

Oddly for this article the first item to be reported is not a case at all but is a new set of instructions issued to Immigration staff by the Secretary of State. The Operational Enforcement Manual is the internal guidance used by staff to determine whether and how people who are close to the end of the road in their attempts to remain in the United Kingdom should be removed or allowed to remain. The new Chapter 36 of the Operational Enforcement Manual deals with what is called “Extenuating Circumstances”. Although most of this material has always been set out somewhere it is helpful to get it all set out together. The Home Office have been very wary about issuing materials that explain the criteria for their Legacy Programme (also known as Case Resolution). I have been attempting to have them release their internal guidance used to consider cases under this scheme under the Freedom of Information Act and they have now indicated this is it. The guidance extends to 50 + pages and in my view it is simply not possible to write 50 pages without getting something wrong! It is against this document that refusal letters both under the legacy programme and elsewhere require to be considered for Judicial Review challenges. See Border and Immigration Agency website, Operational Enforcement Manual, Chapter 36 (<http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/oem/oemsectiond/chapter36?view=Binary>)

The Secretary of State for the Home Department v. AH (Sudan) and others (FC) [2007] UKHL 49

The Appellant’s had sought to establish that their removal to the shanty towns around Khartoum was unduly harsh. The Appellants are black Africans from Darfur, who it was accepted had or would face persecution if returned there. They had lost before the Asylum and Immigration Tribunal but were successful in the Court of Appeal. The Secretary of State appealed to the Lords. HELD: The position of the House appears to have altered from their previously rather disparaging approach to decisions of the Immigration Appeal Tribunal. The Lords said criticisms by the Court of Appeal of some paragraphs of the AIT judgment was wrong. Read strictly and grammatically,

the Tribunal did appear to wrongly assimilate the test of unreasonableness with the requirement that a person should not be treated in a way that would infringe the prohibition on ill-treatment but at para. 151 of the AIT judgment they appear to have applied the correct approach, and the wrong approach did appear in the AIT's conclusion. At several points in its judgment, it was clear that the AIT had taken an entirely correct approach. The many issues the Asylum and Immigration Tribunal had to deal might have led it into making less plain than it should the issue it was addressing at some points in the judgment. However, the Court of Appeal had not been entitled to attribute to the AIT what would have been a serious and inexplicable error, particularly where the Asylum and Immigration Tribunal consisted of the members it did. Regarding the assessment of reasonableness and undue hardship, while the AIT had concluded that a comparison between conditions in an applicant's home country as a whole and those prevailing in the place of intended alternative relocation was integral to its assessment, the Court of Appeal had ruled that the starting point had to be conditions in the place of habitual residence. Januzi supported both of those comparisons and there was no contest between them; both were relevant and the weight to be given to each was in the discretion of the decision-maker in the context of a claim for asylum by a particular applicant in a particular case. The test in Januzi was one of great generality, excluding from consideration very little other than the standard of rights protection which an applicant would enjoy in the country where refuge was sought. The Court of Appeal's criticism of that aspect of the AIT judgment was not justified, and nor had its own approach been entirely accurate. The ordinary courts should approach appeals from expert tribunals with an appropriate degree of caution. They, and they alone, were the judges of the facts. Their decisions should be respected unless it was quite clear that they had misdirected themselves in law. The AIT had made no vitiating error of law and its order was reinstated. COMMENT: So the decision of the Asylum and Immigration Tribunal that it was reasonable to send Darfurians back to life in shanty town Khartoum was a reasonable one. One wonders what the position would have been had there been 100 Darfurians and not millions.

MW (LIBERIA) v. The Secretary of State for the Home Department [2007]
EWCA Civ 1376

The issue of third party support for dependant relatives makes its way towards the higher courts. In this case the mother of a Liberian child (residing in Ghana) sought to have the child join her in the United Kingdom. She was supported by benefits but her friend offered to support the child. The relevant Immigration Rule (297) states that the child must be “maintained and accommodated adequately without recourse to public funds in accommodation which the parent ... owns or occupies exclusively” HELD: The rule said what it meant: the child was required to be maintained by the parent she was seeking to join without recourse to public funds. If she was to be maintained by anyone else then the requirement was not met. Securing maintenance from a third party was not "maintenance by the parent". If the third party financial support was going directly to the child it did not count and it also did not count if the support was being given by the third parties to the parent to enable the child to be maintained. In reality it would still be the third parties who were maintaining the child. The parent would be unable to do so without recourse to public funds and would merely be acting as a conduit between the donor and the child, *AA (Third Party maintenance R 297(v)) Bangladesh (2005) UKAIT 00015* applied). Article 8 did not compel any other construction of the rule. The immigration authorities were entitled to take the view that before entry would be allowed it had to be shown that the parent had adequate means to support the child. It was the parent who had the legal obligation to do so and who had the greatest incentive to maintain the child. Third party arrangements of the kind in question in the instant case were necessarily more precarious and more difficult to verify. The rules did not provide for undertakings to be taken from third parties and the rule was not unlawful, unreasonable or ultra vires the statute. COMMENT: The Immigration Rules are not statutes and should not be interpreted as such. The test here is whether a child will be adequately maintained and accommodated. If the answer to that question is yes one is left to wonder what is the point of the refusal. If the parent is the beneficiary of an enforceable right to support from a third party (which, admittedly in the

absence of an appropriate contract, may be difficult to prove) why should that not be acceptable? Perhaps what the Courts are attempting to do is provide tax advice and require that a trust with a deed of covenant is established!! In that situation there would be a legally enforceable right and the payer could deduct the payments from their tax. Also how would the Courts deal with support from an ex partner required to pay by the CSA. This decision does not bear analysis.

AB (Jamaica) v Secretary of State for the Home Department [2007] EWCA Civ 1302

The Appellant in this case sought to resist removal on the basis of the Secretary of State's policy DP 3/96 that relates to persons being considered for removal or deportation where they have married a United Kingdom citizen, and Article 8 ECHR. She was a Jamaican citizen who came to the United Kingdom on a six-month visitor's visa. She overstayed. The following year she was joined by her two daughters because her mother was ill and was no longer able to look after them. They lived in the UK with her sister. She then met and married her husband, who was born in the UK and had lived in the UK all his life. Two months after the marriage she applied to the Home Office for leave to remain on the basis of her marriage. Three years later the Secretary of State refused her application applying policy DP 3/96. The Secretary of State concluded that there were insufficient compassionate circumstances to justify a concession on the grounds of the marriage, that both she and her husband ought to have been aware that her precarious immigration status meant that the persistence of their marriage within the UK was uncertain, and that, although her husband was a British citizen, the family could reasonably be expected to live in Jamaica. HELD: In the assessment of Article 8 ECHR consideration should have been given to the rights of her British husband. The finding about her husband's ability to relocate to Jamaica was untenable. His rights under Art. 8 were engaged as much as hers and coexisted with Home Office policy DP 3/96. It was not permissible to give less than detailed and anxious consideration to the situation of a British citizen who had lived in the UK all his life before it was held reasonable and proportionate to expect

him to emigrate to a foreign country in order to keep his marriage intact. No consideration had been given to those matters by the AIT at either stage. The significance of the Appellant's breach of immigration control could not on any fair-minded view make it proportionate either to disrupt the family's life by the removal of her and her daughters to Jamaica, or to expect her husband, in order to keep the marriage intact, to go to a country where no evidence showed it to be reasonable to expect him to settle. The AIT ought to have held that the immigration judge had erred in law and allowed the appeal. COMMENT: The Court did not refer to the starred decision of the Asylum and Immigration Tribunal in *Kehinde (01/TH/02668)**, AC (Deportation, Article 8, Appellant) *Turkey [2004] UKIAT 00122* or *R (AC) v IAT and SSHD [2003] EWHC 389* all of which indicate clearly the Asylum and Immigration Tribunal should NOT consider the Article 8 rights of 3rd parties who are not Appellant's before them, and that their remedy is by way of Judicial Review. It remains to be seen how this dichotomy will be resolved.

NT (TOGO) v. The Secretary of State for the Home Department [2007] EWCA Civ 1431

The Appellant, a citizen of Togo had her claim for asylum rejected. In an application for Leave to Appeal to the Court of Appeal Sedley LJ noted this was not one of those cases where the appellant has been disbelieved initially without reference to the medical evidence and other corroborative material, and the medical evidence is then rejected separately as immaterial. In this case the Immigration Judge has been careful not to fall in to such an error. What did cause concern was the application by the Immigration Judge of section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004. This required him to take into account when assessing the credibility of the appellant's claim not only her failure to take the opportunity to apply for asylum in France but her production to the Immigration Officer on arrival here of a false French passport as if it were a valid passport. This the immigration judge did take that into account as reinforcing his conclusion that the applicant was not telling him the truth. HELD: It seemed to Sedley LJ that in this case, and not for first time, there is a serious question of law about the application of section 8. It is one thing to recognise that an applicant

could have applied for asylum in France and to hold that against her, if there was no good explanation for her failure. It did not require legislation to tell an Immigration Judge that that may be material. It is arguably another thing to hold against an individual, not because it has any intrinsic weight but by command of law, the fact that she has come to this country using a false passport when, if her story is correct, she would have had no other way of getting here. To be driven by legislation to hold something like that against an applicant is a constitutional anomaly in relation to the independence of a fact finding judicial tribunal; and a question arises as to whether, if the use of a false passport seems to have been inevitable, any weight or any more than token weight is required by section 8 to be given to that fact. This decision seemed to the Court arguably to go further than simply making adverse fact findings. On one view it pours “a cascade of disbelief” upon the applicant's by no means obviously implausible account of the violence meted out to her and others in a student demonstration. There are a number of other elements to the case which are not themselves open to legal challenge. But it seemed to the Court at least arguable that if one finding of the Immigration Judge is taken away as untenably reasoned, the space that is left is not necessarily filled by the other findings. COMMENT: Although this is a decision on a Leave application (and therefore of less authority), it is a decision of a highly experienced Court of Appeal judge. It is the first time I have seen the courts engaging with the problems of Section 8 of the 2004 Act. It also provides helpful guidance to those drafting applications for Leave to Appeal and one wonders how often the useful phrase “if that finding of the Immigration Judge is taken away as untenably reasoned, the space that is left is not necessarily filled by the other findings”.

IA and Others (Ahmadis: Rabwah) Pakistan CG [2007] UKAIT 00088

The history of claims by Ahmadis from Pakistan is a long one and a recurrent theme has been their ability to flee internally to what is effectively the ghetto city of Rabwah. HELD: Contrary to what is said in *KM (Pakistan)* [2004] UKAIT 00302, *MM (Pakistan) CG* [2002] UKIAT 05714, *KK (Pakistan)*

[2005] UKIAT 00033, *MC (Pakistan)* [2004] UKIAT 00139, and *AZ (Pakistan) CG* [2002] UKIAT 02642, Rabwah does not constitute a safe haven for any Ahmadi at risk of persecution elsewhere in Pakistan and should not, without more, be treated as an appropriate place of internal relocation. COMMENT: A Court has finally got this correct (after 20 + years of getting it wrong).

THE QUEEN ON THE APPLICATION OF MOHAMED BASHIR v. The Secretary of State for the Home Department [2007] EWHC 3017 (Admin)

What to do with people who it has been decided to deport as a result of criminal convictions but in respect of whom removal cannot be effected. On 23rd June 2003, the Iraqi applicant committed, together with another young man, an offence of street robbery. On 10th December 2003, he was convicted of robbery on his plea of guilty and sentenced at Coventry Crown Court to three and a half years' detention. A recommendation for deportation was made. On 25th March 2005 the claimant completed the custodial part of his detention sentence and was then immediately detained by the immigration authorities under immigration powers. He had been in custody ever since. His appeal process was unsuccessful and 23 months had passed since it ended. The Secretary of State explained to the Court that those who were willing to return to Baghdad and do not need escorting can be returned on scheduled flights but those who would not cooperate with removal would ordinarily have to be escorted to their destination. In the case of removal to Iraq, that is not possible. Removals are effected either to Baghdad or, in the case of the Kurdish regional area, indirectly via Amman and then to Irbil. There is no possibility that this claimant could be deported via Amman to Irbil because he is not a native of KRG and the Kurdish authorities will only accept returnees who are natives of those provinces. Those who have to be returned via Baghdad require to be escorted. However, escorts are not currently provided as the Foreign and Commonwealth advice is that FCO staff may not fly into Baghdad on scheduled aircraft. That is for reasons of their safety. The risks to which they might be subjected are an attack on incoming or outgoing

aircraft and the risk of harm, including kidnapping, within the airport compound at Baghdad. Accordingly, the Home Office has decided that it cannot task the escorts who would escort returning deportees to Baghdad for reasons of their safety. The blunt facts were, therefore, that the claimant had been detained in administrative detention for 23 months without there being any immediate prospect that he could be removed, unless he voluntarily decided to depart. The Court was satisfied, by reason of the length of time that he has sustained his refusal to depart voluntarily, that his will is settled. He maintained it even though there is undisputed evidence that he suffers from a depressive condition of some degree. Accordingly, the facts of this case raise acutely the choice between two unacceptable alternatives: first, that the execution of a lawful deportation order is put at risk by releasing someone about whom there may be good grounds to believe that he will not keep in touch with the Home Office before he can be forcibly removed; secondly, that a man is detained administratively for an indefinite period in circumstances where there is not and never has been any immediate prospect that he will be removed to his home country. HELD: Periods of detention of significantly shorter length have been held to be unlawful: ten months in *Re Mahmud (Wasfi Mahmud)* [1995] Imm AR 311, and nearly 16 months in *R (on the application of I) v Secretary of State for the Home Department* [2003] INLR 196. In the former case, the detention had endured "while nothing but fruitless negotiations had been carried on". In the latter case, the detention had endured in circumstances in which the Secretary of State could "establish no more than a hope of being able to remove him forcibly by the summer". While the Court did not conclude that in no circumstances could detention lasting as long as 23 months be justified, it was satisfied on the facts of this case that this claimant's detention had by now become unlawful. It reached that conclusion for the following reasons: first, the length of the detention, 23 months on any view must be at or near to the top of the period during which detention can lawfully occur. Secondly, although he has been convicted of a very serious offence, a street robbery, involving the use of significant violence to the victim, albeit violence which he maintained he had not personally committed, nevertheless this was not in those highest category of truly grave offences, the repetition of which would put the public at very grave risk.

Thirdly, although the claimant is rootless in the United Kingdom, and there must be a significant risk that he will abscond, he does not quite present the picture of a person who was determined "by hook or by crook" to remain in the United Kingdom, and would have no hesitation in absconding to achieve that purpose. Fourthly, there was simply no information put before the Court upon which it could conclude that the current suspension of flights into Baghdad will end in the near or even foreseeable future. The Court was not judging the lawfulness of a period of detention which has ended but was rather judging a period of detention which is still continuing and doing so in circumstances in which there is no indication, let alone any clear indication, of when it might end. Ultimately, the question as to whether, and if so when, detention in those circumstances becomes unreasonable and so unlawful is a matter of judgment on the facts of an individual case. Mitting J had no doubt, for the reasons above, that on the facts of this case this claimant's detention is now unlawful. He so declared.

OA (Alleged forgery; section 108 procedure) Nigeria [2007] UKIAT 00096

Section 108 of the 2002 Act permits part of a hearing where the Home Office allege a document is a forgery to be held in private without the Appellant or his representative present. Until mid 2007 I had never heard of it being used but it is becoming increasingly common in entry clearance cases. The purpose of S. 108 is to prevent the methods used to detect forgeries becoming known and therefore ineffective. HELD: Each application on behalf of the respondent for the section 108, Nationality, Immigration and Asylum Act, 2002 procedure to be invoked must be decided on its own merits. Immigration Judges should first consider whether it is being alleged that the document concerned is a forgery, or whether it is simply asserted that it is a document which cannot be relied upon (*Tanveer Ahmed* [2002] UKIAT 00439*). Applications must be heard in camera, in the absence of the appellant and the appellant's representatives. The Home Office Presenting Officer should be ready to identify precisely what documents the respondent contends are forged and the evidence which it is claimed relates to the

detection of the forgery and which is to be the subject of the section 108 application. Explaining why disclosure of this evidence would be contrary to the public interest. A careful note should be taken by the judge. The respondent may, if he wishes to, withdraw the allegation and in doing so withdraw the evidence relied upon. Clear evidence will be necessary; if *RP (Proof of Forgery) Nigeria* [2006] UKAIT 00086 is not satisfied, then the application will fail. If the judge grants the application, he should say so in public and clearly identify which document or documents or other evidence is the subject of the section 108 application.

HS (returning asylum seekers) Zimbabwe CG [2007] UKAIT 00094

The saga of what to do with failed Zimbabwean asylum seekers. I think this is round 6. It is not the end. HELD: Failed asylum seekers do not, as such, face a risk of being subjected, on return to Zimbabwe, to persecution or serious ill-treatment. That will be the case whether the return is voluntary or involuntary, escorted or not. The findings in respect of risk categories in *SM and Others (MDC - Internal flight - risk categories) Zimbabwe CG* [2005] UKIAT 00100, as adopted, affirmed and supplemented in *AA (Risk for involuntary returnees) Zimbabwe CG* [2006] UKAIT 00061 are adopted and reaffirmed. The Tribunal identifies one further risk category, being those seen to be active in association with human rights or civil society organisations where evidence suggests that the particular organisation has been identified by the authorities as a critic or opponent of the Zimbabwean regime. The process of screening returning passengers is an intelligence led process and the CIO will generally have identified from the passenger manifest in advance, based upon such intelligence, those passengers in whom there is any possible interest. The fact of having made an asylum claim abroad is not something that in itself will give rise to adverse interest on return. The Tribunal adopts and reaffirms the findings in *AA* in respect of the general absence of real risk associated with any monitoring of returnees that might take place after such persons have passed through the airport and returned to their home area or re-established themselves in a new area. Country conditions have continued to deteriorate but are not generally such as to bring about an infringement of

Convention rights for returnees or to require the grant of humanitarian protection.

(1) IA (SYRIA) (2) SA (SYRIA) v SECRETARY OF STATE FOR THE HOME DEPARTMENT (2007)

The appellants challenged decisions of the Asylum and Immigration Tribunal upholding the refusal of their claims for asylum. Both were from Syria, of Kurdish ethnicity, and each had entered the United Kingdom and claimed asylum on the basis of facing persecution or ill-treatment if returned to Syria. The Home Office rejected the claims and each appealed to the tribunal. As two country guidance cases suggested that failed Kurdish Syrian asylum seekers without a political profile did not face a risk of ill-treatment or persecution upon re-entry into Syria, one of the Appellants adduced two pieces of evidence that he said made the country guidance inapplicable: (i) a letter from Amnesty International, which stated that Syrian Kurds on enforced return faced a serious risk of persecution if they had departed Syria without government authority and held no valid Syrian passport (which circumstances applied to both Appellant's); (ii) a report from a journalist who specialised in Middle Eastern affairs, which addressed the risks Syrian Kurds faced upon return. The tribunal in Y's case found that there was no evidence supporting Amnesty International's letter and no hard evidence to support L's conclusions. It therefore followed the country guidance and dismissed the appeal. The other Appellant also sought to distinguish the country guidance cases. He provided a report from an expert who spoke of surveillance of anti-Syrian demonstrations in the UK, and that demonstrators returned to Syria were treated as opposing the regime and thereby faced ill-treatment. G referred to the fact that X's participation in such events would in all likelihood have come to the authorities' attention in Syria. The Appellant also adduced a letter from Amnesty International in terms similar to the other Appellant's letter. The tribunal in this case dismissed the appeal, having found the experts evidence speculative, and that the Appellant did not fall within the categories referred to as "at risk" within the terms of Amnesty International's letter. Both Appellants contended that the tribunal had erred in its approach to the evidence adduced in response to the country guidance cases. HELD: Amnesty

International was a body of high repute. Whilst a letter or report from Amnesty International would inevitably not be able to reveal its sources of information in detail, for a tribunal to treat it as having no identifiable foundation was not a satisfactory approach. Although a tribunal was not bound to share Amnesty International's opinion, it was required to engage properly with the substance of a report. In the instant cases, it was clear that both Appellants fell within the categories of returnees that Amnesty International had identified as being at risk of persecution, and in each case the tribunal's approach to the letters had revealed demonstrable errors. In respect of the expert evidence adduced, the expert reports of both the journalist and expert had been dealt with so cursorily as not to engage with the substance of the relevant points at all. The reports ought not to have been simply dismissed. In those circumstances, there had been serious errors in the way the tribunal had dealt with the issues raised, and both cases would be remitted to the tribunal for reconsideration. COMMENT: The development of the Country Guidance case scheme with decisions taking account of massive quantities of materials and extended to many, many pages may leave some readers nostalgic for the days when decisions like the one overturned the Court of Appeal.

COLLEEN KAY KELLY v THE UNIVERSITY OF SOUTHAMPTON (2007)

EAT (Judge Richardson, M Clancy, M Worthington) 11/12/2007

This is the first time Employment law has appeared in this update, it was held by the EAT that the respondent university would not have committed an offence under the Asylum and Immigration Act 1996 s.8 by continuing to employ the claimant lecturer, as, although her leave to remain had expired, she had, by virtue of a formal grant of permission to work by the Overseas Labour Service, been "permitted to work under the Immigration Rules" for the purposes of the Immigration (Restrictions on Employment) Order 2004 art.3(3). Where an employer was entitled to rely on the Employment Rights Act 1996 s.98(2)(d), he might, depending on the circumstances, have to follow

the normal dismissal procedures. The appellant appealed against the decision of the employment tribunal to reject her claim for unfair dismissal against the respondent. The Appellant, an American, had been employed by the University as a senior lecturer. On January 11, 2001, the Overseas Labour Service had written to the University stating that permission had been given for the Appellant's employment as a lecturer for 60 months. However, the visa granting leave to remain lasted only until January 8, 2005. In December 2004, the Appellant made enquiries into her immigration status. In the following month she made an application for indefinite leave to remain, which was granted on February 7, 2005. However, the University had dismissed her in January, having taken legal advice that, if she had no right to remain in the United Kingdom, it would be breaking the law by continuing her employment. The tribunal concluded that the reason for the dismissal was that the Appellant could not, under the Employment Rights Act 1996 s.98(2)(d), continue in work without contravention of a duty or restriction imposed by or under an enactment; that the employer would commit a criminal offence under the Asylum and Immigration Act 1996 s.8 by continuing to employ her; that the statutory dismissal procedures did not apply; and the university's decision to dismiss was within the range of reasonable responses for the purposes of s.98(4) of the 1996 Act. The issues were whether the university would have committed a criminal offence under s.8 of the 1996 Act by continuing to employ the Appellant, and the reasonableness of the dismissal. HELD: (1) An employer would commit an offence under s.8 if, among other things, the employee did not "satisfy such conditions as may be specified in an order made by the Secretary of State". The relevant order was the Immigration (Restrictions on Employment) Order 2004. However, for the purposes of art.3(3) of the Order, an employee who held a subsisting work permit or other formal grant of permission to work by Work Permits UK or its predecessor, the Overseas Labour Service, was "permitted to work under the Immigration Rules". The 1996 Act and the 2004 Order did not proceed on the basis that a permission to work ceased to be such when leave to remain lapsed. Parliament did not intend to impose criminal liability on an employer in the (relatively rare) circumstance that the employee continued to have a valid permission to work even though leave to remain may have ceased. As the Appellant was

permitted to work under the Immigration Rules, even though her leave to remain had expired, the University would not have committed a criminal offence under s.8 by continuing to employ her. It followed that the universities case under s.98(2)(d) had to fail and that the Appellant's dismissal had been automatically unfair under s.98A(1), the university having failed to follow the statutory dismissal procedures. (2) It would not always be reasonable to dismiss where an employer could rely on s.98(2)(d). First, it might be unreasonable to dismiss where the position had resulted from some past conduct or omission of the employer, *Sandhu v Department of Education and Science and Hillingdon LBC* (1978) IRLR 208 applied. Second, it might be unreasonable to dismiss where something could readily be done to remedy the position, *Sutcliffe & Eaton v Pinney* (1977) IRLR 349 applied. (3) Where an employer was entitled to rely on s.98(2)(d), matters of procedure were not irrelevant. Whether the alleged contravention was so clear and so serious that it would be reasonable for the employer to dismiss peremptorily without following normal procedures would depend on the circumstances. Even if it was reasonable to proceed speedily to dismissal, there was no reason why provision should not be made for an appeal. That might be of particular importance where the illegal state of affairs was disputed, or was technical, or arose from some kind of oversight which could be remedied by the time the appeal was heard. A failure to follow a reasonable procedure might in itself make the employer's action in dismissing the employee unreasonable, unless the employer could establish that he would have dismissed if he had followed a fair procedure. COMMENT: It is interesting in an employment context to see the view taken of an allegation of "working in breach". This case makes clear the powerful shift of Immigration control away from government agencies to employers. It is a worrying trend in such a technically complex corner of the law.

