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Shami Chakrabarti, Director, Liberty

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Perhaps it is a bit hackneyed to try and relate the new presidency to absolutely everything, but it's kind of irresistible, just for a moment or two. I do think that there are important, heartening resonances for all of us who care about progressive values in the light of the inauguration speech: references to common humanity and mutual respect are very refreshing in the light of what came before. And further, the early announcement of the closure of Guantanamo Bay, is a very important step, on the one hand it is a chilling reminder, that in this dark period of our history that some people called 'the war on terror', it was foreigners first that paid the price, not just in the United States. And of course the foreigners who paid the price first closer to home were, of course, the asylum seekers, not least because of the very early conflation of the word 'asylum seeker' and the word 'terrorist', which is an enormous challenge to all of us in this sector. You can trace the policies, from Belmarsh to forced destitution; it was asylum seekers who were getting the worst of it, at a time when fear stalked the land.

Of course here, principally, as the director for Liberty, the national council for civil liberties, that was interestingly formed in 1934, so celebrates its 75th anniversary this year, I believe that's called a diamond jubilee, for those of you who aren't old enough to have had a 75th birthday or wedding anniversary. And of course there are particular resonances between 1934 and 2009, in terms of the fears of terrible poverty and hardship, the polarisation and political extremism and racism and xenophobia that it brings. If you don't believe me, a few years ago we dusted off some old boxes in the Liberty basement, and found some old copies of national newspapers, one in particular, you might be able to guess, that in 1934 was running headlines about these terrible eastern European refugees who were swamping this wonderful country of ours. So then and now, some things change, some things remain the same. So of course the protection of refugees in difficult times is an enduring concern for the National Council of Civil Liberties, and that is my professional interest in these matters, but of course I have a personal, a very strong personal interest as well.

My personal interest comes, as you've heard, partly as a former Home Office lawyer and in particular a former Home Office lawyer that grappled with asylum issues for some years, in the dark tower. But first of all, my personal interest comes as the daughter of migrants to this country, and secondly, as the mother of a small child. I think it's important, when discussing a group that's been so dehumanised by our recent politics, a group of people who've been reduced at best to statistics, to remember that we are discussing tonight some of the most frightened adults and children. I'll never forget, if you'll forgive this small anecdote, from my early days at the Home Office working on asylum cases. At that time, this was the mid-nineties, there was a particular case that made the newspapers, of two young men who fled the subcontinent, and were so desperate to get to Britain, that the final leg of their escape was achieved, by clinging to the undercarriage of an aeroplane. This was my first few months as a lawyer in the Home Office working on asylum and immigration matters, and I shall never forget that my old dad, who was a lawful, economic migrant to this country in the 1950s, told me, with tears in his eyes, of how ashamed he was, to enjoy the full rights and freedoms and benefits of British nationality, when those two young men, one who died in the attempt, did not. And I say that for a deliberate reason, which is that it's very easy for those of us who are sons and daughters of relatively recent migrants to this country, to participate in the shutting of the door to the people who are coming a little bit later. And others may participate in that discourse, but I will not, I will not forget, on behalf of my parents, and indeed on behalf of my young son.

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I think the problem that we've faced in recent years, not just because of post-9/11 politics, but partly because of an increasing authoritarian and frightened politics, one of the inevitable problems, is that the disenfranchised do not have a political voice. And of course the obvious disenfranchised in this country are a) foreign nationals, and asylum seekers in particular, and b) children. So if you happen to be a child of asylum seekers, or indeed a child asylum seeker, you tick both boxes, and you face, perhaps, the greatest vulnerability in Britain. And we have found this, through our postbag, and our cases at Liberty in recent years. Though sadly, some of our campaigning efforts have been diverted and distracted by terrorism.

I think this vulnerability needs extra special attention, not just from the bare bones of the refugee convention, vital though that is, with the obligation not to return people to persecution. But more than that, these vulnerable people need broader human rights protection as well. They need protection from arbitrary detention, they need protection from forced destitution, they need protection from criminalisation, they need the right to representation and legal aid, they need entrenched rights and freedoms; that I thought would never be touched, when I was growing up in the oldest unbroken democracy on earth. But that protection is very fragile, not least because the Human Rights Act, not the British Bill of Rights and Responsibilities that some would like and prefer, but the Human Rights Act, that protects all human beings, including those who are too young to vote or too foreign to vote, has given important protection to this most vulnerable group in difficult times. Not enough perhaps, at times, and it's been tough to be a judge in the last few years, but vital protection nonetheless. And if you're interested in protecting children, or asylum seekers, or those who fall into both categories, then you should view politicians promises, whatever side they're on, about a British Bill of Rights and Responsibilities, with particular caution and scepticism.

What asylum seekers need most of all are human rights for human beings, for they haven't had time to 'earn' their rights and freedoms, and some of them might not have fulfilled all the responsibilities that some would like. So as I said, they have been worst affected by some of the many challenges to human rights protection in recent times, and in the time available, there is no time to do justice to the whole catalogue of misery, and tried and failed policies over a decade. So what I thought I'd do, is say a little about my personal observations of the denigration of the notion of asylum in my lifetime. And then, very briefly, to summarise key concerns for children and families in particular, in the asylum system.

So to begin with, we know, that protection from refoulement and return to persecution is a very old tradition. We often hear stories about Britain's great tradition of tolerance. And its not just Britain's tradition, I do personally believe that the instinct to grant protection, even hospitality, to strangers in trouble is just as strong as the baser instincts of xenophobia or indeed racism. In legal terms, we've had some idea of non-refoulement in this country since at least 1870 and the extradition act of that day. Though of course the attempts to get round the notion of sanctuary or asylum, are probably older still, and Shakespeare scholars among you will perhaps remember the scene in Richard III where its argued that perhaps children should not be able to get sanctuary, because sanctuary is something that bad people get, and therefore surely an innocent, a child, should not be in need of sanctuary, so I expect to hear that one from an immigration minister, one day soon.

But of course the important moment, I would argue the most important moment in human rights protection in the world generally, is certainly in relation to refugees, and comes after World War 2, comes in the 1951 refugee convention, cornerstone of the human rights framework, and we know why don't we? And lest we forget, Google Helen Bamber's brilliant piece in the Guardian last week, headlined 'From Belsom to Zimbabwe' with some very temperate, but very apposite remarks about some of Mr Woolas' latest adventures in this recent rich intellectual discourse. She draws the direct line, from Belson to Zimbabwe, and she talks, very succinctly but very clearly, about the importance of protecting the refugee convention. But of course attacks on it have been a constant feature for at least a decade, probably earlier still, and of course due credit has to be given to both sides of politicians, including our previous boss, that enlightened secretary Mr Howard. No one should be left out of their place of the history of the denigration of asylum seekers.

So the 1951 convention is still the cornerstone of refugee protection, and I think for a long time in Britain, it was essentially respected. Not just in legal terms but in the culture, and in the language. While there is of course a textbook definition of a refugee in that convention, in common parlance it was probably a broader concept still, and perhaps most important of all, it was a positive, or at worst neutral

term to be a refugee. In fact when I was growing up during the Cold War, refugees were perhaps a slightly glamorous people. They were Russian ballet dancers and tennis players, or defecting spies, and they made us feel rather good about ourselves in Britain, because they reminded us that we lived in the free world, and weren't we lucky to do so, and wasn't it wonderful when these people voted with their feet and came to join us on this side, in the free West. That's what refugees were, and the numbers relatively small, at a time when the larger numbers, putting pressure on the poor old Home Office, were not White Russians and Poles and so on, but people from the developing world, and the big pressures were on things like marriage and so on.

My former colleagues in the Home Office, for whom I have so much respect, particularly those who remembered this history, and passed it on through the generations of mandarins and aspiring mandarins, always suggested to me that the mid-1980s was a really important moment. In particular, the first time that an airliner landed at Heathrow airport and a load of Tamils claimed asylum. And a dawning, that asylum wasn't just going to be about people crawling across land borders into a neighbouring country anymore. Borders had completely changed for all time, and it was potentially just as easy, and just as natural, to get on the plane and go to the over side of the world particularly where you might have friends or family or a community that you had some connection with. Even an imperial connection, which was just as natural as crawling across a land border in the dead of night, to a neighbouring country that was poor and badly equipped. And perhaps that was what changed British ideas about refugees and asylum seekers for ever. No longer just from the Eastern Block, a small unit in the Home Office grew into a mighty directorate and now goodness knows what it is, a mighty agency, but a great big job of administration, with all the problems, all the risks, that come with that.

A big problem, and so the political response, the legal response, begins. More and more visa restrictions placed on countries that were producing large numbers of refugees and asylum seekers. Carriers' liability legislation, to try and help pass some of the responsibility for effectively policing these air borders to the carriers themselves, backed up by punitive sanctions, fines and so on. All of this whilst legal migration, non-asylum migration from the developing world and the commonwealth, from which I sprang, or my parents did, was getting harder and harder and harder. Because your open-door migration, the non-refugee migration, at this point, is pointing towards Europe and the EC and now EU, which, there are arguments to be had about, I take no position on Europe, save to say, if your open door migration is principally limited to Europe, that is for the most part, a rich, white man's club. Because the principal test for entry were about progress and economic development, and that is going to have a consequent effect on your asylum system, with most of the developing world with no alternative way in. And into the glorious early-to-mid nineties, Mr Howard's Home department, experiments in destitution as a lever of asylum control, struck down by the courts without the benefit of the Human Rights Act, because they were first implemented in regulations which were struck down, on the basis that they could not have been intended in a civilised society. Maybe such an interpretation would have been harder in the light of what followed.

And then of course, 1997, 'things could only get better'. On the one hand, great progressive moves like, I would argue, the Human Rights Act, like the Race Relations Amendment Act, that for the first time extended the idea of a duty of race equality to the public sector as well as the private sector, to immigration control with certain possibilities for acceptance. Very progressive moves on the one hand, so that's the tender bit, and then there's the tough bit. Perhaps the most honest statement of ministers ever in our history, that we wanted to tackle numbers, and not just numbers of those who didn't qualify for asylum, but numbers full stop. The greater use of criminal prosecution as a lever of control, the greater use of incarceration, the growth of the immigration and asylum detention estate, the assaults on legal aid and due process rights for asylum seekers, finger printing, tagging, and back to forced destitution as a lever of control and as a deterrent. And then of course, constant arguments about the interpretation of the convention, and attempts to limit it in various ways.

And then the political discourse becomes about 'bogus asylum seekers', so we've gone from the noble ballet dancing refugee to the bogus asylum seeker. And even when ministers stop using the word 'bogus' it sort of hung in the air. Even though for the most part of that period, when the greatest part of asylum seekers were of course coming to Britain from obvious conflict zones like Iraq, like Afghanistan, like the Former Republic of Yugoslavia, and Zimbabwe from period to period. We wept hot tears did we not, for these poor people over there, sometimes the tears were so hot that they could be justification for war, but if these hapless people somehow managed to find their way to Britain a very different reception

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awaited them. A real dissonance in foreign policy and home policy, real tension, which I think, has actually corrupted public opinion and public discourse, because instead of attempting to bring those two elements together, to build on the natural compassion that exists in Britain for people in trouble elsewhere, the separation and the dehumanisation continued.

Now what are the particular concerns, for children and families, as the most vulnerable in this vulnerable group? Of course, detention. Administrative detention at various stages in the asylum process is going to be of concern to all asylum seekers, particularly to those who have yet to have their claims processed or dealt with. But it raises particular long term issues in relation to children, especially, I realise it is less the case now, when they were detained with adult detainees, with all the child protection concerns that ensued. Just to remind us what we're talking about, here's a small excerpt from the excellent Save the Children report 'Seeking asylum is not a crime' which Heather Crawley, who has made so many important contributions to this work, wrote in 2005. This is one of the case studies: 'I felt so stressed, its horrible being in detention, especially with a child. My child wanted to kill himself, he said "mommy, we're in prison". Gina's a woman from a country where her life is threatened, her brother was shot dead, and Gina's throat slit, all this in front of her son, and she had been raped years earlier. She and her son, then 7 years old, fled and applied for asylum in the UK. Gina and her son were detained, and her case fast tracked, because she came from a country on the 'White List', a list of so-called 'safe countries'. Her asylum claim was judged to be clearly unfounded, and was refused with no right of appeal from within the UK. Gina applied for bail, so that she and her son could be released from detention. This failed, so that they were kept in detention pending the granting of a travel document by the authorities of her country. Medical staff expressed concerns about Gina's son's mental and physical health, however no action was taken eventually, Gina was referred to a new legal representative so that she could pursue her asylum claim. She and her son were released from detention after 143 days, following a successful bail application by her new solicitor. After further representation by her solicitor, Gina was granted an in-country right of appeal. Gina and her son were finally recognised as refugees in March 2005.'

I barely need to make comment about that case-study, it speaks volumes about so many different issues. The access to decent legal representation, the administrative detention, no automatic bail hearings, the inherent problems of being a torture victim or a child in a prison-type setting and so on. But why that little story weighs on my conscience so much, as a human rights campaigner, is of course I spent a big part of my time and so have my colleagues in the past two years, campaigning against pre-charge detention of 90 days or 60 days or 42 days or 28 days. And this is children, and that was 143 days.

Now, of course since then, and very recently we've seen the removal of Britain's reservation to the UN convention on the rights of the child, and that is a move to be hugely welcomed, but not in isolation. What we want now, is early announcement of what the government thinks that means in terms of policy and practice. I'm a lawyer, I love to see these reservations removed, I love to see progressive law passed and regressive laws repealed, but what does the government think that means in practice, in particular in the context of detention? Another positive move, comes in the form of pilots in Dungavel and, I believe, potentially elsewhere, to find alternatives to detention prior to removing asylum-seeking families with children. How long will these pilots last, and when can we see this policy expanded to cover all children and families with children. At any point in the asylum system, children should not be subject to this kind of detention.

The second concern, destitution and dispersal. Particularly problematic for children and families with children. You don't really need me to tell you why. I have to say that Section 9 has got to go, I know it's not being pursued as much as it was, possibly not at all, but its got to go from the statute book, it can't be left lying around. I have to say its passage was a particular disappointing moment in British politics, Michael Howard, then leader of the opposition, that great progressive Home Secretary, said now they've gone too far, now they're going to take peoples kids once they've made them destitute. He said that when they proposed it, and yet where was the opposition later on? Another failed experiment in forced destitution, it doesn't work; in fact it's least likely to work for the most desperate people. It's more likely to work for less desperate, it may work for young fit single men, but not for the woman with a child who is really desperate of what will happen if she goes back home, she may take her chances, lets face it, with prostitution and begging and petty crime, to save her child.

Age assessment. A huge, huge issue. There's no integrity and independence in the system, those who are assessing people as children or not have a practical vested interest in finding them not to be children and

taking them off the lists, not having to provide them with the support that should now be provided to children, again as a result of the removal of the reservation.

Prosecution. We need to go back to a far lower use of prosecution, particular for fraudulent travel documents and so on, because if you go back to the roots of the refugee convention, why wouldn't a genuine refugee flee on a forged travel document? How easy is it going to be to get a genuine travel document from Zimbabwe or North Korea?

And then finally, we're really concerned about some of the government's attempts to limit rights and freedoms in really genuinely problematic cases. It's accepted if there's going to be immigration control, there is going to be litigation at the margins of it, it's not an open door immigration policy, the mere assertion of asylum cannot leave it to be granted. But there have been some pretty tawdry cases, argued all the way to the House of Lords, even at late as last year. Particular jewels that spring to mind in terms of running dishonourable arguments in the House of Lords, the case of 'B', where the Home department attempted to argue, that when you run an appeal in relation to your right to family life under article 8 of the convention, the court shouldn't take into account the family life of your close relative (children and spouses and so on). 'Do me a favour' is what the House of Lords said, rather more elegantly. The case of 'C', "yes you've got a baby, yes your going to probably end up staying, but why not go back to Zimbabwe and make an application to come in that way?" That was a jewel of a case, that moved even a relatively and understandably nervous House of Lords to make comments like these: Lord Scott of Foscett "not many would dispute, and I do not, that would-be immigrants that desire to remain in this country should apply for permission to do so before coming here. It is the government's policy that that should be so, and that a failed asylum seeker should be returned, or be returned to his/her country, and make from there any application for the right to reside in this country, that he/she desires to make. But policies that involve people cannot be and should not be allowed to be rigid inflexible rules. The bureaucracy of which Kafka wrote, cannot be allowed to take root in this country, and the courts will see that it won't." I love it when other people quote Orwell and Kafka and so on, because I can't really get away with it, but when you're in the House of Lords you can. That case concerned a young woman, who'd come from Zimbabwe, her own asylum application had not been upheld but she wasn't removed because of non-removals to Zimbabwe because of the situation there. That was a 2-year period, in which she met a Zimbabwean refugee with refugee status in this country, and they had a baby together. Then removal started again, and she was basically told 'of course you'll get in, you're married to a refugee, you've had a baby with this refugee, but go back to Zimbabwe, with everything that is currently happening there, and apply to come back'. Fought, by the Home department, all the way to the House of Lords; I would call that a waste of legal resources myself.

And then of course the case of 'E.M. Lebanon' where a woman and her child were going to be sent back to Lebanon, notwithstanding the agreed facts that the law in Lebanon would mean that she and her child would be automatically and permanently separated because she was divorced from her husband. Another jewel of a case, a tawdry argument, cases that don't have to bring immigration control to its knees, but cases that reveal a culture of disrespect for hard cases for some of the most vulnerable people in the asylum system. This is not commercial litigation, where you take every point and you take every case to the House of Lords. This is one of the greatest responsibilities of government, and it needs to be discharged with greater honour in my view.

So in closing, what we want to happen in public discourse and campaigning terms, speaking to an audience like this I think our challenge is to make greater connection between our feelings for people 'over there' and the same people if they end up 'over here'. Think of the massive public response to the Tsunami, think of our many, many other examples of that public empathy and sympathy. The tsunami, Zimbabwe, even Gaza, a greater connect between our emotions for people suffering over there and our treatment of them over here. And I think, that as campaigners working in the sector we have to be particularly concerned in what will be a long pre-election period. It makes me smile when I am told that various public figures and politicians are now giving everyone license to talk about immigration. People have been talking about immigration in public life for as long as I can remember. No new license is required. No new encouragement is required. Asylum seekers, I agree with Martin Narey and Barnardos entirely, should be allowed to work, and there should be no policy of forced destitution which is simply not a legitimate tool of immigration control in a civilised country. Get the kids at least, out of detention, or at least out of detention until the last possible minute when facilitating removal if you really have to do it that way and there have been experiments in other jurisdictions which are far more benign, because ultimately parents do not want to put their children through a forced, aggressive traumatising removal. There are different

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ways to persuade people to go if they really are going to be safer at home, and it really is the end of the road. Independence in relation to age assessment, so that people who don't have a vested interest in finding that I am actually 40 and not 17, and not making that judgement about age assessment. And I would say, as a machinery-of-government point, I'm not sure if this is already the case and its just not transparent, but a greater role for the Secretary of State for children, rather than just the Home Secretary, in this aspect of policy in particular, and I would argue in the litigation strategy, in regards of which point should be taken to the nth degree, in relation to some of the comments that we've heard from the law lords and what does to the public discourse on children of asylum seekers.

And finally, we at Liberty will be asking sitting MPs that are seeking re-election, and those who are aspiring MPs, to sign up to a pledge in relation to how they will conduct what will no doubt be a long and very heated general election campaign. We are going to ask them to sign a pledge about how they will conduct that discourse in relation to these matters, reminding them of the importance of providing protection to refugees and the long tradition of it, Part of the pledge in fact, "I will never play fast and loose with the proud tradition of a nation that will always offer succour to those in genuine fear of persecution" was lifted directly from the Daily Mail leader, if you look carefully, you will find these little gems. The idea is that our friends and our supporters and our members will ask candidates in their local constituency if they will sign this pledge, if they won't ask them why, if they will, hold them to account. And it that small way, give concerned people up and down the land the chance to try and redress the balance in difficult times, but optimistic times, perhaps nonetheless.

My message to sitting immigration ministers, aspiring immigration ministers, and everybody in-between, is not to underestimate the reservoir of common humanity in this country. Britain doesn't like bullies, and this has all gone a little bit too far, and they may have misjudged it yet. I also remind the government, that it is not just President Obama that is capable of soaring rhetoric. I think it was our own Prime Minister who said at the start of his premiership, in his message to the people of Burma and Zimbabwe and everywhere in-between, 'human rights are universal, and no injustice is forever'.