asylum, the stop-over itself was later found incredible by the adjudicator at appeal.

Berhanu, 28, RFRL, October 2004
Berhanu travelled on a plane which stopped for 45 minutes in Italy. No-one got off while the plane was on the tarmac.
The Secretary of State considers that you had opportunity to claim asylum in Italy and that your failure to do so harms the credibility of your claim to be in genuine need of international protection.
DAR, February 2005
I do not find it plausible that the aeroplane would stop in this manner for 45 minutes without passengers disembarking even if only for a transit stop.

Mohammed, 30, DAR, December 2006
Despite his illiteracy and lack of knowledge of any language other than Oromo, Mohammed was not only expected to know that he was travelling through Italy and France on his way to the UK but was told he should have escaped from his trafficker and applied for asylum in those countries. The immigration judge found him to be:
an Appellant who had ample opportunity to claim asylum both in Italy and France.

Other details of travel arrangements were found incredible in over 47 cases. These included the ability to get through security checks at Bole airport in Addis Ababa, to be allowed, as a former detainee, to work for Ethiopian Shipping Lines, to be unaware of details in a false passport which was carried by their agent, and to be able to get past Immigration Control in the UK.

Even the use of false documents was used to discredit claimants.

Ezekiel, 27, RFRL, July 2004
*The fact that you did not do so [*leave Ethiopia within three months of being sought by the police*], and entered the UK using forged documents suggested that you were more interested in securing entry into the UK than in gaining a place of sanctuary.*

In the following cases, there were not only non-substantiated assertions about travel arrangements and the appearance of asylum-seekers but illogical constructions arising from those assertions.

Aster, 19, RFRL, October 2006
Aster was a rape victim who had travelled to the UK with her three year old child, the last part of the journey by lorry.
*It is also noted that your appearance on arrival to the UK [*by an Immigration Officer who was not interviewed*] . . . was not consistent with that of someone who had been travelling for ten days and who had arrived in the UK via lorry.*

At her appeal which was heard in the following month, the immigration judge concluded also that this '*added to the general unreliability*' of her evidence.

Abdullahi, 20, DAR, March 2007.
I do not believe that a person of North African appearance, travelling from Nairobi on a Canadian passport, who was not in transit, would be asked no questions by an Immigration Officer at a major UK airport. I find that the Appellant's account of his journey to the UK is untrue. I can find no reason for such untruthfulness other than a desire to deceive me and the UK Immigration Authorities, because the truth about the Appellant's arrival in the UK would be inconsistent with his claim to be in need of international protection.
How he could have arrived by any other method than an illegal one and how this could have been more consistent with his claim was not stated by the immigration judge and is difficult to imagine.

Behaviour within the UK

Many applicants were found incredible because they used false documents to enter the UK and had not admitted so at the point of arrival, when accompanied by their agent. At least 15 were found incredible because they had not claimed asylum within 24 hours of arrival. The standard caseworker response to delays of one or two days was: *The Secretary of State also notes that you did not seek asylum immediately on arrival in the UK. The Secretary of State would expect a genuine asylum seeker to seek protection at the earliest opportunity.* Immigration judges also used this argument.

Rahel, 21, DAR, July 2005
Rahel was 16 when she arrived in the UK in 2000. She claimed asylum four days after her arrival. At her appeal, the immigration judge wrote:
I must take into account as damaging her credibility that she did not claim asylum on arrival.

Oromo asylum-seekers commonly take part in events arranged by the Oromo Community organisation and the Union of Oromo Students in Europe, the mass organisation of the OLF. Such meetings and demonstrations take place three or four times each year. Participation is usually only considered at appeal hearings, because initial decisions are made before asylum-seekers are established in the UK or before the next event has taken place. The author has learnt, from former employees of Ethiopian embassies in London, Washington and Scandinavia and from a former informant to the embassy in London, that demonstrations outside embassies are recorded on video. Meetings are infiltrated by security informants and demonstrations at Downing Street and outside the Foreign and Commonwealth Office are attended and often filmed in order to identify and monitor Oromo activists in the diaspora. Oromo and other Ethiopian demonstrators are often fearful of joining demonstrations, at least those outside the Ethiopian embassy, for this reason.

Failed asylum-seekers and others returning to Ethiopia have been detained and tortured (see p.45). A CUD party activist was even shown photographs of himself with an opposition politician in London, while he was in detention and being tortured after deportation as a failed asylum-seeker.

Adjudicators and immigration judges generally had three approaches to political activities in the UK. They accused claimants of attending events solely to enhance their asylum claims, did not believe reports of activities or did not accept that participation in meetings and demonstrations attracted any risk on return to Ethiopia.

Abdullahi, 20, DAR, March 2007.
[T]he Appellant's activities are nothing more than an opportunistic device to enhance his chances of being able to remain in the UK.

Kulani, 40, DAR, July 2003
The Oromo community letter indicates that the appellant has participated in several such events, however, she gave no evidence. I do not believe the appellant has been politically active in the UK and in any event, there is no evidence before me that if she had been involved in such activities it is likely to have come to the attention of the Ethiopian authorities and as such would place her at any real risk on return.

Another adjudicator used a contradictory assertion to find an account incredible.

Terefa, 27, DAR, November 2002
He would not have been demonstrating openly in the middle of London, in my opinion if he was truly fearful of the Ethiopian government.

Appearance, capacity and capability – common sense values

It should not surprise caseworkers that young people do not necessarily look like children. It is a matter of common sense that 13-17 year olds commonly appear to be older to untrained eyes. Radiological examination of growing points in bones and other specialist techniques are necessary to give definitive estimates of age. However, untrained caseworkers assumed this expertise in almost every application made by an unaccompanied teenager. Demands were made for documentary proof, which was usually unavailable because birth certificates are rarely written in Ethiopia. If such proof was provided, it was found incredible. When children were believed to be under 18, they were given discretionary leave to remain, but only until their 18th birthday.

Sabile, 17, RFRL, February 2003
[Y]ou claimed that your date of birth is 27th October 1985. You failed to produce any evidence to substantiate this claim . . . your physical appearance before the ASU Officer suggested that you were over eighteen. At your substantive interview you submitted a document which you clam to be your birth certificate . . . The Secretary of State has given due consideration to this document, but considering the ease with which such documents can be obtained he is not prepared to accept it as independent corroboration of your age/date of birth.

Assertions about claimants' inability to give cogent arguments about complex issues were also used to undermine credibility.

Abaynesh, 23, RFRL, November 2004
[When asked] *why your tribe was discriminated against, you stated that they are considered to be inferior. It is considered that this answer lacked real understanding on [*sic*] the alleged discrimination.*

Assertions about the mental fortitude of claimants were made. If a person was tortured but did not seek medical or psychological treatment, either in Ethiopia or in the UK, that could be used as a reason to deny it ever happened. **Munxaas**, (26, RFRL, January 2003) was told that his not providing medical evidence of torture or reports of treatment undermined his credibility. He had simply coped on his own, despite showing symptoms of post traumatic stress disorder following severe beatings, having the soles of his feet beaten raw and having weights suspended from his genitalia.

Altruism does not exist according to caseworkers and immigration judges. Acts of kindness which enabled victims of persecution in Ethiopia to survive or escape were found incredible.

Getachu, 34, RFRL, March 2005
He was an Ethiopian Orthodox priest, who had been helped after escaping from detention.
*It is considered highly implausible that you once out of the lorry you [*sic*] would be able to get to a nearby church that would just happen to be willing to help you and offer clothing and money.*
DAR, June 2005
[T]o find a friendly monk to assist his escape is stretching credulity.

Ayan, 18, RFRL, February 2004
She was raped when she and her husband were arrested and was anaemic from blood loss after miscarrying the resulting pregnancy in prison.
[It was] *unlikely that a nurse would risk her own personal safety by assisting you to escape.*

Although claimants were expected to have perfect recall, they were expected to have no physical resilience or powers of recuperation. **Gabissa** was found incredible in 2006 when he claimed to have scaled a fence during an assisted escape despite leg injuries, from being beaten in detention. **Mohammed** was told by a caseworker and immigration judge that he could not have scaled a hospital compound fence three weeks after being admitted with typhoid fever. **Amansiisa** was told he could not have walked for three or four hours after a nine month detention during which he had been beaten.

Children were asserted to have detailed knowledge of their parents' activities.

Zeituna, 17, RFRL, October 2002
[T]he Secretary of State considers that it is reasonable to conclude that you would have realised at the time that your father was involved with the OLF.
DAR, April 2003
I do not find it credible that the appellant knew nothing about either parent's involvement with the OLF until she heard it from her uncle [in 2002].
She was 14 years old when her father was arrested and later disappeared. She was 17 when she came to the UK with her younger sisters to claim asylum after her mother was detained.

There were numerous examples of ordinary human reactions being fabricated into reasons to deny asylum claims. For example, after receiving his initial refusal in October 2003, **Tadesse**, a 23 year old Oromo activist, musical performer and former detainee, telephoned his aunt to ascertain if it was possible for him to return to Addis Ababa. She told him that it was definitely unsafe for him to return as his leaving the country had been made public. Nonetheless, the adjudicator, in her Determination and Reasons, wrote that his contacting his aunt 'is inconsistent with his claim to fear persecution on return'.

Assertions included assumed medical expertise on behalf of the caseworkers, adjudicators and immigration judges (see p.76).

iv. Foul play

No allowances

Asylum-seekers were expected to exhibit perfect and consistent recall. No allowance was made by caseworkers, adjudicators or immigration judges for normal difficulties with recall, even without the added and well known effect of trauma on the ability to remember events. [57, 79, 80]

No allowance was made for the natural urge to overstate a case, for example to exaggerate the importance of a role played in the OLF. On the other hand, no allowance was made for being reluctant to fully explain activities undertaken on behalf of the OLF, if the asylum-applicant sensed bias against the organisation, in the form of accusations of terrorism.

Allowance was not made for the gradual disclosure of an account, as barriers to complete disclosure were surmounted, due to growing confidence or desperation, or due to the ease which comes with repetition.

Despite clear evidence to the contrary, experienced daily by asylum decision-makers, no allowance was made for translation errors even when they were obvious and easy to understand. No allowance was made for the impossibility of translating some terms accurately, as different vocabularies have overlapping definitions and meanings. Nuances of language caused many apparent discrepancies, for example between words for 'friend', 'relative', 'cousin', 'sister', 'neighbour' or the difference between being 'watched', 'spied upon' and 'followed'.

No allowance was made for lack of numeracy or literacy, lack of experience in relating events chronologically, in 'Western' fashion (see p.56), or for other examples of cultural dissonance.

Most significantly, no allowance was made for the lack of full early disclosure of details of sexual violence. Establishing conditions in which such disclosures can be made with minimum distress is difficult enough without the stress of the asylum situation and the cultural attitudes to rape and associated stigmata in Ethiopia.

Correction not allowed

There were several complaints made by asylum-seekers about their not being allowed to correct their interview records. The following is a striking example.

Mohammed, 30, RFRL, September 2006
Mohammed is uneducated and illiterate in all languages. After his interview, he complained to the Immigration Advisory Service about being bullied by the caseworker and about the impatience and incompetence of his interpreter. He complained that the interpreter refused to explain some questions when requested, that he '*was always interrupting me and telling me to give short answers. . . . I am not educated and I am not used to the way things are done here in developed countries but when I went to be interviewed I wanted to tell the Home Office everything that had happened and how I felt. When I tried to do this the interpreter would always tell me to answer quickly and keep my answers short and I became confused and scared. I didn't dare complain about the interpreter to the Home Office person.*'
Despite needing translation, a letter of complaint was sent within five working days. The caseworker, in his Reasons for Refusal, wrote:
The contents of this letter have been noted. However it is considered that if you believed the conduct of your interview was a cause for concern or that you could not understand the interpreter you should have mentioned this at the earliest opportunity. You were asked at the beginning of the interview if you understood the interpreter and you stated that you did. You were also asked at the end of the interview if you were happy with the way the interview had been conducted which you also replied yes to. Therefore there is no reason to believe that you were unable to understand the interpreter, or that this impacted upon your ability to answer questions during the interview.
When Mohammed attempted to correct the interview record at appeal, he was found incredible by the immigration judge:
I do not accept the Appellant's submission that he didn't fully understand the original Home Office interview. It is clear to me from signatures and what took place at the time, that he did, and that he is now seeking to change his story.
So 'at the earliest opportunity' meant at the interview itself, when a former detainee, severely beaten in detention, with a dread of authority, was expected to directly challenge an official whom he hoped was going to decide in his favour.

Games: accusation, euphemism, blame and responsibility

Caseworkers, adjudicators and immigration judges were accusatory in their outright and biased condemnation of the OLF as a terrorist group, responsible for the deaths of numerous civilians.

Their denial of torture was absolute. Torture was referred to only euphemistically, as mistreatment or ill-treatment.

Another game was 'blame the victim', where the asylum-seeker was told it was their responsibility to show that they had been subject to a sustained pattern of persecution and their responsibility to show that the law in their country did not meet accepted standards or that its application was discriminatory.

Aster, 19, RFRL, October 2006
This rape victim and former detainee was told:
In order to bring yourself within the scope of the UN Convention, you would have to show that these were not simply the random actions of individuals but were a sustained pattern or campaign of persecution directed at you which was knowingly tolerated by the authorities, or that the authorities were unable, or unwilling, to offer you effective protection.

Lealem, 28, RFRL, June 2004
She was told that her episode of detention did not amount to '*systematic and sustained mistreatment*' and that in order to qualify for asylum '*you would have to show that either the law in your country does not conform with accepted human rights standards or that the application of the law is discriminatory.*'

Manufacture of discrepancy

Translation error was responsible for many manufactured discrepancies and therefore findings of incredibility. Four examples are given.

Even the minor error of substitution of a verb with a reflexive verb, was used to manufacture discrepancy. At **Tadesse**'s appeal, the adjudicator was aware that Tadesse was among the minority of OLF supporters who were unable to speak in Oromo. Yet, she quoted from his interview statement that the translation of his account was that *'he wrote poems, translated them into Oroma [*sic*] . . . In evidence he said he did not read Oroma. . . . None of his poems has been submitted.'* Tadesse had his poems translated by friends. He had never said he had translated them himself. The adjudicator found him incredible on the basis of the difference between 'translated' and 'had translated', a difference which she had made no attempt to clarify at his appeal hearing.

At **Dinkinesh**'s second appeal, one of the reasons that her account was found incredible was her saying that she had not known her parents' whereabouts in a statement made two days after learning that they had been killed in detention. She had intended to say that she did not know of their whereabouts after they were detained, a point she raised at the second hearing. This correction was disallowed because she had signed the statement and the mistake was therefore 'her responsibility'. This was basically an error in translation of tense, which is often only inferred from context in Oromo conversations.

The immigration judge also found it 'clearly inconsistent' that **Abdullahi** said at interview that an uncle learnt of his father's detention when he came to visit but said at the appeal hearing that his uncle came to ask about his father's detention. Thus, a minor translation error was again magnified into an inconsistency.

At his substantive interview in March 2006, **Tarakegn**, 25, had said 'I don't know any other armed opposition other than OLF' and the caseworker interpreted this as his being ignorant of the insurgency in the Ogaden by the Ogaden National Liberation Front, which is not only extremely unlikely in view of the coverage in the Ethiopian and international media, but irrelevant to the Oromo struggle, to which Tarakegn was referring. However, the caseworker considered because of this and his not mentioning

Al Ittihad Al Islamia, an extremist Islamic group which has not been active for ten years in Ethiopia, '*it is not believed that you were a member of the OLF*'.

A minor discrepancy in spelling names could be manufactured into a discrepancy.

For example, in 2003, **Tolera**, a 26 year old who had experienced two episodes of detention because of involvement with the OLF, was found incredible because the caseworker misidentified the OLF leader, Tolera omitted one of the deputy leader's three names and the interview record, written by another caseworker, spelt the deputy leader's other two names differently.
You were asked who the leader of the OLF was and you replied 'Dawed Ebsa and Abdel Fetal Baye'. The Chairman is Katabe Mayu and the Vice Chair is Abdulfattah Moussa Biyyo. Your claim to be a member of the OLF is not believed.

The potential for discrepancies in dates which are given in accounts is greater for asylum-seekers from Ethiopia because of the confusing relationship between the Ethiopian (Julian) calendar and the European (Gregorian) calendar (see p.55). It is unreasonable to expect Europeans to show absolute accuracy when dating events. It is ridiculous to expect such accuracy from people who belong to cultures in which dates have little significance, especially when transcribing from a different calendar. Four examples follow.

An immigration judge, in dismissing the appeal of **Abdullahi** in March 2007, wrote that his credibility was challenged because when cross-examined he said he had joined the OLF on 19 May 2005, whereas at interview had said he joined on 20 May. When questioned further he had said it was just by chance that he joined on that date, which prompted the immigration judge to comment '*[i]f the Appellant's involvement was purely by chance, then one has to wonder how he could remember the date, be it 19th or 20th.*'

The first of two manufactured discrepancies in the following case occurred because the month of Meskerem in the Ethiopian calendar includes parts of September and October and could have been translated as either. The second was an example of hair-splitting unfairness.

Bokalcho, 37, RFRL, April 2004
*There are a number of discrepancies and inconsistencies in your various accounts which serves [*sic*] to discredit your claim to be in genuine need of protection. When you were asked in your Asylum Interview since when have you been a member of the OLF. You replied 'since October 1999' but in your SEF statement page 9 you claimed to be a member of the OLF 'since September 1999'. Furthermore you stated that you were arrested on the 19th January 2004 and detained until 6th March in your SEF. It is noted that during your asylum interview you stated that you were detained for 48 days from the 19th January 2004 which lapsed on the 7th March. It is believed that you had invented your membership of the OLF to provide a reason for an asylum claim. This further damages the credibility that you are a member of OLF in Ethiopia.* [Grammar as written.]

1999 in the European calendar included the last four months of 1991 and the first nine months of 1992 in the Ethiopian calendar. (There are 13 months in the Ethiopian

calendar.) In the following case, it was apparent from elsewhere in his determination that the adjudicator was aware of the 7-8 year difference in calendars. Yet he chose to make a discrepancy rather than see that both calendars had been used in the given account.

Leensa, 24, DAR, May 2004
One of the 'principal reasons' that the adjudicator found Leensa's account untrue was that '*in her screening interview she said that she was in school in Addis Abbaba [*sic*] from 1993 to 1997 but in her statement she said she moved to Addis Ababa three years after the death of her parents which would make it 1999*'.

In the fourth example, obvious confusion between the two calendars was again manipulated into evidence of inconsistency.

Tadesse, 24, DAR, August 2004
Tadesse's appeal was dismissed because of several manufactured inconsistencies, including confusion over the timing of his father's visits to Addis Ababa (pp.66-7), translation of his account of his father being killed within four days of being detained as 'instantly' and the following mistake in calendars. The adjudicator wrote '*the Appellant gave the date of his arrest as 1985 in the Ethiopian calendar, which when converted gives a date of 1993 well before he claims to have joined the OLF*'. The adjudicator failed to mention in her determination that Tadesse realised his mistake a little later in his interview and corrected it. Also, according to his initial refusal letter, he had said that he was 'detained in 1993 Ethiopian calendar 19th March 1993 European calendar' which is obviously a mistake.

Another manufactured discrepancy involved the equation of being Oromo with being an OLF supporter (see p.34). Given the overwhelming support that the OLF has, this is not surprising, unless one is an adjudicator. In the following example, the adjudicator not only exhibited his ignorance of the popularity of the OLF in Ethiopia, he used his ignorance to discredit the applicant.

Zeituna, 17, DAR, April 2003
*To the appellant, there was no difference between the OLF and the Oromos and, in my judgement, the appellant appeared not to understand the significance of the difference between the Oromos and the OLF, yet it is clear from the background evidence that the Oromo people are represented by the OPDO [*government Oromo party*] and any reference to a party of the Oromos would consequently be unlikely to be a reference to the OLF.*

Although Oromo asylum-seekers were found incredible if they conflated supporting the OLF with being actively involved with the OLF, adjudicators felt free to do so in order to manufacture inconsistency.

Leensa, 24, DAR, May 2004
Another 'principal reason' for finding Leensa's account untruthful was:
*In her screening interview she said she had no political involvement and that her problems were because she was an Oromo, however, in oral evidence she gave details of political support for the OLF up until she left Ethiopian [*sic*]. I find this to be inconsistent.*

The following three examples show how discrepancies were fabricated from insignificant variations in accounts. The first two are from the same case.

Korme, 25, RFRL, June 2007 and DAR, August 2007
Korme is a young OLF activist and was a member of an Oromo student body at Addis Ababa University. He said he was released from his first detention in 2001, after signing a declaration that he would not participate in political activity. The caseworker quoted a media report which stated that the release of the students was conditional on their signing a declaration that they had taken part in an illegal action and were responsible for violence. Rather than identifying the corroboration of the media account in the requirement for signing a declaration before release, the variation in the reported wording of the declaration was 'significantly different' according to the caseworker and 'diametrically opposed' according to the immigration judge at appeal. The caseworker continued '*[h]ad your account been based on fact it would not be unreasonable to expect it to be supported by objective evidence*', as though media reports were renowned for hair-splitting accuracy.

In 2006, Korme was caught when driving with colleagues to make contact with another OLF member in Hararge province in Eastern Oromia Region. At his screening interview, he stated that he was detained and beaten after being found by the security forces carrying money, his OLF membership card and leaflets. When questioned at his asylum interview, he stated that he was found with money, his OLF membership card and an envelope. Not only were these equally true, as the leaflets were in an envelope (a point which the caseworker did not address), but the ease with which such a difference could have occurred because of inaccuracies inherent in translation is easily seen. A simple question at the interview could have solved the issue. Instead, the caseworker found him incredible, writing '*it would be reasonable to expect that you would make the same assertions at your subsequent asylum interview*'.

Diribe, 17, DAR, October 2004
Just after her 17th birthday, Diribe's appeal was dismissed by an adjudicator who found her claim incredible. He did so partly because she had referred in her earlier statement to her father having supplied and carried information for the OLF, but under cross-examination she had '*simply referred to her parents trying to inform others of the aims and objectives of the OLF*'. Her '*inability to be consistent regarding her parents' alleged activities for the OLF undermines the credibility of her claim.'*

Adjudicators and immigration judges were apt to create discrepancies out of confusing information and out of imagined scenarios of their own invention. In the following case, the history needed careful analysis.

Tadesse, 23, was brought up by his maternal aunt in Addis Ababa because of the poor security around the family area in Wallega, Western Oromia Region. The adjudicator, in her Determination and Reasons for dismissing his appeal in August 2004, wrote that his account was unreliable because of inconsistent replies to questions about the visits of his father and the frequency of his helping his father with OLF business in the capital. Over a telephone, the author was able to determine that Tadesse's father used to visit and stay for two months every five or six months. He used to visit at other times for shorter periods if he was in Addis Ababa on business, trading coffee beans. When Tadesse was between eight and ten years of age, the whole family

moved to live with Tadesse in Addis Ababa. His father continued to make trips from there to Wollega on business. All of the apparent inconsistencies were cleared up within a five minute telephone conversation using a good interpreter and a little patience.

In the following case, the immigration judge imagined a scenario which had not occurred and found the claimant incredible because he was unable to answer questions about that scenario.

Gabissa, 39, DAR (reconsideration), January 2008
A former police officer and member of the OLF, Gabissa's first appeal was allowed in November 2006 but the Home Office obtained a reconsideration hearing, which was held in January 2008. Gabissa had refused to participate in the throwing of a grenade during a student demonstration in April 2004, which was intended by the government to implicate the OLF. He had warned the OLF, attended the demonstration in his role as a police officer and afterwards went home, where he was arrested.
He was told that there was no point in informing the OLF about the attack if they could not have prevented it. Gabissa's quite understandable behaviour was therefore found incredible.
The immigration judge then made an incorrect assumption and used it to undermine Gabissa's credibility further. He assumed that Gabissa had refused outright to carry out the assignment and warned him twice during cross-examination that he was damaging his case by not answering a question about what the reaction of his superior officer had been to this refusal. Repeated attempts by Gabissa to explain the faulty premise to the question were shouted down. When the immigration judge finally understood the sequence of events, he accused Gabissa of changing his account.

Failure to disclose

There were two ways in which failure to disclose information was considered to be foul play by the author. In the first, caseworkers not only assumed that Home Office Country of Origin Information reports contained all relevant information and only that information which is relevant, they assumed that this information would be proffered spontaneously, without it being sought.

Tarakegn, 25, RFRL March 2006
Your failure to mention that the OLF is a member of the United Oromo Liberation Forces (OULF) is also noted.
He was not asked about the UOLF, which is of little significance, in any case (p.53).

The second way in which failure to disclose was considered foul play by the author was the lack of skill or willingness of caseworkers to explore sensitive issues, such as torture and rape. Sensitive questioning could have provided corroborative detail, for example, of torture techniques commonly used in Ethiopia, which would have thrown light on the authenticity of claims. By not pursuing sensitive questioning, after the emergence of signifiers of torture or rape with the use of euphemisms, for example 'touch' 'handle' 'attempted assault', caseworkers not only denied asylum-seekers full expression of their asylum case, but if a more detailed disclosure occurred at a later date, the failure to make full disclosure at the first opportunity was interpreted as a sign of incredibility and fabrication 'in order to bolster a false claim'.

Aster, 19, RFRL, October 2006
You also mention that you were detained . . . However, when asked about this during your substantive asylum interview, you then mention that you were raped. This had not been mentioned in your screening interview nor in your personal witness statement. . . .
Had the events in your later account occurred as you claim, it would be reasonable to expect that you would have mentioned them at the earliest opportunity.

v. Unsustainable reasoning

Illogical reasoning, often from a basis of incorrect or selected information or unsubstantiated assertion, was apparent in every Home Office Reasons for Refusal letter and almost every Determination and Reasons for dismissing an appeal. It was subject to a greater variation between cases than other sections of the author's classification, because it was less directly dependent on sources available to caseworkers, adjudicators and immigration judges and more a reflection of their own thought processes.

The author found this difficult to classify and categorise. Most examples could be described as arguing from the general to the specific; some might be described as arguing from the specific to the general, and others could only be described as fantasy. Many of the arguments in these groups were tautological, boiling down to 'you are found incredible because you are found incredible'.

Illogical reasoning resulted in many assertions and findings which were mutually contradictory and which paired up to 'Catch 22' impossibilities. Some examples of this are included, followed at the end of this section by examples of fantasy.

Arguments from the general to the specific

This is the reasoning exemplified by 'all kings are men; therefore every man is a king'. According to Cohen, it is known in logic as the 'fallacy of converting the proposition'. [79]

Many illustrations of this are apparent from examples given above. For instance, it was illogical to find that, because involvement with the OLF results in detention, any suspected OLF activist would never be released without charge from detention and the security system loses interest in suspects the moment they are released (see p.51).

Similarly, because the Ethiopian security system targets suspected OLF sympathisers, it was argued that involvement with the OLF for any period without detection was impossible and not credible. Hiding from the security forces was asserted to be impossible, even for short periods. Evading government authorities when leaving the country was found incredible. Each of these assertions is an example of unsustainable reasoning from the general premise that the Ethiopian security system targets OLF sympathisers to the specific assumption that avoiding such attention is not credible.

Such reasoning is apparent in considerations of access of detainees to any level of health care. The general situation is that such care is poor and access to it is unreliable. It was argued from this that no detainee was ever seen in a clinic or

admitted to a hospital from prison. There were 13 examples of this in the sampled cases. A young rape victim who reported visiting a clinic with psychosomatic symptoms was found incredible and hospitalisation of young men with typhoid, malaria and fever with diarrhoea, were not believed. Two examples follow. In the second case, the immigration judge appeared to dismiss malaria as a benign condition.

Korme, 25, DAR, August 2007
It is not credible that he would have been taken for treatment to a general, civilian hospital. [Korme was unable to stand because of fever and diarrhoea.]

Tarakegn, 25, DAR, April 2006
*I find that the appellant's account to be implausible [*sic*] in a number of respects. Most significantly, the appellant claims that he was so badly beaten on a number of occasions that his chin was, to use his term,* dislocated*, and that he was denied medical treatment because the authorities* did not care whether he lived or died. *Yet, the appellant also claims that those who detained him were so concerned about his malarial condition that he was taken to hospital by a sympathetic officer. I find this to be inherently implausible.* [Italics in the original are shown as normal text.]

The beliefs of OLF supporters and members were questioned because of this failure to acknowledge variation on a general theme. The OLF has not renounced violence as a means of opposing the Ethiopian regime. From this, it was argued that all supporters and members of the OLF must regard it as a violent organisation and support the use of violence.

Fekadu, 29, RFRL, February 2007
In your asylum interview, you deny the OLF are a violent group . . . [but it is] *considered that the OLF is a violent group and it is further considered that you would have been aware of this were you a genuine supporter of the OLF.*

Mohammed, 30, RFRL, September 2006
[I]t is not accepted that you are a supporter of the OLF. . . . your admission that you do not believe in using violence to achieve political objectives is inconsistent with what is known about the OLF.

Sabile, 22, RFRL, July 2007
*[Y]ou stated that the OLF does not use violence to further it's [*sic*] aims, but that it would do so to defend itself. It is believed that if you had been involved in any way with the OLF, as you have claimed, that you would be aware that the OLF is engaged in a military struggle with the Ethiopian government. Therefore, it is not believed that you were involved with the OLF . . .* [or that] *. . . you would have a well founded fear of the government.*

Another example of this sort of distorted thinking concerns poverty in Ethiopia and the cost of arranging an agent to bring an asylum-seeker to the UK. Arguing from the level of poverty in Ethiopia to state that individuals could not have afforded to pay for an agent is not only illogical because of the process of applying general to specific circumstances. It also approaches the realms of fantasy to explain the claimant's presence in the UK. At least four refusal letters used this argument.

Diribe, 16, RFRL, July 2004
Following two paragraphs, 20 lines, of quotes about poverty in Ethiopia:
Taking this into account it is considered highly unlikely that your aunt would have been able or willing to pay for your journey to the UK and further damages the credibility of your claim.

Another example of generalising to the point of absurdity concerned prison overcrowding and, therefore, the incredibility of solitary confinement.

Dinkinesh, 20, DAR, July 2007
After quoting from a State Department report that 'overcrowding continued to be a serious problem' in Ethiopian prisons, the immigration judge wrote:
Whilst the appellant's account, as I have already indicated, is largely consistent with the case law referred to me, I find damaging to the appellant's credibility her account that she was kept in a small cell on her own throughout her detention, which evidence would appear to be inconsistent with the evidence contained in the COIS Report.
Dinkinesh was held for four weeks before bribery secured her release. Detainees are commonly held in solitary confinement for the first few weeks of detention, when most of the interrogation takes place.

Arguments from the specific to the general

If one feature of an account could be found incredible, this was used to find the whole account incredible. This sort of reasoning was used to discredit almost every account. In 25 Home Office refusals, it was plainly stated to have been used. A common starting point for this 'domino effect' was that low level involvement with the OLF did not attract persecution in Ethiopia, as the following case illustrates.

Abdullahi, 20, RFRL, February 2007.
[F]irstly, it is not accepted that your activities brought you to the attention of the Ethiopian authorities. Secondly, as it is not believed that you were of any interest to the authorities, it cannot be accepted that you were imprisoned on account of your alleged political beliefs. Thirdly, as it is not believed that you were in prison on account of your political beliefs, it is not accepted that you escaped in the manner you claim you did, as it is not accepted that you were in Zeway prison.

Therefore, by arguing from ignorance of the danger of being associated with the OLF in any way at all, the caseworker dismissed the whole case, however plausible and consistent it may have been. This tautological argument – disbelief because of disbelief – was very commonly employed.

The sort of detail of an account which triggered the cascade of incredibility was sometimes quite peripheral to the core of the case. In some instances, it was merely that the method of travel to the UK was incredible or that there was a two or three day delay in applying for asylum after arrival.

Arguing from specific to general was also used to discredit particular elements of accounts. For example, in the second Reasons for Refusal of **Dinkinesh**, when she was aged 20, in April 2007, as well as finding her incredible because the neighbourhood prison had no specific name but was the obvious place for her uncle to

look for her, ‘further doubts’ on the credibility of her claim were expressed because her uncle had not arranged through bribery for the release of her parents, as well as her release, when she was 16 years old. The caseworker reasoned that if her release could be secured by bribery, then so could that of her OLF activist parents.

The assertion that an OLF suspect would receive fair treatment by an Ethiopian court was made using similar logic, arguing from the release of a single Macha-Tulama Association official in 2000 (see p.49).

Similarly faulty reasoning was used to dismiss evidence from several mental health professionals who agreed on the diagnoses of depression and post traumatic stress disorder in a 17 year-old rape victim, whose father had been killed and whose brother had disappeared. The evidence was dismissed because these disorders followed an episode of detention which a caseworker, adjudicator and immigration judge chose not to believe (see Expert medical reports, **Sabile**, p.76).

Catch 22

Contradictory statements and assertions were made by caseworkers, adjudicators and immigration judges, sometimes in the same case and on occasions by the same decision-maker. Most examples are given in more detail elsewhere and merely summarised here. A few are mentioned only in this section.

No objective evidence to support OLF structure: enough evidence to fool an expert.

Korme, 25, was told in 2007 by a caseworker, immigration judge and senior immigration judge, that because information he gave about the cell structure of the OLF could not be supported by available objective evidence, ‘it is believed that you have merely fabricated your evidence on how the OLF is structured’.
After the London OLF representative corroborated Korme’s account, the senior immigration judge wrote that the claimant was interviewed by the OLF representative after he had been in the UK for two and a half months, which would have given him ‘ample opportunity to familiarise himself with the OLF to satisfy the expert’. He dismissed the OLF representative’s report, despite her knowledge of the claimant’s OLF background.
Thus, knowledge which was not available publicly was labelled as fabrication because it could not be corroborated, yet when it was corroborated by an expert, it was stated to be accessible to the extent that an expert could be fooled within ten weeks of access to publicly available information.

It was unwise to join the OLF after father’s death: delay in joining after father’s death was not credible.

In cases quoted above, (p.53), Tadesse’s claim to have joined the OLF 13 months after his father was killed was deemed unwise and ‘implausible’, yet Abaynesh was found incredible because she delayed joining for 12 months after her father was killed.

OLF activity without discovery is impossible: relocation to avoid persecution is possible.

Many OLF members and supporters were told that their account of being actively involved with the OLF for three or four years was not possible because it would have attracted the attention of the authorities, yet at least 11 were told it would be safe for them to relocate within Ethiopia (p.45). Thus, two incorrect assertions were made which were mutually inconsistent.

OLF activity without discovery is impossible: low level involvement is safe.
(see Treatment of OLF suspects, pp.49-52.)

OLF involvement attracts no persecution: described persecution is not severe enough to be true.
(see Treatment of OLF suspects, pp.49-52.)

Incommunicado detention is likely: incommunicado detention is not credible.

Korme, 25, DAR, August 2007
Given that he was allegedly considered a political prisoner it is not likely that family would be permitted to visit him.
Bayisa, 27, RFRL, September 2003
In your SEF you claim that you were . . . detained for over twenty one months, tortured for the first three and then denied any outside communication . . . your description of prison life . . . does not correspond with information known. . . . many prisoners have food delivered to them by their families . . . Visitors are allowed. . . . In view of all this information your claim to have been arrested and detained because you were a member of the OLF is not accepted.

Demonstrations in London carry no risk for returnees: if there was genuine fear of the Ethiopian government, the claimant would not have openly demonstrated in London
(see Behaviour within the UK, pp.58-59.)

There were several other Catch 22 predicaments which trapped asylum-seekers within circular arguments but which did not necessarily depend on contradictory assertions. They were nonetheless impossible to navigate.

One circular and impossible argument concerned motivation to join the OLF and persecution because of Oromo ethnicity. Most Oromo asylum applicants were told that persecution merely because they are Oromo was not possible (p.34). Yet, one Oromo who claimed that he was not persecuted merely because of his being Oromo was told that if he had not been persecuted for being an Oromo he could have had no possible motive for becoming a member of the OLF (**Tarakegn**, p.53).

Another entrapment concerned the OLF and its refusal to renounce violence. The OLF maintains that it avoids actions which endanger civilians and its military endeavours are low key in any case. Nonetheless, Oromo asylum-seekers are put in the impossible situation of either stating that they support violent means to achieve political objectives, and thus earning the label of ‘terrorist’ or not being believed that they are

supporters of the OLF because they deny that they or the OLF support the use of violence (p.69).

As a variant of the 'too long or too short' predicament, an emerging story, told with unease and hesitation was found incredible because it evolved with the telling and was inconsistent. Whereas a full, confident and early disclosure of all relevant material was asserted to be incredible because it was found glib and practised – 'staged'.

Indrias, 30, DAR, April 2005
His responses to questions put to him were somewhat staged. . . . I found him to be an unsatisfactory witness.

The production or non-production of supporting documents also falls within this category. Accounts were found incredible because they were not supported with documentary evidence of summonses, warrants, certificates of detention, OLF statements or medical reports confirming torture or rape (pp.40, 43). When documents were produced, with the exception of some reports by the Medical Foundation for the Care of Victims of Torture, they were dismissed as not independent, mass produced, not detailed enough or forgeries, or 'no weight' was attached to them, after 'considering all of the evidence in the round' because they did not fit the adjudicator's or immigration judge's assessment of the case (pp.74-6).

Fantasy

Sometimes the reasoning by caseworkers, adjudicators and immigration judges was so ridiculous that it could only be described as fantasy. Examples can be taken from many of the other categories, but a few instances which require a greater than average suspension of intelligence and common sense are related below.

Obvious illustrations are those whose illegal method of travel to the UK was found incredible. For example, at her reconsideration appeal hearing by a senior immigration judge, **Dinkinesh** was told that her fears of encountering a problem on her forced return to Ethiopia because she had left illegally were without foundation because she was unable to prove she had left illegally. Not only was illegal exit from Ethiopia and entry into the UK found incredible *per se* but in four cases, the journey was found incredible because of poverty in Ethiopia. One is left to assume that caseworkers and immigration judges believe that asylum-seekers travel by magic carpet.

Another common version was the spontaneous occurrence of post traumatic stress disorder, without a precipitating event (e.g. **Terefa** and **Sabile**, p.76). The suggestion that a genuine asylum-seeker under the control of an agent would have applied for asylum while on a 45 minute stop-over inside an aeroplane at Rome airport (**Berhanu**, p.57) was another example.

The fanciful imagination of caseworkers gave rise to the following two examples. A belief structure was built on minimal foundation in the first and, in the second, the flight of fancy was without any foundation at all.

Dinkinesh, 16, RFRL, March 2003
At her first refusal, when still a minor, she was told:
[Y]ou would not have been released by the authorities, even after the payment of a bribe, if you were of any further interest to them. Furthermore it is considered that your release is likely to be recorded as an official release or that your detention will be unrecorded as the officer involved would not wish to draw attention to his or her actions, and your claim for asylum protection in the UK is severely diminished as a result.

Garoma, 28, RFRL, February 2003
The Secretary of State observes that you have also produced a newspaper report that you claim supports your claim to have been detained in Ethiopia because of an involvement with the OLF. He notes though that the article in the newspaper which you claim you are referred to in, has no pictures to confirm that the person in the article is actually yourself. The Secretary of State, as he does not believe that your account of harassment in Ethiopia is based in fact, is not willing to accept that the Garoma Tolera Bayissa referred to in the article is actually yourself. [All three names have been altered by the author.]

vi. Disregard of supporting evidence

Documents

Copies of summonses or arrest warrants were routinely dismissed. The author is not aware of a single document of this sort being found genuine by an adjudicator or immigration judge. Police summonses and warrants are often crudely photocopied forms which have names filled in by hand. They are thus easy to dismiss as amateurish forgeries. That they are ever issued was denied by the assertion of many adjudicators and immigration judges.

OLF membership cards were never found credible. Adjudicators and immigration judges asserted that it was not credible that they were issued at all. Long vowels and stressed consonants are written as double letters in 'Qubee', the Oromo language as written in Latin script. Consequently, Oromo may be spelled 'Oromoo' and names as written on membership cards may be written differently to spellings used in the UK. Field names may be used. Each of these discrepancies were used to find that membership cards undermined the credibility of a case instead of enhancing it. They were described as simple heat-sealed cards, and discredited because of their crudity, or as being too well kept and new-looking to be genuine.

Indrias, 30, DAR, April 2005
The Appellant has produced various documentation and a very well kept and presented membership card of the OLF. I do not find it credible or plausible that a member of an illegal organisation such as the OLF . . . would carry or have as part of his property such a distinctive and well kept membership card of the OLF. I have reached the conclusion that this document has been issued and lodged in the Appellant's Bundle to substantiate his membership of the organisation. It does however do quite the opposite in that it undermines the credibility of his claim . . .

Affidavits

Affidavits and statements of support are often requested from the OLF office in Washington D.C., the OLF London representative, officials of the Oromo Community organisation and the Union of Oromo Students in Europe. These documents are not produced without serious consideration. The asylum-seeker must be recommended by a member of good standing and with twelve months membership of the relevant organisation. If they are personally not aware of an individual's involvement or their family's involvement with the OLF, the OLF representative in London and staff members of the Washington office make contact with OLF members in Ethiopia to confirm involvement before an affidavit or support statement is made by them.

Most of the content of the OLF documents is identical, because they are produced in response to similar requests and there is insufficient time to write each one from scratch. Four affidavits from the Washington office were dismissed on the grounds that they were 'mass produced' and because they did not give enough detail. Thirteen support statements from the OLF representative in London were also dismissed from serious consideration for these reasons and because they were 'not independent', the representative was unable to attend the hearing in person or because of minor copying errors. Affidavits and statements from the OLF were criticised for not containing the names and other details of OLF contacts in Ethiopia. However much detail was given, it was not enough. **Korme**'s appeal was dismissed when the senior immigration judge found that he could have learnt enough about the OLF in ten weeks to have fooled the London OLF representative that he was an OLF member (p.71).

It has never been acknowledged by adjudicators or immigration judges that the people best qualified to distinguish genuine OLF supporters from bogus claimants are OLF members themselves. In the following example, even the Oromo nationality of a long-standing, active Oromo community member was questioned, despite support shown by the Oromo Community organisation.

Diribe, 20, DAR, February 2008
Upholding a previous appeal refusal, two immigration judges dismissed a statement from the Oromo Community organisation, which confirmed her activities in the UK. The statement was not intended to comment on her history in Ethiopia but did refer to her parents, who had died in detention, as trusted members of the OLF. The statement was dismissed on the grounds that it gave no detail of the role played by her parents within the OLF in Ethiopia and that it '*does not state how the organisation came to the conclusion that she is an Oromo national.*'

Tadesse asked an OLF colleague in Addis Ababa to send a supporting document for his asylum claim. Knowing it was to be used in a UK appeal hearing, his colleague wrote in English. Dismissing the document, the adjudicator wrote '*I do not find that the OLF would choose to write in English, a language that the Appellant could not understand or read.*'

Expert medical reports

Failure to seek medical help for torture or rape or to provide medical reports was interpreted as undermining credibility.

Getachu, 34, DAR, June 2005
Despite his description of severe torture, there is no medical report to support his allegations which further undermines his credibility.

Apart from some reports from the Medical Foundation for the Care of Victims of Torture, medical and psychiatric reports were dismissed. Caseworkers, adjudicators and immigration judges considered themselves more qualified than medical professionals in at least four cases.

Terefa, 27, DAR, November 2002
In the circumstances and with the greatest respect to the doctor who produced the report, I would have expected some previous indication of psychiatric problems. . . . If the psychiatrist had the general practitioner's notes I do not know whether he might have come to a different conclusion. It seems to me that without the general practitioner's notes regarding the Appellant's prior psychiatric history it would be difficult for a psychiatrist to give a firm view. I say that, despite the terms of the current report by Dr P.… . According to the doctor there would be a deleterious effect on the Appellant's mental state in terms of him being exposed to a situation where he was tortured and this would make his symptoms of post traumatic stress disorder much worse. For the reasons which I have previously indicated I do not accept that the Appellant was tortured.
The adjudicator appeared to be unaware that psychiatric referrals are made by letter and not accompanied by a General Practitioner's notes.

Sabile, 17, DAR, August 2003
Dr S… has diagnosed PTSD but the basis for his diagnosis is a story which I have found not to be credible. I note that his own psychiatric experience is limited to 18 months spent as a trainee in 1992-1994.
Dr S... had nine years experience as a General Practitioner following 18 months in psychiatric training. His report was later corroborated by another GP, a Mental Health Practitioner and two consultant psychiatrists who all confirmed severe depression and post traumatic stress disorder. Nonetheless, in August 2007, in a letter refusing reconsideration of her case, the Enforcement and Compliance unit of the Border and Immigration Agency wrote '*the evaluation of your client's condition has been drawn upon her asylum account. As this account has been deemed incredible the conclusions of any medical report/assessment must be questionable.*'
The depression and post traumatic stress disorder were assumed to have appeared without cause.

Failure to seek information

The author is not aware of a single instance of a caseworker, adjudicator or immigration judge seeking corroborative information from an expert or a member of an organisation with institutional knowledge of relevant facts. For example, a single

phone call to any OLF member would have been sufficient to learn that OLF membership cards were indeed issued.

vii. Case illustrations

The following three case histories show some of the difficulties in classifying reasons for refusal. They give a suggestion of the dismissive tone in refusal letters and the culture of disbelief which underlies it. Some of the reasons for refusal have been given separately, above. They are included below, to show how they were combined with other reasons for refusing each of the claimants.

Munxaas, 26, RFRL, January 2003
He was an OLF member who was detained in 1992 when he was tortured by the beating of the soles of his feet. He was again detained in 2001, beaten unconscious and tortured with heavy objects suspended from his genitalia. He escaped during a night-time visit to the toilet while his guard was drunk.
The Reasons for Refusal letter stated that the OLF '*was not banned, continues to function and its viewpoint is reflected in the press . . . low level political activity on behalf of the OLF would not normally attract adverse attention from the authorities*'. According to the caseworker, he would not have been released from his first episode of detention nor allowed to escape from his second if he was of continuing interest to the authorities. He would have left Ethiopia earlier than he did, if his fear of persecution was genuine; his failure to provide medical evidence of his torture and his not claiming asylum until one day after he arrived with an agent in the UK undermined the credibility of his claim.

Bedane, 16, RFRL, September 2004
This refusal letter exhibits an almost a full-house of pasted clichés used to refuse asylum in Oromo cases.
Bedane comes from a family which was strongly involved with the OLF. She was 13 when her father was detained and tortured to death. Her brother died in detention in the following year. Another brother disappeared in detention in early 2004. She was detained at the same time as her mother during an OLF meeting at their house. Her mother disappeared in detention and Bedane believes that she is also dead. Bedane was severely beaten, whipped and became mentally and physically ill. After five months in detention and payment of money, she was allowed to be admitted to a clinic, and fled to the UK with a paid agent two weeks later.
Her age was not believed because she '*failed to produce any satisfactory evidence to substantiate*' it. She was told that the OLF was responsible for blowing up UN vehicles in the Ogaden and '*given the nature of this terrorist group . . . any interest or lawful enquiries into your alleged activities by the Ethiopian authorities would be justified and cannot be regarded as persecution*'. It was considered that her '*father and brothers were arrested because of their political involvement with the OLF*' and that Bedane and her mother were detained '*with regards to your political activities*'. The caseworker continued: *These incidents, if they are to be believed are unfortunate however it does not from the fact [*sic*] that they were, admittedly, active members of an illegal terrorist group in Ethiopia who has refused to renounce violence . . . and to take part in the democratic process.*
The killing of your father and brother have been considered and it is believed that although these events are unfortunate, in order to bring yourself within the scope of

the UN Convention, you would have to show that these incidents were not simply the random actions of individuals but were a sustained pattern or campaign of persecution directed at you which was knowingly tolerated by the authorities, or that the authorities were unable, or unwilling, to offer you effective protection.
This has not been established in your case. You could have attempted to seek redress through the proper authorities before seeking international protection.
As your knew the OLF was treated as an illegal terrorist group [and] *. . . your alleged detention . . . was the only problem you personally encountered in Ethiopia it is believed you have demonstrated a fear of prosecution and not persecution in Ethiopia. In order to qualify for asylum . . . you would have to show that either the law in your country does not conform with accepted human rights standards or that the application of the law is discriminatory. You have failed to demonstrate either of these points. Also . . . you would have to show that you would not receive a fair trial or that any punishment you might receive . . . would be disproportionate . . . You have failed to demonstrate that you would be treated unfairly . . .*
If criminal charges were to be brought against you . . . you would be arraigned before a properly constituted, independent court, have access to legal representation, be able to present evidence and cross-examine witnesses, and that any subsequent sentence you might receive would not be disproportionately severe . . .
[T]he authorities in Ethiopia were justified in detaining and questioning you and your mother.
. . . [N]o violations of human rights which may have been committed by members of the security forces in Ethiopia are condoned. However, these actions arise from failures of discipline and supervision rather than from any concerted policy . . . They are therefore not evidence of persecution . . . Such violations are not knowingly tolerated by the Ethiopian government . . .
It is not believed that a member of the prison service would allow a prisoner to be released despite being offered a bribe.
It was also found incredible that Bedane could have spent 15 days in Addis Ababa without coming to the attention of the authorities before fleeing the country and that her aunt would have been able to afford to pay for an agent to take her out. She could have gone to an area of Ethiopia with more Oromo people and would not have been released if she was of genuine interest.
Illegal entry into the UK and failure to relocate in Ethiopia further weakened her case: *You entered the UK illegally . . .* [and] *combined with the fact that you did not think about moving to a different area in Ethiopia before arriving in the UK, leads it to be believed that you were more intent on coming and securing your entry to the UK than you were on claiming international protection.*

Amansiisa, 17, RFRL, December 2006, upheld by DAR, April 2007
He is an uneducated, illiterate orphan and an OLF member. He was beaten and interrogated when his guardian was arrested and detained for five months in 2004. He saw his guardian and other cell members being killed in 2005 and was himself detained for nine months, during which time he was beaten with batons and whips. He was under 17 when he arrived in the UK in August 2006.
The Reasons for Refusal letter disputed his age, stating that he '*failed to provide any satisfactory evidence to substantiate this claim*'. The caseworker wrote '*there is no information available to the Home Office which indicates Oromo being persecuted in Ethiopia due to their ethnicity. Therefore your account of suffering persecution and harassment due to your ethnicity in Ethiopia is not accepted as being true.*' The fact

that he was not arrested with his guardian in 2004, when he was 14 years old, '*leads to the conclusion that you were not a member of the OLF as you claim to have been*'. Despite noting his knowledge about the OLF and his activities for the organisation, the caseworker continued '*your activities in support of the OLF appear to have been very low level and do not appear likely to have brought you to the notice of the Ethiopian authorities. There is no reason to believe that you would be recognised as an OLF activist on your return to Ethiopia and the harassment which all OLF members may encounter at some time does not in itself justify a well-founded fear of persecution on your return. Therefore this leads to the conclusion that as your role in the OLF was at a very low level your account of coming to the attention of the authorities due to your OLF activities is not believed to be true.*' He did not mention that his aunt bribed a guard to secure his release in his witness statement but did so at interview. The caseworker concluded '*if this account was true, you would have mentioned it at the earliest opportunity in your statement and not when prompted at your substantive asylum interview. In the light of this your account of being detained by the authorities due to your OLF activities is not believed to be true.*'

6. Discussion: Audit results

UNHCR Handbook on Procedures and Criteria for Determining Refugee Status: [62]
Paragraph 202. *Since the examiner's conclusion on the facts of the case and his personal impression of the applicant will lead to a decision that affects human lives, he must apply the criteria in a spirit of justice and understanding and his judgement should not, of course, be influenced by the personal consideration that the applicant may be an 'undeserving case'.*
Paragraph 222. *The explanations given have shown that the determination of refugee status is by no means a mechanical and routine process. On the contrary, it calls for specialized knowledge, training and experience and – what is more – an understanding of the particular situation of the applicant and of the human factors involved.*

The results of the present audit bear out the findings of other studies. Amnesty International analysed 175 Home Office refusals in 2003. [57] Their analysis was not intended to be exhaustive and the findings were confined to three categories where 'standards of decision-making persistently fell short of those expected in a just and efficient asylum determination system':
1. Accurate information relating to the human rights situation in countries.
2. Objective consideration of issues relating to the individual credibility of asylum applicants.
3. Appropriate consideration of allegations of torture and medical evidence.

Reasons for refusal were also criticised in Amnesty International's investigation into the destitution of failed asylum-seekers in 2006. [17] Results of the present survey were also compared to the findings of a Birmingham psychiatrist, studying mental ill-health among detained failed asylum-seekers in 1996 [58] and to the analysis of 90 asylum refusals, including a few appeals, by Asylum Aid in 1999. [64] The Medical Foundation for the Care of Victims of Torture examined 46 initial decisions made on Cameroon torture victims treated in 2001 and 2002, and compared these to a smaller sample treated in 2003. [81] The UN refugee agency, UNHCR, at the invitation of the Home Office, audited 267 first instance decisions from April 2004 to January 2005 at Lunar House, 2% of all initial decisions in that period. Their findings were summarised in the report of the South London Citizens enquiry, which undertook its own interviews with asylum-seekers and staff of the asylum unit. [3]

All investigations corroborated the present findings. Together, the research shows no change in the decision-making habits of the Home Office and appeal authorities since the 1990s. The experiences of individual asylum-seekers, recorded by other organisations and in media reports, also bear out these findings. [47, 54, 82, 83]

UNHCR found 'flawed procedures, such as unsustainable reasoning; misapplication of law; failure to refer to Country of Origin Information (COI); misapplication of COI and failure to consider obvious European Convention on Human Rights issues. UNHCR also noted frequent inaccuracies and errors in drafting.' Because of the number of cases going to appeal 'UNHCR considers this to be both inconsistent with the Handbook and a waste of public resources'. [3]

Facts and assertions

The enquiry by South London Citizens noted poor knowledge of country of origin information by caseworkers and complaints from them that it was difficult to access. They criticised caseworkers for poor application of human rights law and ignorance of even basic facts, which led one interviewed barrister to complain that they 'had no idea what they are talking about'. [3]

As in the present audit, other organisations found that caseworkers used inaccurate information and selectively used other available material. They relied on falsely optimistic Home Office information, often taken from favourable pronouncements on human rights practices made by governments of abusive regimes. [57, 64, 81]

According to the Medical Foundation, regarding country assessments made by the Home Office, 'these materials must obviously be accurate, fair and unbiased. . . . this is seldom the case'. Reasons for refusal letters 'distorted source materials, with the result that a claim was refused on the basis of unsupported, misleading, and occasionally inaccurate grounds.' [81]

Amnesty International reported that ignorance by caseworkers of opposition groups or parties led them to mistakenly deny their existence, without any attempts being made to establish the truth. Furthermore, 'without adequate knowledge of the human rights situation in the country of origin, caseworkers may follow a line of questioning that is not conducive to establishing the full extent of an asylum claim.' This was specifically corroborated by Asylum Aid. [57, 64]

'Cherry picking' from available information was corroborated. Just as in the present study, when OLF supporters were accused of being terrorists by caseworkers and were told they could expect prosecution and not persecution, in properly constituted courts, Asylum Aid found that supporters of other banned organisations were told that government interest in them 'was to be expected' and they would receive 'a fair trial under an independent and properly constituted judiciary', on the strength of government statements. [64]

Amnesty International, Asylum Aid, the Medical Foundation and the Birmingham study reported unsubstantiated assertions made by caseworkers, adjudicators and judges, as in this audit. These included subjective and unfounded statements concerning what constitutes torture, the certification of abuse, as well as access to a fair judicial process. Caseworkers were also ignorant of social conditions in countries of origin and presumed that infrastructure and social norms were similar to those of the UK. Inaccurate assertions were commonly made about the safety of relocation within countries. [57, 64, 81] The South London Citizens enquiry was told 'At appeal women are either disbelieved or told it is safe to go back and live in another part of the country, even when the entire country is a war zone and nowhere is safe.' [3]

Other organisations reported that caseworkers used 'off the peg' paragraphs, identical to those quoted in this presentation, to assert that abuses were the 'random acts of undisciplined and unsupervised individuals', 'not knowingly tolerated by government', and 'not evidence of concerted policy' or 'part of a sustained campaign of persecution'. Also, they reported assertions about the ability to seek redress in the

country of origin and the incredibility of claimants who did not. They criticised the indiscriminate use of pre-prepared paragraphs to describe situations in countries for which their use was inappropriate. [57, 64, 81]

Just as in the current study, Amnesty International and Asylum Aid found that caseworkers made unsubstantiated assertions about the behaviour and motivation of security forces, victims of abuses and those who provided assistance. They also reported that asylum-seekers were expected to explain the motives and actions of security forces. In some cases, caseworkers asserted that torture was motivated by reasons other than persecution. [57, 64] Asylum Aid reported some instances of claimants being found incredible, because they had not been killed, or because they had been released from detention, as found in the present research. [64]

Amnesty International was critical of the ignorance of caseworkers. 'The Home Office makes assumptions about asylum applicants that reveal a total lack of understanding of how people live under restrictive regimes – and the strength of their political motivation when their rights and freedom of expression are threatened or denied.' Caseworkers and judges did not accept the existence of bribery and the prevalence of escape from detention in countries where they were commonly reported. Furthermore, 'In Refusal letters, the denial of the possibility of bribery is always stated in terms which imply that the applicant is lying.' Unfounded statements by caseworkers and judges about endurance, fortitude and resilience of victims of abuse were reported by Amnesty International, as in the present study. [57]

Other research found that 'low level' involvement with opposition movements was commonly asserted to attract no adverse attention from governments. The timing of departure of victims of abuse from their countries was found incredible for mistaken and illogical reasons and was the subject of another standard 'cut and paste' paragraph. Rarely were asylum-seekers given the chance to explain the timing of their departure. Some were found incredible because they had stayed too long after an episode of abuse, some because they had not stayed long enough. Some had fled only after several episodes of detention and mistreatment. Amnesty International noted that refusal letters did not acknowledge the time needed to arrange departure, the cumulative effect of persecution nor the enormity of the decision to leave their country with no hope of return. [57, 64]

As in the present study, modes of departure from the country of origin and of reaching and entering the UK were commonly found incredible by the assertion of caseworkers. Being able to leave through international airports with an agent, being able to leave on a false passport or on their own passport were all reasons for finding claimants incredible. Delays of a few days in applying for asylum after arrival in the UK were similarly found incredible, again with a standard paragraph for insertion. Caseworkers ignored many possible and understandable reasons for such delays. [57, 64] This was blatantly deliberate in one of the cases reported by Amnesty International: the refusal letter stated that, for a genuine asylum-seeker, a delay of 5 days in applying for asylum would be questionable 'irrespective of any lack of specific knowledge of how to accomplish this'. [57]

Unsubstantiated assertions were not restricted to comments on accounts given by asylum-seekers. The routine declaration that young asylum-seekers were over 18

years old was noted by South London Citizens and by Amnesty International in their 2004 and 2006 publications. [3, 17, 57] In addition, Amnesty International noted that these minors were stigmatised as liars because 'Claims to be' was written on their documents in front of their date of birth. [57] Also, as reported here, Asylum Aid drew attention to denial by the Home Office of the relevance of political activity in the UK to risk of persecution which would be faced on return. [64]

Foul play

Other organisations reported instances of foul play by decision-makers – the impossibility of correcting mistaken or mistranslated testimony, euphemistic description of torture and rape, and the game of 'blame the victim' for not demonstrating that their persecution was due to state policy. [3, 57, 58, 64, 81]

The lack of allowance for piecemeal disclosure of sensitive and distressing material was particularly reported by Amnesty International, the Medical Foundation, Asylum Aid, South London citizens and the Birmingham study. [3, 17, 57, 58, 64, 81] Failure to allow for playing down a role in an opposition group, due to perceived bias, was noted in the Birmingham research. [58]

Not allowing for normal difficulties in recall and for the additional difficulties and reluctance to recall traumatic, stigmatising and embarrassing information was stressed by other groups. [3, 17, 57, 58, 64, 81] An authoritative review of available literature by Dr Cohen of the Medical Foundation found that minor discrepancies are more likely in real autobiographic memories than in memorised scripts. Dr Cohen concluded that assessment of credibility by the accuracy and reproducibility of recall is not valid. Variation is normal and exacerbated by many common elements of asylum-seekers' histories – torture, head injury, stress, pain, post traumatic stress disorder, depression and poor nutrition. [79] This is borne out by Nigel Eltringham's account from interviews in Rwanda in 1998, which shows how different were the memories of the same events during the genocide four years earlier. [80]

The manufacture of discrepancy from minute variations in translated testimony, without allowance for difference in calendars, was also reported by others. Exploitation of minor differences in dates and timing, peripheral to the core of claims, due to normally imperfect recall, misunderstandings, cultural dissonance or poor translation, was a commonly employed method of finding claimants incredible. Standard inserted paragraphs used the minor discrepancies to undermine credibility. [3, 17, 57, 58, 64, 81]

One reason for refusal noted in this audit, which was not apparent in other reports, was the finding fault with asylum-seekers for their not spontaneously broaching topics which caseworkers found in the Country of Origin Information. Although they did not ask, for example, about the formation of the UOLF and factional disputes within the OLF, caseworkers found OLF supporters incredible for not including these details in the testimonies.

Other organisations have not specifically pointed out the capacity of immigration judges and adjudicators to manufacture inconsistencies out of their own imaginations, due to their assumption of untruthfulness or impatience in teasing out detail (see Tadesse, pp.66-7, and Gabissa, p.67).

The present study and research by Amnesty International found that it was a common practice of caseworkers and sometimes adjudicators and judges to find apparent inconsistencies and discrepancies between accounts after interviews and hearings, when claimants no longer had opportunities to explain them. Despite the impossibility of seeking further clarification, these inconsistencies and discrepancies, without allowances for translation or other errors, were used to discredit claims. This contravenes two tenets of official Asylum Policy Instructions from the Border Agency. Not only should each material fact be examined in its own right, [84] apparent inconsistencies should be explored at interview and if that is not possible, care should be taken in using these 'to reach a negative credibility finding'. [85] These guidelines appear to be routinely ignored.

Another piece of foul play was moving the goal posts after the asylum interview. Adjudicators and immigration judges often questioned parts of testimonies given by claimants which had been accepted by caseworkers earlier. The claimant therefore had no opportunity to gather evidence in support of historical features which adjudicators and judges found incredible. Amnesty International and Asylum Aid pointed out this practice. [57, 64] It was apparent in the 57 appeal determinations considered in the present study but its prevalence was not recorded.

Credibility and the 'domino effect'

In the present study, there was only one case when the claimant's credibility was not questioned. [He was an OLF member who was sought at home after his cell was exposed and colleagues detained. His uncle was killed. He hid for two years before coming to the UK with an agent. Although his account was found credible, he was told he could return to Ethiopia because he was never a fighter for the OLF and low level involvement was safe.]

Credibility is more likely to be challenged if there is scant country information on which to base a refusal, according to Amnesty International. [57]

The finding incredible of one, frequently non-crucial and often completely irrelevant, part of an asylum-seeker's story in order to discredit the whole account was specifically noted by Amnesty International, [57] Asylum Aid, [64] the Medical Foundation, [81] South London Citizens [3] and the Birmingham study. [58] This process was described in the present audit as a 'domino effect' (p.70). The use of negative assertions about the credibility of mode of travel or a greater than 24 hour delay in applying for asylum to deny credibility of an entire account is illogical, as noted by Amnesty International. [57] It also contravenes Home Office instructions to consider each material fact on its own merits. [84]

Amnesty International reported another 'domino effect' which was also apparent in the current analysis. This begins when an account of torture, without supporting medical evidence, is initially found incredible by assertion of a caseworker. However unsubstantiated that assertion is, when expert medical evidence, corroborating the report of torture, is then presented for the first time at appeal, this too is dismissed because the claimant's history of torture has already been discounted. [57]

Caseworker incompetence

Asylum Aid reported that, commonly, adjudicators were critical of the standard of interview records by caseworkers and of inadequate translation, despite their own frequent use of minor discrepancies to undermine claims. [64] Other research [57, 58, 64, 81] has commented on the poor interview skills of caseworkers and described their failure to explore potentially supportive lines of questioning, especially about torture and rape. When a full account of torture or other significant issue is not given at interview, this omission may surface later, to the detriment of the claim. Thus a failing of the interviewer becomes a failing of the applicant. [57]

Ridiculous and fantastic assertions

Unsustainable reasoning in decisions was reported by all relevant studies. [3, 57, 58, 64, 81] Resulting ridiculous and absurd claims by caseworkers, adjudicators and judges were reported but rarely described as such. However, Asylum Aid wrote [64] 'This contrived use of minor discrepancies goes far wider than dates. Such examples would be laughable, were they not occurring in a context that concerns the life and liberty of individuals.' Dame Helen Bamber, with over 50 years experience of treating torture survivors, also stated in 2007 that reasons used for refusal of asylum claims would be a cause of ridicule, were it not for their serious consequences. [86]

An immigration judge's contention that detention in solitary confinement was incredible because the State Department reported overcrowding in prisons and the assertion by at least four caseworkers that the use of a trafficking agent was impossible because Ethiopia was a poor country are examples of absurdity (p.70). The assertion that it was possible for an asylum claim to have been made during a 45 minute period in an airplane at Rome airport, in the company of an agent (p.57), was just as ridiculous. Examples of similarly absurd assertions by caseworkers are quoted by Amnesty International. [57] For example 'The Secretary of State considers that the authorities of Colombia are capable of offering you effective protection'; 'There is general freedom of movement within Afghanistan' (told to a single, middle-aged, mentally vulnerable woman); and (to an applicant from the Democratic Republic of Congo) 'The fact that fighting was taking place in this area is irrelevant, the Secretary of State can reasonably expected [*sic*] you to go to Kisangani'.

Testimony of torture

Amnesty International highlighted the Home Office instruction to caseworkers to avoid asking leading questions about torture and to avoid the subject unless it was raised by the claimant. Caseworkers are also encouraged to reject evidence which is consistent with claims of torture, unless it is conclusive. [57]

Many victims of torture are unaware that treatment is available or are unwilling or unable to access such treatment. Despite this, letters of refusal often deny that torture occurred, on the basis of failure to seek or obtain treatment. In addition, the Home Office routinely dismisses medical evidence of torture, especially if it is from sources other than the Medical Foundation for the Care of Victims of Torture, which only sees a small minority of torture victims, some 6-9% of asylum-seekers. [57, 64, 81]

The Medical Foundation reported [81] ' the RFRLs examined in this study revealed that caseworkers' analysis of torture testimony was consistently weak, and that medical evidence was frequently downplayed, ignored or even disputed. The handling of expert evidence is of great concern . . . and strongly suggests a presumption, in the absence of contrary expert opinion, to know more than the clinical expert about facts and opinions contained in the medical report. Such conduct can only impair the quality and reliability of an asylum decision, and should not continue.' (See below.)

Documents, statements and expert reports

The South London Citizens enquiry found that demands were made for documents within unclear time frames or for documents which were impossible to obtain. Cases were refused on compliance grounds when documents were not presented. [3] Asylum claimants have also been disadvantaged by the increasing use of the fast track process and refusals of immigration judges to adjourn appeals for documents to be obtained or expert reports to be requisitioned and prepared. [10, 58]

Documentary evidence was in four categories: country of origin material such as press cuttings, arrest warrants and police summonses; letters of support from political and civic organisations; expert reports on countries of origin, and; expert medical testimony. Dismissal of all four categories of supporting documents was justified, in this survey and in others, by simple denial of relevance: 'The Secretary of State has taken note of the articles and documents which you have submitted but considers that they do not add substance to your asylum application' or 'the Secretary of State is of the opinion that the report does not add any substantial weight to your claim'. [57, 64]

Asylum Aid found that statements of support, like affidavits from OLF officials in this study, were also dismissed for not having enough detail. [64] In the present audit, statements from the OLF representative were dismissed because they were 'not independent', as well as their never being detailed enough or because they 'added no weight' to a claim.

Discrediting the expertise and independence of expert witnesses has been reported by Amnesty International [57] and the press. A successful lawsuit and complaints to the President of the Asylum and Immigration Tribunal in 2008 from 14 experts, including 7 academics, followed attacks on their integrity and credentials in asylum decisions. Some reported avoiding appearing at appeal hearings because judges allowed their expertise to be publicly belittled, thereby damaging their reputations. [87, 88]

Several approaches to expert medical testimony were noted by Amnesty International and Asylum Aid. As well as the standard flat denial without reason, reports were dismissed because the qualifications of the expert were found insufficient or inadequately documented. Ignoring the considerable experience and consulting skills of medical practitioners who found accounts of asylum-seekers consistent with physical signs, adjudicators and judges sometimes dismissed reports as merely accepting the history given by claimants at face value. As found in the present study and noted above in the consideration of torture, caseworkers often made clinical judgements; adjudicators and judges sometimes did so in contradiction to medical expert reports. [57, 64]

7. Consequences of refusal of asylum

Destitution, ill-health, detention and deportation

Once they have reached the end of the asylum process, failed asylum-seekers are faced with destitution, detention and deportation. In July 2006, the Home Secretary announced that priority groups for decision and removal were those who may pose a risk to the public (i.e. offenders), those who can be removed more easily, those who receive support and those who may be allowed to stay. [27] Failed asylum-seekers with children can choose to continue receiving subsistence and accommodation support, which entails complying with reporting requirements. By doing so, they become more liable to be detained and deported. [10] They belong to the second priority group for removal – 'those who can be removed more easily'. Without any notice, they can be removed with their family to an Immigration Removal Centre and deported within a few days.

Failed asylum-seekers without dependants are left without any support unless they can demonstrate that they are making efforts to leave the country and not taking steps to challenge the refusal of their claim. They have to depend on the charity of friends or are forced into working illegally. [17] Prostitution and sexual exploitation are reported by Amnesty International and the Refugee Council. [17, 89] Amnesty International believes that destitution is being used as a deliberate tool to discourage asylum-seekers from coming to the UK. [17] The Parliamentary Joint Committee on Human Rights criticised the deliberate use of destitution to discourage failed asylum-seekers from remaining in the UK and claimed it was a clear breach of the European Convention on Human Rights. [4]

The Refugee Council reports that 20% of refugees in the UK have physical health problems. [89] The Home Office has tried to limit access to health care and encouraged charges for services, including antenatal care and HIV treatment. Some doctors have refused to treat failed asylum-seekers and others have complained that they were being expected to act as immigration officers. [90] Restrictions have resulted in ill-health and deaths. [91] Confusion remains about entitlement to primary health care and the outcome of an appeal by the Home Office against a High Court ruling that most failed asylum-seekers should have access to secondary level care, in hospitals, is awaited at the time of writing. [92]

Even after the withdrawal of support, many failed asylum-seekers continue to report weekly to the Border Agency in order to avoid prosecution and detention for being immigration offenders. Paradoxically, those who are compliant in obeying reporting requirements, like those who receive accommodation and subsistence support, are more likely to be deported than those who disappear into illegality. [10] They also belong to the prioritised group of 'those who may be removed more easily'. [27]

If a failed asylum-seeker becomes an immigration offender by failing to comply with reporting requirements and is discovered, they are liable to detention and deportation. They then belong to another priority group for deportation – 'offenders,' [30] although they could hardly be described as posing a risk to the public. [27] Since the press feeding-frenzy on Home Office failures to deport released offenders in April 2006,

long term detention of failed asylum-seekers and other immigration offenders mushroomed. [93]

Those who are found guilty of shoplifting, working illegally or making another asylum application under an assumed name are not released from prison after serving their sentence. They are detained in Immigration Removal Centres until deported. This has proved difficult in some cases where removals would have been manifestly unsafe or where countries have refused to accept people. As a result, detention is indefinite. The London Detainee Support Group visited 160 refugees and asylum-seekers and 28 other immigrant ex-offenders who had been held for over one year, 46 for more than two years and nine for over three years. One had been held for eight years after serving his sentence for shoplifting. Most were held at Colnbrook IRC, built and run to category B prison standards. As the group and some of the detainees pointed out, their detention was considerably longer than the 42 day detention without trial of terrorist suspects which was proposed by the government and defeated in parliament. Out of 188, only 18% were deported; 25% were eventually released. [93] HM Inspector of Prisons reported that between one third and 80% of detainees at centres visited in 2007-8, were ex-offenders (see p.89).

Voluntary departure is encouraged by the Border Agency and the International Organisation for Migration is promoted as a disinterested enabling body for that purpose. Financial incentives are given to returnees but they have to sign a waiver of liability on return. Advocates for asylum-seekers regard it as a tool of government as it is 80% funded by the 125 states which support it. [94]

In a pilot project in 2008, families were forced to move to Kent from the Portsmouth area, on threat of removing their accommodation and subsistence support. They received an intensive eight weeks of interviews and encouragement from caseworkers and the Home Office 'Migrant Helpline' to accept voluntary return packages, which bypass some of the legal and procedural obstacles to forced repatriation. These include the refusal of some embassies, like that of Eritrea, to provide travel documents on request from the Home Office. Nonetheless, the failed asylum-seekers were threatened with forced removal proceedings if they did not comply. On completion of their two months at the hostel near Ashford, if they avoided subsequent detention and deportation, they were not returned to Portsmouth but dispersed to accommodation in Wales, the midlands or the north. [95]

In 2008, 11,640 failed asylum-seekers were forcibly removed from the UK, a fall of 15% from 2007. [96] In some cases, specially chartered jets were used. [54]

Detention and torture of those who are forcibly removed was reported by Asylum Aid in 1999 [64] and deaths of deportees have been reported by the UK press. [97] The author's own experience of those returning voluntarily and by deportation to Ethiopia is of seven being detained, at least three of whom were tortured (p.45).

Treatment of immigration detainees: violence and racism

About 1,500 asylum-seekers, who have committed no offence, are detained at any one time (p.15). At the end of December 2008, 2,250 were in immigration detention, 1,525 of whom were asylum-seekers. Over 1,500 of the detainees had been held for

over one month, 1,160 for over two months, 445 for more than six months and 150 for over a year. [96] Although publicly available information on privately-run Immigration Removal Centres makes them seem attractive places, [49-52] they are run like prisons, [10] by private security firms specialising in detention of prisoners (table 1, p.14). At least half require visitors to be fingerprinted as well as searched. [48] The remote location of Dungavel and Lindholme IRCs discourages access by visitors and lawyers. [10, 58]

Detainees are moved frequently between detention facilities, often at night, often without warning and spending many hours in cold vehicles. [10] Medical Justice, established to address the medical needs of immigration detainees, reported in 2007 that detainees were perceived and treated as being of low value and that neglect, discrimination and abuse occur 'on a scale that is saddening and frightening'. [47]

Although there is little public scrutiny of IRCs, the reports by HM Chief Inspector of Prisons are comprehensive and revealing. The following are excerpts from the report on visits between September 2007 and December 2008 to seven IRCs and seven Short Term Holding Facilities, which were assessed for safety, respect, activities and preparation for release (including deportation): [98]
In inspections this year there were somewhat fewer positive assessments against safety and respect . . . This may reflect increasing length of stay, uncertainty, and the higher proportion of ex-prisoners. . . . [See p.88]
Only two centres, both run by the Prison Service, were performing positively across all four tests.
This year's inspections reflected the effect of detainees spending longer periods in detention, with a lack of information and inadequate legal advice, and sometimes in poor facilities.
In general there were continuing efforts by IRC staff to improve conditions for detainees, but these were in competition with the pressures of full capacity and an increasingly vulnerable and problematic population. . . .

Although there were no official yearly statistics on the number of detainees and duration of detention:
In Dover, where the centre recorded average stay, periods of detention had more than doubled since the last inspection, from 38 days to 90 days, and a quarter of those surveyed at Colnbrook had been there for more than 12 months. . . . Former prisoners, who made up between a third and 80% of centres' populations, were particularly affected by lengthening detention. . . .

The advantages of the New Asylum Model and a 'single case-holder' were not apparent:
The lack of legal advice or representation, combined with poor quality information contact from UK Border Agency (UKBA) case holders, continued to be major complaints in most centres. . . .
Advice sessions funded by the Legal Services Commission were too limited to meet the demand.
Our surveys charted continuing problems of effective contact with UKBA case holders, with on site staff lacking the experience or the influence to progress cases or provide information. . . .

The severe effect of detention on children was noted:
All children interviewed described fear and distress at the point of detention. Moreover, inspectors found that although fewer children were detained, they were remaining in detention for longer periods. At Yarl's Wood in 2007, three times as many children were detained for over 28 days than in 2005. . . .
Nearly all the children we spoke to said they had felt scared, upset or worried on arrival, which was not surprising given the sometimes traumatic circumstances in which many had initially been detained. The children also indicated that these feelings remained or even worsened during their stay.

The physical and social environment was poor and worsening:
Staff often struggled with an inappropriate or crowded environment . . . where old accommodation was scarcely fit for purpose. . . . [A]t Colnbrook, where we had criticised the prison-like environment of the short-term holding facility, the regime had deteriorated since it had doubled its population and become an adjunct to the immigration removal centre, holding new arrivals who did not feel well-treated or safe. We also criticised the isolation and relative deprivation of the small number of women sometimes held there and at Tinsley House. [98]

When monitoring of Short-Term Holding Facilities began in 2004, they were reported to lack supervision. Inspectors found systemic deficiencies, inadequate facilities, prolonged detention due to overcrowding in IRCs, use of force and segregation, lack of information and health care, untrained and inadequate staff and women and children being kept in the same room as single men. [44] The report for 2007-8 noted marked improvements with fewer people spending more than 24 hrs in them and very few children. The report continued:
However many detainees are first held in police custody suites, where conditions may be poor and communication with UKBA and legal advisers inadequate. . . .
The environment in many holding rooms had improved. However, the Heathrow facilities, handling the largest number of detainees in the country, were particularly unsatisfactory. Holding rooms were cramped and inadequate for the numbers being held. Some detainees spent lengthy periods there – up to 42 hours – and of the 57 children who had passed through in the preceding three months, two had spent 19 hours there. The removals room at Queen's Building, with the highest and most complex transient population, also had inadequate supervision from immigration staff. Standards there were the worst encountered, with unofficial use of separation, poor recording and monitoring of the use of force, and some examples of extremely unprofessional and disrespectful conduct towards detainees. Detainees had little information, and little opportunity to recover property. [98]

Regarding deportations, the inspectors wrote:
Detainees reported multiple journeys, often with little notice. Many . . . were unable to access property . . . A quarter had only the clothing in which they were detained. Escort vans were clean but cramped and uncomfortable, with little temperature control. Escorts were generally described as polite. However, at Tinsley House IRC we observed two examples of poor treatment of detainees handed over to escort staff. One involved pre-emptive use of force by escort staff, without any attempts at de-escalation, and a lack of clarity on the part of the medical escort about his professional role. [98]

Concerning force:
The use of force and disciplinary procedures were not common, but their use among this population, particularly in the context of forced removal, remains problematic. It was therefore disturbing that governance and quality assurance were not sufficiently robust, nor was the safeguard of healthcare attendance always present. [98]

The use of violence in IRCs and during the deportation process has been severely criticised by others. Nearly 300 cases of alleged assaults on detainees between 2004 and 2008 were said to be the 'tip of the iceberg' in a report by a law firm, Medical Justice and the National Coalition of Anti-Deportation Campaigns. Most occurred during attempts at deportation. They included numerous bony and soft tissue injuries, including one punctured lung. In all cases there was evidence of use of excessive force and many episodes were associated with racist comments and abuse. No prosecutions followed. The evidence in the report reveals what may amount to 'state sanctioned violence, for which ultimate responsibility lies with Home Office'. [54]

Fifteen security firm employees were suspended in 2006 following BBC exposure of ill-treatment at an IRC. Despite hundreds of allegations of brutality in the last 5 yrs, only a handful of guards have been disciplined, according to a press report in January 2009. [99]

There is evidence of racism among IRC and escort staff, in addition to the reports of racist abuses during acts of violence by security firm employees noted above. Complaints of verbal abuse, racist and other derogatory comments from staff were heard by an Amnesty International team in late 2004. [10] Two members of staff have resigned because their membership of the British National Party was revealed. Serious complaints and allegations of assault have been ignored as mere 'service delivery complaints'. [100]

Mental illness

The most profound effect of the UK asylum policy, especially detention, is on the mental health of asylum seekers.

The large literature on mental health needs of refugees has not been consulted for this paper. Reference is made to available research material in the Birmingham study [58] and in studies by the Medical Foundation for the Care of Victims of Torture. [79, 81, 101] Refugees have increased rates of mental illness, especially depression and post traumatic stress disorder, and especially if they have been tortured. [101, 102] One third of asylum-seekers are depressed [79] and two thirds have experienced anxiety and depression. [89] Although the prevalence of mental illness is high, rates of treatment and compliance are low, due to problems with maintaining regular access to treatment and to the nature of the disorders themselves. There is an independent adverse effect of detention on the mental health of refugees and Australia has stopped mandatory detention of refugees because of high rates of suicide and self-harm. [101]

Pourgourides, the author of the Birmingham study, described the mental processes which led to the high prevalence of mental illness among refugees. She described the cumulative effects of cultural bereavement, persecution, harassment, oppression, violence, rape, torture, death or disappearance of friends and family members, and

destruction of culture and community. Asylum-seekers experience a profound sense of loss; of identity, place, belonging, order, security, liberty and faith in their ability to survive or succeed. The ambivalence of asylum-seekers – wanting asylum but missing home and possibly feeling guilt at their flight, leaving others to face persecution – entails contradictions which are difficult to reconcile if they are placed under threat and hostility in the UK. Uncertainty, illegality, destitution, social marginalisation, alienation and the threat of deportation add to their anxieties. Their degree of stress is 'beyond notions of stress in western urban societies'. [58]

In the asylum process an asylum-seeker's history is laid bare and scrutinised repeatedly in an attempt to undermine its credibility and substance. Privacy is lost, experiences de-contextualised. They feel unheard and that their stress is not seen. Their experiences are invalidated so they cannot be laid aside and mourned, in order for healing to occur. Pourgourides' interviewees commonly expressed fear of losing their memory and going mad, reflecting a loss of sense of self. [58]

Refusal of asylum negates a person's history of abuse, encourages feelings of worthlessness and exacerbates the effects of torture and abuse on mental health. This applies to all asylum-seekers, but detention represents a total denial of their experiences. The need to have your narrative understood is important. If it is not, then detention can be the last straw, reactivating past losses and precipitating despondency and despair. [58]

Detention removes the little control which asylum-seekers have of their lives. Fear and loss of control over life are the most important prognostic factors for recovery from depression and post traumatic stress disorder in torture victims. [103]

Mental ill-health was meant to be taken into account when decisions were made to detain asylum-seekers in 1996, [58] but this guideline was ignored then, as it is now. In her last annual report, HM Chief Inspector of Prisons wrote that there were 'improved procedures for case holders to take note of evidence that detainees had suffered previous trauma or were otherwise not fit to detain, but this rarely appeared to affect the decision to maintain detention, even in cases where there was clear clinical evidence.' [98]

Amnesty International reported that many torture victims are held in detention. [57] The London Detainee Support Group listed studies showing adverse effects of detention on depression, anxiety and post traumatic stress disorder. They reported 'a situation of endemic mental disorder and distress' in Colnbrook IRC with many episodes of self harm and suicidal thinking. [93]

HM Chief Inspector of Prisons wrote in 2009 that people with recognised and severe mental health needs were handled inappropriately in detention, that the understanding and management of self-harm were often superficial, that major tranquilisers were injected unnecessarily and that security could take precedence over health. [98]

Although management of mental illness in IRCs is inadequate, the effect and extent of the distress of failed asylum-seekers is acknowledged in the provision of facilities to keep rates of suicide and self-harm from escalating.

Dr Juliet Cohen, Head of Medical Services at the Medical Foundation for the Care of Victims of Torture, wrote in 2008 that detained asylum-seekers carry not just one or two but the majority of risk factors for suicide which are recognised among prisoners. Mental illnesses which are common among asylum-seekers carry a high risk and the rate of suicide among detained asylum-seekers is significantly greater than among prisoners, which is already more than ten times that of the general population. Cohen's research was hampered by poor assessment, follow up and monitoring of detainees by IRC staff. [101]

Rates of self-harm among asylum-seekers in the community could not be determined from records kept by hospital Accident and Emergency departments because asylum-seeker status is not coded. Coroners are not allowed to classify suicides as asylum-seekers and are instructed to write 'unemployed' instead, if they attempt to do so. Some of the 38 suicides studied by Cohen came to light by chance. Coroners who were interviewed reported awareness of more asylum-seeker suicides which were not traceable. [101]

There was a steady decline in the mental state of some who committed suicide but in others a negative asylum decision precipitated a clear deterioration. Cohen warned that increasing overcrowding in removal centres would increase suicide rates. She concluded that if 'up to 30% of asylum seekers have been tortured, and a majority of torture victims suffer some form of mental illness as a result, principally depression and post traumatic stress disorder, both associated with an increased risk of suicide, then the mental health needs of this group should not be underestimated and the potential for the prevention of suicide by improving health assessments in detention and access to mental health care in the community is very real.' [101]

Exploring the thought processes associated with detention of asylum-seekers, Pourgourides reported that indefinite detention without trial was particularly likely to result in suicidal ideation and behaviour, depression and low self esteem, especially as there was no point to it, unlike when refugees were detained as part of a struggle for rights on their own country. She wrote that profound despair characterised the group of 15 detainees that she interviewed and that detention continues the demolition of people who have previously endured torture. It was arbitrary and therefore random and bewildering, devoid of meaning. [58]

She reported that detainees were constantly watched on CCTV and sometimes locked in their rooms for 16 hours a day. Private security firm staff were inadequately trained and poorly paid. They worked long hours and were poorly supervised. They were described as combative and provocative. Complying with them could be demeaning, when they made remarks like 'now, say thank you'. [58]

Detention reactivates and exacerbates previous trauma. Cells, uniformed guards, restrictions, searches, drug tests, stripping, entering a room on their own – all reminded refugees of previous torture. In an information vacuum, detainees were unable to make sense of their predicament and deal with it in a meaningful way. This perpetuated a sense of hopelessness, helplessness, anxiety and uncertainty with a lack of realistic choices between viable alternatives. Resolving grief needs inner resources (mastery, esteem, self-reliance) and outer resources (support), both of which are denied to detained asylum-seekers. Asylum-seekers, who are often people with

considerable power and initiative, in order to escape and reach the UK, are reduced with loss of control and enforced dependency, to depression. [58]

Responses to detention are predictable and understandable. Pourgourides wrote that depression in asylum detainees was a normal response to an abnormal situation and that it was important not to label suffering as a disease. She also pointed out that post traumatic stress disorder is a misnomer for these people because their trauma is ongoing. [58]

If detainees are released, they are likely to become profoundly depressed according to Pourgourides and to personal communications with health professionals who work with asylum-seekers in Birmingham. The author has himself witnessed major deterioration in mental health of several individuals in response to detention and other setbacks in their asylum applications. It is unlikely that full recovery will occur.

Pourgourides concluded 'Detention recreates the oppression from which people have fled . . . is therefore clearly abusive and inhumane . . . is a noxious practice which should be opposed on medical and humanitarian grounds.' [58]

8. Discussion

Refusal: the default setting and the objective

One feature of refusal letters and appeal determinations which is difficult to exhibit in analytic form is the tone of disbelief and cynicism which pervades them. This tone is in stark contrast to 'the spirit of justice and understanding' and 'an understanding of the particular situation of the applicant and of the human factors involved' which are recommended by the UNHCR Handbook. [62]

Overall, with some notable exceptions, the Asylum Policy Instructions to caseworkers are excellent: no requirement of evidence to accept a claim of torture; exclusion of material facts only if certain they could not possibly be true; not focusing on minor or peripheral facts; awareness of the danger of making unfounded subjective assertions; exploration at interview of apparent inconsistencies, and; allowing for difficulties in recall and recounting events. In particular 'decision makers should be able to establish the past and present facts of a claim – by assessing the internal and external credibility of each material claimed fact, applying the principle of the benefit of the doubt where appropriate'; 'Any decision not to apply the benefit of the doubt to a material claimed fact that is otherwise internally credible must be based on reasonably drawn, objectively justifiable, inferences. Decision makers must never make adverse credibility findings by constructing their own theory of how a particular event may have unfolded, or how they think the applicant, or a third party, ought to have behaved', and; not to find an account incredible 'merely because it would not seem plausible if it had happened in the UK.' [85]

Caseworkers, adjudicators and immigration judges do not adhere to these guidelines. The purpose of the interview and appeal hearing appears to be finding justification for a decision that has already been made; a decision that claims are generally unfounded.

The British National Party states 'We will clamp down on the flood of asylum-seekers, all of whom are either bogus or can find refuge much nearer their home countries.' [100] Immigration Minister Phil Woolas echoes BNP policy by saying that the 'prime purpose' of his immigration policy is 'reassuring the public' and that 'most asylum seekers, it appears, are economic migrants.' [2] The foregone conclusion that most asylum-seekers are economic migrants lies at the very heart of the decision-making process and its failures, just as it did in 1996. [58]

Assumption of incredibility is behind the finding by South London Citizens that late applications or applications from asylum-seekers who are found working illegally are automatically deemed incredible. [3] Detained asylum-seekers are also assumed to have unfounded claims. [10]

This assumption was expressed by a caseworker, quoted by Amnesty International 'If I'm dealing with a difficult country I may have to grant status but run of the mill countries, I know what to expect. I know that they are likely to be economic migrants so I'll refuse. For an Algerian case, I'll read the Country Assessment and OGN [Operational Guidance Notes] and then I'll decide to refuse.' [57]

The South London Citizens enquiry found that decisions were made within a culture of suspicion, indifference or disbelief, and commented that the interview process was not concerned with establishing facts but with undermining credibility. [3]

Asylum Aid concluded that the aim of the Home Office was to discredit claimants and that 'the tone of its communications with asylum-seekers implies their dishonesty, fraudulence, guilt. . . . Its refusal letters are couched in the language of accusation and disbelief.' 'Harrowing experiences are referred to in dismissive, almost derisory, terms.' [64]

Amnesty International 'believes that a "checklist" approach to issues of credibility informs a negative culture of decision making, which is often based on "catching applicants out" rather than investigating the substance of their claims.' [57]

In the present study, although appeal determinations were often more subtle in their language and reasoning, the dismissive tone, misinformation and disordered thinking betrayed underlying bias which was no less severe than that more blatantly apparent in refusal letters.

Asylum Aid agreed: 'The majority of adjudicators tend to share the Home Office's negative approach to credibility and also seem to share the decision-makers' disregard for UNHCR guidelines on credibility.' [64]

At appeal hearings, according to Amnesty International 'the Home Office will usually rely on the same inadequate reasoning it put forward at the initial stage in the Refusal letter, as well as any other refusal issues not previously mentioned – and the adjudicator may accept that reasoning. Often appeal determinations contain assertions about asylum applicants that would be inconceivably hostile in any other area of law where a person claimed that they had suffered injury and abuse.' [57]

Culture of disbelief

In conclusion, there has been no improvement in the standard of initial decision making since the Medical Foundation for the Care of Victims of Torture wrote that their review of reasons for refusal letters 'revealed a consistently poor standard of analysis and argument in the consideration of an applicant's asylum claim . . . This major shortcoming inevitably leads to weak and arbitrary initial decisions.' [81]

There was no doubt among reports on the fairness of asylum decisions that these decisions were incorrect in the majority of cases. Given that the appeal process is subject to the same inadequacies, the success of around 20% of appeals is itself an indictment of the fairness of initial decisions. In a system which allowed correct decisions in the majority of cases, it would be expected that a much higher percentage of refusals occurred in the second round, rather than rates being similar. Asylum Aid stated that over 50% of initial adverse decisions were reversed at appeal if they were involved in the case. [64]

The purpose of the asylum decision process, according to the UN convention to which Britain is a signatory and to which the Home Office pays lip service, is to give refuge to those fleeing from persecution in acknowledgement of international responsibility. The mechanism employed should be that which best determines the facts of the claim.

Instead of this, the purpose of the process, as stated in between the lines of Home Office literature and blatantly by immigration ministers, is to discourage asylum-seekers from coming to the UK. As part of this process, reasoned on the vilification of asylum-seekers as generally bogus, the mechanism is aimed at justifying refusal of claims.

There are only two possible conclusions to draw from the quality of decision making at both the initial level by caseworkers and at the appeal level by adjudicators and immigration judges. Either, the decision-makers are deliberately using unfair means to justify a decision which is made in the knowledge that it is wrong, and therefore made illegally. Or, prejudice against asylum-seekers at an institutional level within the Home Office has become so deeply ingrained that decision-makers are unaware of the bias which they so obviously exhibit. This is the culture of disbelief, in which anything said or stated in writing by an asylum-seeker is automatically believed to be false and strenuous attempts must be made to undermine it.

Deterring asylum-seekers

While acknowledging international responsibility and stating a desire to welcome genuine asylum-seekers, the Home Office has made every effort to prevent genuine, as well as bogus, asylum-claimants even reaching the UK. As human rights lawyer Frances Webber has said 'Demanding that there are fewer asylum seekers is like demanding fewer primary school children.' [41]

How legal asylum claims can be made is difficult to imagine because 'In order to secure the border, it is vital that our immigration controls begin before people reach the UK and that information, intelligence and identity systems are used effectively, to

ensure scrutiny at key checkpoints on journeys to and from the UK. This is how we prevent people entering the country illegally.' [30]

The Home Office lists 'key changes' which were introduced to reduce the number of unfounded asylum applications. Not one of the 13 bullet points in this list aims at improving the distinction between genuine and bogus claimants; all refer to improving means of exclusion, detention, rapid decision-making and deportation. [16] The imposition of visa requirements on countries in response to increased numbers of asylum applicants, even when these were successful because they were found to be genuinely in need of international protection, signifies that the motivation to reduce applications outweighs any feeling of responsibility to offer asylum. Examples of this strategy were the visa requirement for citizens of Bosnia-Herzegovena during the Yugoslav war [36] and for those from Zimbabwe in 2002. [16]

Promote hostility and blame the public

The tone of announcements by immigration ministers and of the Home Office Departmental Report [30] is only compatible with a xenophobic agenda; an agenda which it justifies by public concern about illegal immigration, and by so doing guarantees the entrenchment and growth of public hostility to asylum-seekers.

One of the 'seven strategic objectives' of the Home Office is to 'work with the public and our partners at local, national and international level to . . . secure our borders and control migration for the benefit of the country', the target being to 'Reduce unfounded asylum claims as part of a wider strategy to tackle abuse of the asylum laws and promote controlled legal migration.' [30]

The Home Office stated in May 2008 'We have already made huge reforms to our immigration system, but are very aware that the British public wants us to do more.' They proudly announced 'Asylum applications are at their lowest since 1993'. 'Nevertheless, the scale of the migration challenge and the need to fully restore public confidence means that we must build on these achievements and deliver the biggest shake-up to our border protection and immigration system for 45 years.' [30]

The action to 'protect our borders and strengthen our immigration arrangements' includes 'the negotiation with priority countries for the return of immigration offenders'. 'We are increasing the budget for immigration policing and are committed to removing the most dangerous people first. We will remove those who have broken our laws and immigration rules. On average we remove one immigration offender every eight minutes.' [30]

Public response, cost and the asylum industry

When asylum seekers are allowed to integrate into British society, which is regarded as a problem by the Home Office because of local impact of forced removals, they are supported by dedicated Britons acting out of altruism. Many deportations are thwarted by generous gifts of time and money to fund legal challenges to removal and are reported by the National Coalition of Anti-Deportation Campaigns. There have been successful lawsuits against the Home Office, for example their agreeing to pay £150,000 compensation to a Congolese family with children of one and eight years

traumatised by two dawn raids and a total of 60 days in detention. [104] The author is aware of young Ugandan twins, one of whom had been raped by soldiers, who received compensation after being removed separately and traumatically to Uganda, from where they successfully fled to Canada, because it was eventually found that their removal was in error.

The Home Office argues that the hundreds of concerned members of the public, immigration legal practitioners and NGOs, including Amnesty International, Asylum Aid, the Refugee Council, Oxfam and the Medical Foundation for the Care of Victims of Torture – with institutional expertise gathered from thousands of cases – are all wrong in stating that the asylum decision-making process is biased and unfair. Immigration Minister Woolas claims that NGOs and immigration lawyers have become an asylum industry. [2]

This is hypocrisy. The real asylum industry is the £1.5 billion spent by the Home Office; on private security firms which run Immigration Removal Centres and Short Term Holding Facilities, Group 4 Securicor escorts for deportees, airlines and hotels used by deportees and their escorts, landlords of accommodation used for asylum-seekers on sink estates in deprived areas, and the 18,000 staff of the Border Agency.

The end result in 2008 was the deportation of 11,640 failed asylum-seekers, most of whom could have been tax-payers. At the same time, nearly 146,000 people, excluding Europeans, were granted settlement in the UK, mostly as employees or their families. [96]

The effect of present policy

Failed asylum-seekers are left with a deep sense of injustice and disappointment. The asylum process is inherently racist. No other group of people in Britain is treated with the same disregard to truth and fairness. [58]

The deterrent effect of negative asylum decisions is negligible compared to the barriers imposed to prevent access to the UK. However, the deterrent effect works for other countries. The South African Refugee Affairs Directorate, in September 2008, selectively quoted UK Border Agency reports in their refusal to grant refugee status to 13 Oromo asylum seekers. [105]

The UN High Commissioner for Refugees, Antonio Guterres, marking International Migrants Day, 18 December 2008, wrote ‘Throughout the world, refugees, asylum seekers and irregular migrants are being held in detention and subjected to physical abuse. . . . Sensationalist media coverage and political populism have contributed to the growth of racism and xenophobia, which are often targeted at the most vulnerable and visible migrants. In contravention of international refugee law, people whose lives and liberty are at risk in their own country are turned away from the borders of states where they hope to find safety and security.’ [1]

The take home message for deported failed asylum-seekers is that the UK is hostile and racist. Ultimately, by fanning the embers of resentment and the flames of terrorism, our own security may be at risk because of the present asylum policy of the UK.

9. References

1. Antonio Guterres, UN High Commissioner for Refugees, Public Statement on International Migrants Day, 18 December 2008.
2. Barkham P. You can't come in. *The Guardian.* 18 November 2008. G2, p.16.
3. South London Citizens Enquiry into Service Provision by the Immigration and Nationality Directorate, Lunar House. A human service for global citizens. South London Citizens. October 2005.
4. House of Lords House of Commons Joint Committee on Human Rights. Government Response to the Committee's Tenth Report of this Session:
The Treatment of Asylum Seekers. 17th Report of Session 2006-07.
HL Paper 134 HC 790. 25 June 2007.
5. *Sunday Telegraph.* 23 January 2005. (Reproduced in 6.)
6. Kettle M. Immigration is a necessity for prosperity and power. *The Guardian*. 25 January 2005, p.4
7. Home Office. UK Border Agency. Large scale expansion of Britain's detention estate. 19 May 2008. Website accessed 3 January 2009.
8. Wintour P. Immigration minister calls for changes in 'outdated' Geneva convention. *The Guardian*. 10 January 2009.
9. Dame Helen Bamber. Letters, From Belsen to Zimbabwe. *The Guardian.* 13 January 2009
10. Amnesty International UK. Seeking asylum is not a crime. 2005
11. UNHCR. 2007 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons. June 2008
12. Joint Refugee Council and Oxfam GB response to the Home Affairs Committee Inquiry into Immigration Control. December 2005.
13. UNHCR Asylum levels and trends in industrialised countries. First half 2008. 17 October 2008. iv. Origin of asylum-seekers
14. UNHCR Iraq Situation. Global Report 2007. p.306.
15. UNHCR Asylum levels and trends in industrialised countries. First half 2008. 17 October 2008. iii. Countries of asylum
16. Home Office Statistical Bulletin Asylum Statistics UK 2007 (21 August 2008)
17. Amnesty International UK. Down and out in London: The road to destitution for rejected asylum seekers. November 2006.
18. Migration Policy Institute www.migrationpolicy.org/
19. Mapping the Global Future: Report of the National Intelligence Council's 2020 Project. Pittsburgh, PA. December 2004.
20. Hayes B. Legalising barbarism. *Red Pepper*. Aug/Sept 2008. p.32.
21. Foreign workers in the UK – Statistics Commission briefing note. December 2007.
22. Home Office Statistical Bulletin Control of Immigration: Statistics – First and Second Quarters 1993 (14 December 1993)
23. Home Office Statistical Bulletin Refugee Statistics UK 1988 (20 July 1989)
24. Home Office Statistical Bulletin Control of Immigration: Statistics UK First Half 1996 (24 October 1996)
25. Home Office Statistical Bulletin Asylum Statistics UK 1994 (30 June 1995)
26. Home Office Statistical Bulletin Asylum Statistics UK 2001 (31 July 2002)
27. Home Office Statistical Bulletin Control of Immigration: Statistics UK 2007 (August 2008)
28. Home Office Statistical Bulletin Control of Immigration: Statistics – First and Second Quarters 1992 (27 October 1992)
29. National Audit Office 2005. Returning failed asylum applicants. 14 July 2005.
30. Home Office Departmental Report 2008. May 2008.
31. Home Office Statistical Bulletin Asylum Statistics UK 2006 (21 August 2007)
32. Hansard. 2 October 2006.
33. Home Office Statistical Bulletin Asylum Statistics UK 1990-1991 (21 June 1992)
34. Home Office Statistical Bulletin Asylum Statistics UK 1993 (14 July 1994)

35. Home Office Statistical Bulletin Refugee Statistics UK 1985 (1 May 1986)
36. Amnesty International UK. UK Foreign and Asylum Policy: Human Rights Audit 1999. London, September 1999.
37. Webber F. The Blair legacy. Institute of Race Relations website. 20 June 2007.
38. Webber F. Asylum: from deterrence to criminalisation. European Race Bulletin No. 55. Institute of Race Relations. London. Spring 2006.
39. Fortress Europe. http://fortresseurope.blogspot.com/fortezza-europa-1502-migranti-e.html accessed 10 January 2009.
40. HM Chief Inspector of Prisons Report on an announced inspection of Oakington Immigration Reception Centre. 16-20 June 2008.
41. Coyne K. Making help a crime. *Red Pepper*. June 2006. p.9.
42. Refugee Council website, Policy and Research, Asylum Seekers and Employment, March 2005.
43. Coyne K. The Bill of No Rights. *Red Pepper*. March 2007. p.9.
44. Noborders Network, August 2007, Britain's Detention Estate. wiki.noborders.org.uk/workspace/Britain's_detention_estate, accessed 4 January 2009.
45. Webber F. Immigration monster unleashed. Institute of Race Relations website. 4 December 2008.
46. Bruegel I., Natamba E. 2002. Maintaining contact: what happens when detained asylum seekers get bail? Social Science paper South Bank University. June 2002. Bail for Immigration Detainees website biduk.org/pdf/res_reports/main_contact.pdf
47. Medical Justice. Beyond Comprehension and Decency: An introduction to the work of Medical Justice. London, July 2007.
48. Home Office. UK Border Agency. Immigration Removal Centres. Website accessed 2 and 4 January 2009.
49. G4S website. Accessed 2-4 January 2009.
50. Kalyx website. Accessed 2-4 January 2009.
51. Serco website. Accessed 2-4 January 2009.
52. GEO Group website. Accessed 2-4 January 2009.
53. O'Keeffe A. Children: Their right to liberty. *The New Statesman*.18 December 2008.
54. Wistrich H., Arnold F., Ginn E. Outsourcing abuse: The use and misuse of state-sanctioned force during the detention and removal of asylum seekers. A report by Birnberg Peirce & Partners, Medical Justice and the National Coalition of Anti-Deportation Campaigns. (info@medicaljustice.org.uk) July 2008.
55. National Coalition of Anti-Deportation Campaigns. Around the campaigns. 9 January 2009.
56. National Coalition of Anti-Deportation Campaigns. News Service. 13 February 2009.
57. Amnesty International UK. Get it right: How the Home Office decision-making process fails refugees. February 2004.
58. Pourgourides C.K., Sashidaran S.P., Bracken P.J. 1996. A Second Exile: The mental health implications of detention of asylum seekers in the United Kingdom. Northern Birmingham Mental Health NHS Trust. University of Birmingham.
59. Personal observation. An Oromo failed asylum-seeker who was deported in October 2008 was unable to persuade his solicitor to travel from London to Dover.
60. The figures from Table 1.1 of the Home Office Statistical Bulletin Asylum Statistics UK 2007 were used to make these calculations as the percentage figures in the table do not compute.
61. Home Office. UK Border Agency. Policy change on certain judicial reviews. 9 January 2009. ukba.homeoffice.gov.uk/sitecontent/newsarticles/policychange…
62. Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees. UNHCR 1979, Reedited, Geneva, January 1992.
63. UK Border Agency Asylum Policy Instructions. Interviewing. 6. Tape Recording. November 2006 (re-branded December 2008).
64. Asylum Aid. Still no reason at all: Home Office decisions on asylum claims. May 1999.

65. Human Rights Watch. Ethiopia: The curtailment of rights. New York. December 1997. Vol. 9, No. 8 (A). Summary.
66. Ethiopia: Accountability, past and present, human rights in transition. Amnesty International. London. April 1995.
67. Clandestine human rights groups in Ethiopia claimed 45,000 were detained, in communications to the Oromia Support Group in 1994/5.
68. Human Rights Watch. Suppressing dissent: human rights abuses and political repression in Ethiopia's Oromia region. New York. 10 May 2005.
69. US State Department Country Report on Human Rights Practices – 2007. Ethiopia. Bureau of Democracy, Human Rights and Labor, 11 March 2008.
70. Ethiopia – Amnesty International Report 2008.
71. Kjetil Tronvoll. 2008. Human Rights Violations in Federal Ethiopia: When ethnic identity is a political stigma. Internat. J. on Minority and Group Rights. 15: 49-79.
72. Amnesty International. Urgent Action, AFR 25/030/2007. London, 11 December 2007.
73. Personal communications with Ethiopia desk officers and Tom Ofcansky, Office of Analysis for Africa, at the US State Department, and desk officers and researchers at the Foreign and Commonwealth Office.
74. HA (OLF members and sympathisers – risk) Ethiopia [2005] UKAIT 00136.
75. Human Rights Watch Country Summary: Ethiopia. 2003.
76. Personal Communication, Günter Schröder. Expert report for asylum-seeker in UK. 25 September 2007.
77. Amnesty International. Urgent Action, AFR 25/024/2007. London, 31 October 2007.
78. Oromia Support Group. Report 44. August 2008. p.36.
79. Cohen J. 2001. Errors of Recall and Credibility: Can Omissions and Discrepancies in Successive Statements Reasonably be Said to Undermine Credibility of Testimony? Medico-Legal Journal, 69 (1): 25-34.
80. Eltringham N. 2004. Accounting for horror: Post-Genocide Debates in Rwanda. Pluto Press, London.
81. Smith E. Right first time? Medical Foundation for the Care of Victims of Torture. 2004. www.torturecare.org.uk/node/283
82. Webster A. Unsafe sex. *Red Pepper*. December/January 2008. p.37.
83. Bowman A., Sebestyen A. Win one day. *Red Pepper*. December/January 2009. p.45.
84. UK Border Agency Asylum Policy Instructions. Assessing the asylum claim, 6.2 Establishing the facts. October 2006 (re-branded December 2008).
85. UK Border Agency Asylum Instruction on Assessing Credibility in Asylum and Human Rights Claims, Considering the material facts of the claim. Re-branded December 2008.
86. Dame Helen Bamber. Amnesty International, West Midlands Regional Conference, Stand up for human rights. Birmingham. 13 October 2007.
87. Hirsch A. Asylum tribunal apologises for questioning academic's evidence. *The Guardian*. 27 October 2008.
88. Newman M. Tribunal experts fear attacks on integrity. *The Times*. 6 November 2008.
89. Refugee Council. The Vulnerable Women's Project: refugee and Asylum Seeking Women Affected by Rape or Sexual Violence. Literature Review. February 2009.
90. Bragg R. Entitlement to NHS care – a reprieve for vulnerable migrants. Communiqué, Medact newsletter, Winter 2008: 5.
91. Arnold F. 2008. Refused asylum seekers: Seeking medical justice (Letter). BMJ, 336: 683-4, (29 March).
92. Hundt A. Clinicians should not be immigration police. Communiqué, Medact newsletter, Spring 2009: 3.
93. London Detainee Support Group. Detained lives: the real cost of indefinite immigration detention. January 2009.
94. D'Cruz A. A fake friend. *Red Pepper*. December/January 2009. p.44.
95. Del Nevo L. A grim alternative to detaining children. *Red Pepper*. June/July 2008. p.23.
96. Home Office Statistical Bulletin Control of Immigration: Quarterly statistical summary, UK (October – December 2008, Second edition)

97. Sebestyen A. Dead safe. *Red Pepper*. October/November 2008. p.44.
98. Annual Report 2007-08. HM Chief Inspector of Prisons for England and Wales. Section two. The year in brief. The immigration detention year, p.14; Section nine. Immigration detention. Immigration removal centres, pp.71-4, and Short-term holding facilities, p.75.
99. Verkaik R. Lack of accountability is at the heart of this mistreatment. *The Independent*. 14 January 2009.
100. BNP links to immigration service staff. *The Independent*. 14 January 2009.
101. Cohen J. 2008. Safe in our hands?: A study of suicide and self-harm in asylum seekers. Journal of Forensic and Legal Medicine 15 (2008): 235-244.
102. Mills E., Singh S., Roach B., Chong S. 2008. Prevalence of mental disorders and torture among Bhutanese refugees in Nepal: a systemic review and its policy implications. Medicine, Conflict and Survival, 24 (1): 5-15.
103. Başoğlu M. 2006. Rehabilitation of traumatised refugees and survivors of torture. BMJ 2006; 333: 1230-1. (16 December).
104. National Coalition of Anti-Deportation Campaigns. Around the Campaigns 11th February 2009. from www.bhattmurphy.com/bhatt-murphy-111.html#269
105. Refusal decisions from the South African Refugee Affairs Directorate, copied to the author by concerned relatives in the USA, of detained, refused Oromo asylum seekers, 2 October 2008.

Abbreviations

AAPO	All Amhara People's Organisation
CUD(P)	Coalition for Unity and Democracy (Party)
DAR	Determination and Reasons (appeal determination)
EDP	Ethiopian Democratic Party
IRC	Immigration Removal Centre
MTA	Macha-Tulama Association (Oromo cultural & self-help organisation)
NASS	National Asylum Support Service
NGO	Non-Governmental Organisation
NSA	Non-Suspensive Appeals (process)
OLF	Oromo Liberation Front
ONLF	Ogaden National Liberation Front
OPDO	Oromo People's Democratic Organisation
RFRL	Reasons for Refusal Letter
TPLF	Tigrean People's Liberation Front
UNHCR	UN High Commissioner for Refugees