



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	United Kingdom
Case Name/Title	RN (Returnees) Zimbabwe CG
Court Name <i>(Both in English and in the original language)</i>	Asylum and Immigration Tribunal
Neutral Citation Number	[2008] UKAIT 00083
Other Citation Number	
Date Decision Delivered	19 November 2008
Country of Applicant/Claimant	Zimbabwe
Keywords	Persecution
Head Note (Summary of Summary)	The discriminatory denial of access to food aid is capable of amounting to persecution.
Case Summary (150-500)	The appellant, who was born on 20 June 1969, is a citizen of Zimbabwe. She arrived in the United Kingdom on 23 January 2006 and claimed asylum the following day. Although she held no political beliefs and had engaged in no political activities, she had in the past worked as a teacher and, as someone not actively involved in supporting Zanu-PF, she said she would be assumed to be a supporter of the opposition, particularly because she would be returning after spending some time in the United Kingdom. Also, she feared retribution from a former boyfriend who had been violent towards her and towards her mother after her departure from Zimbabwe.
<i>Facts</i>	The appellant's appeal against the Secretary of State's decision to refuse her asylum was initially refused by an adjudicator. The appeal was remitted to be reheard as the immigration judge who had dismissed the appeal had failed to consider the human rights arguments that were before him. The case was then chosen by the Tribunal as a test case to consider the current situation in Zimbabwe and the risk to returning asylum seekers.
<i>Decision & Reasoning</i>	<p>The Tribunal found that returning asylum seekers who could not demonstrate loyalty to the current regime would have a well founded fear of persecution in Zimbabwe. That conclusion has now been superseded by more recent Country Guidance.</p> <p>In the light of the politicisation of the distribution of food aid in Zimbabwe, the Tribunal went on to consider whether this discriminatory exclusion from access to food aid is capable of constituting persecution.</p> <p><u><i>Country conditions and article 3 of the ECHR.</i></u></p> <p><i>248. We consider next whether the general country conditions in Zimbabwe, which are accepted to have deteriorated further since the Tribunal</i></p>



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	<p><i>considered the evidence in the summer of 2007, are now so bad that there would be an infringement of the appellant's rights under article 3 of the ECHR if she were required to return.</i></p> <p><u><i>249. We do accept that discriminatory exclusion from access to food aid is capable itself of constituting persecution for a reason recognised by the Convention.</i></u></p> <p><i>250. The collapse of the economy and agricultural production has led to severe food shortages. The supermarket shelves are empty so that even those who do have money to spend find it difficult to buy food. For the many others without work or access to any means of financial support access to food aid is essential. The evidence does now establish also that the government of Zimbabwe has used its control of the distribution of food aid as a political tool to the disadvantage of those thought to be potential supporters of the MDC. This discriminatory deprivation of food to perceived political opponents, taken together with the disruption of the efforts of NGOs to distribute food by means of the ban introduced in June 2008, amounts to persecution of those deprived access to this essential support.</i></p> <p>...</p> <p><i>255. In some cases we can see that it will not be difficult for an appellant to succeed on this basis. The fresh evidence now before the Tribunal demonstrates that the state is responsible for the displacement of large numbers of people so as to render them homeless and, unless the misgivings expressed in the evidence before us about the very recent lifting of the ban on the distribution of food aid prove to be unfounded, the evidence demonstrates also that there has been a discriminatory deprivation of access to food aid which, plainly, is a deliberate policy decision of the state acting through its chosen agents...</i></p>
<p><i>Outcome</i></p>	<p>The appeal was allowed. As an ex-teacher and as a person who had claimed asylum in the UK she would not be able to demonstrate loyalty to the regime.</p>