A0153

The intention to live together

Tuesday 11 July 2000 at 5pm

- "Intention to live together" as used by ECOs, in place of "primary purpose" to refuse (mainly) husbands
- the need to distinguish between the two tests
- Home Office decisions, and matters considered relevant by officials in the UK
- Factors deemed significant by ECOs (particularly in South Asia)
- The question of "credibility" generally
- Preparing a marriage application so as to minimize the likelihood of problems with "intention to live together"
- Preparing an appeal; potential sources of evidence; putting the marriage in context
- The significance to be attached to the birth of a child
- The widely divergent approaches taken by adjudicators and the tribunal

Intention to live together: see Richard McKee "Primary purpose by the back door? A critical look at "intention to live together", I&N L&P, vol 13, no1, 1999, p3.

In **Satnam Singh (19068)** Judge Cotran's Tribunal allowed the appeal of a man refused indefinite leave to remain, where the Home Office thought he did not intend living with his wife because "he worked a night shift, and when he got home in the morning he slept next door, as his wife and her parents lived above a shop". The Tribunal held that "intention to live together" has "nothing to do with sleeping together in the same bedroom every night"

In **Mahmood (16197)** the ECO was satisfied the couple would live together, albeit only in the UK, but the HOPO raised at the hearing the issue of intention, and the adjudicator dismissed the appeal on that basis (!). The Tribunal held that all the evidence pointed the other way (the couple had cohabited for one month after the wedding, the wife had moved in with her in-laws, and the husband had been back to visit her in Pakistan) and allowed the appeal

Factors deemed significant by ECOs include

1 past immigration history: "the appellant initially stated he had gone to the UK with a false passport for a visit but later stated he had gone to look for work. He had been granted Temporary Admission but had failed to comply with the terms, and had absconded. He applied for asylum, but I considered that he had done so as a means to secure entry .. his claim was fraudulent" (and this is seen to have been borne out by the fact that the appellant had had no problems on return to Bangladesh)

the husband had entered the country unlawfully from Ireland (having gone to Dublin to study English), in suspicious circumstances

the sponsor had obtained a visit visa, falsely describing himself as a married man; when refused at the airport (when the deception came to light) he then claimed asylum

2 reasons given for the marriage; "As the appellant was in the UK illegally his uncle told him that if he married he could obtain permission to stay"

3 circumstances surrounding the marriage; "none of the appellant's family came from Bangladesh for the wedding"; "it did not appear to be a traditionally arranged marriage in which both families were involved in the proposals and arrangements, but appeared to have been arranged in haste"

the parties' account of the relationship (the initial meeting in 1994 in Bangladesh when the sponsor was on holiday)

discrepancies in the parties' accounts: "he stated that they had not met before the marriage was arranged two weeks before the wedding, yet she stated that she had met him two to three months before the marriage"

dowry of £2500 was paid immediately at the time of marriage, and the ECO thinks that this is unusual and suspicious

4 "you were only 18 at the time of marriage, while your husband was ten years older"

5 "the marriage was arranged very quickly after your husband's illegal entry"

6 there was no evidence to show that the couple had lived together after the marriage, until the husband's departure from this country

7 the sponsor did not travel abroad with the husband when he was forced to go back to Bangladesh "the sponsor had not accompanied the appellant when he was removed to Bangladesh although she did attend the interview in August 1998"

8 husband said that the wife would not be prepared to live with him in Bangladesh ("I don't think she would come to live here as she has a job there")

9 doubts about whether the couple lived together in UK after marriage, and before husband's removal ("the period of the tenancy was from 1.1.98 when the appellant was still in the UK yet he did not mention having lived at this address. I considered that this lent further doubts to their claim to have lived together as he was not named as a tenant", .. "the appellant did not even know the names of the relatives with whom he had supposedly lived"

(above quotes taken from statements prepared by D C Bradley, Dhaka, December 1998/January 1999.)

Problems inherent in advising and representing clients from different cultural backgrounds

Although a few lawyers study Islamic law as undergraduates, lawyers' training and background in general provide no preparation for dealing with clients from diverse ethnic minorities. No organisation is equipped to offer even the most rudimentary courses to lawyers wishing to acquire the necessary skills. As time goes on, the position deteriorates. As the number of persons from South Asia living in England has grown, so opportunities for studying their languages and cultures at university level have diminished. Thirty years ago, the School of Oriental and African Studies provided courses in almost all the major languages of South Asia; it is now no longer possible anywhere in the United Kingdom to study at undergraduate level many of the languages spoken by hundreds of thousands of this country's residents.

Attempts are made at local level to provide courses so that teachers and health workers can acquire a smattering of Sylheti (the language spoken by the vast majority of those originally from Bangladesh), but there is not even a rudimentary dictionary of Sylheti available. (**Learning Sylheti** by Rod Chalmers, published by **Centre for Bangladeshi Studies**, gives a concise introduction - and warns that there are 52 words meaning "now", of which he gives two: **Sylheti Translation and Research** have published translations of Sylheti poetry, but far too many people still believe that Sylheti is only a spoken dialect that cannot be written down). How can one possibly arrive at an independent assessment of the reliability of a court interpreter, for example, where there is not even an authoritative dictionary of the language or dialect concerned? (**Bangladeser ancalik bhasar abhidhan** published 1965 is seriously out of date). What happens if there is a dispute about the meaning of a particular word?

And what about usage? In some parts of Bangladesh, some elderly persons count a new day as beginning at sunset. At 8 pm they may talk about doing something "today" which westerners would consider as taking place "tomorrow". In some rural areas, some woman calculate a baby's age from the onset of pregnancy, so a baby is born when 9 months old (or 10 months if calculated by the lunar calendar). The capacity for misunderstanding is enormous. In a supportive atmosphere, misunderstandings can be resolved: a healthy and curious mind is intrigued by different ways of looking at the world. Unfortunately, when lawyers are involved, a misunderstanding (frequently caused by ignorance on the part of lawyer or adjudicator) quickly turns into a "discrepancy", a reason for doubting the truth of what is being said. Many asylum applications fail because the asylum seeker's credibility has been weakened due to inconsistencies in the application (Refugee Council **The State of Asylum; A Critique of Asylum Policy in the UK** 1996, referred to by Heaven Crawley,

Women As Asylum Seekers: A Legal Handbook (ILPA 1997) at page 33.)

Translation of documents is difficult enough, but simultaneous interpretation in a court hearing, particularly when mental states or intentions are being described, is near impossible. That misunderstandings arise at interviews at High Commissions abroad is inevitable (despite the fatuous statement "the appellant confirmed that he was fit, well and willing to be interviewed and that he understood all the questions" that appears in most explanatory statements.) In an interview in Dhaka on 24 January 1996, the applicant husband was recorded as having said that he had had "an affair" with the cousin who is now his wife, in 1982, when she would have been five years of age. The ECO described this as "pure fantasy", and based his attack on credibility on this statement. At the hearing of the appeal, the Presenting Officer agreed that "affair" was quite obviously a mistranslation for "understanding within the family that the couple would at some stage marry", and that the ECO's approach was wrong. The explanatory statement was formally amended to show this. Not all HOPOs are as reasonable.

> *In a footnote to "The Heart of Midlothian", Scott records that, when Porteus was questioned in the House of Lords about what kind of shot had been loaded in muskets, he answered, "Ow, just sic as ane shoots dukes and fools with". This reply was considered as a contempt of the House of Lords, and the provost would have suffered accordingly, but that the Duke of Argyle explained that the expression, properly rendered into English, meant "ducks and waterfowl".*

Of course, routinely blaming the interpreter is never a good strategy. But explaining that confusion might have arisen because of language difficulties is, in many cases, perfectly valid. Frequently, the worst misunderstandings are when the parties genuinely believe that they understand, and are understood by, one other.

Language, although central, is not the only problem. Serious though less obvious difficulties arise in the field of "body language". An understanding of these matters is vital not only in predicting how one's client will fare as a witness in court, but how best to deal with the client when taking instructions. Normal English politeness may strike a client from one part of the world as cold aloofness, while a client from another culture may regard it as embarrassingly intimate. An educated urban client will come with assumptions quite different from those in the mind of an illiterate man from a rural background. A person from one background will think it disrespectful to look another person in the eye; a person from another culture will regard an avoidance of eye contact as a sign of "shiftiness". "In many authoritarian regimes and cultures, it is impolite, wrong, especially for a woman, to look one's superiors in the eye. The eyes must be cast

down. This fact has been beaten into many a torture survivor" (Gill Hinshelwood "Interviewing Female Asylum Seekers", quoted in **Heaven Crawley** page 36). "In Anglo-American cultures, people who avert their gaze when answering a question, or seem nervous, are perceived as untruthful. In other cultures, however, body language does not convey the same message. In certain Asian cultures, for example, people will avert their eyes when speaking to an authority figure as a sign of respect. This is a product of culture, not necessarily of credibility" (INS **Considerations for Asylum Officers Adjudicating Asylum Claims from Women** June 1995, 7, quoted in **Heaven Crawley** page 37).

In the context of marriage applications, the interpretation of photographs may be significant. One adjudicator, dismissing an appeal, opined that "the (Bengali Muslim) bride looked very unhappy in the wedding photographs".

There are certain institutions, commonplace abroad, with which the British feel decidedly ill at ease. For example, although many people are quite happy with the notion of one- or two-parent families, they have acute problems with the notion of polygamy (families with three or more parents). Such bigotry was not always reflected in the law: until as recently as the coming into force of the **Immigration Act 1988**, it was possible for persons settled here to be joined by more than one wife, and there are in Britain today many families in which a man lives together with two or more wives and their children. To what extent is a lawyer (or Adjudicator) influenced (perhaps unwittingly) by ethnocentric views? There are many instances where what is deemed acceptable abroad is not acceptable here, and **vice versa**, and the whole field is both sensitive and complex. (The best exploration of these problems is still Sebastian Poulter's excellent **English Law and Ethnic Minority Customs (Butterworths 1986)** but this is now in some respects out of date - stating the law as at 1 December 1985); the same writer's **Ethnicity, Law and Human rights: the English Experience**, Clarendon Press 1998, is very helpful).

Certain clients may wish to see their lawyer when accompanied by other family members. Some young women may be reluctant to talk, without a male relative present. The problem is that there are some things they cannot say in the presence of a close family elder. Sometimes, a father or elder brother will be sent out to put a coin in the parking meter, to give the younger persons a chance to talk about an intimate matter such as a pregnancy (and the situation here is quite different from those arising where younger members want to avoid elders finding out about something which has been kept secret).

Systems of respect and deference in certain cultures may prevent a person contradicting or appearing to know more that an elder, even when he or she **does** know more. And there are certain matters (for instance, sentimental interest in another person) on which it would be

most improper to address one's parents directly. Equally, the conventions of certain family structures mean that, although one has a "respectful" relationship with parents or elder brother, one might have a relaxed relationship with grandparents or maternal uncle. So, if a Bengali Muslim boy would rather like his parents to arrange his marriage to a particular girl, he may mention it obliquely to his maternal grandfather (**nana**), who will mention it to another of **his** grandsons who will mention it to **his** maternal uncle (**mama**), who will mention it to **his** younger sister (who is the boy's mother). So, when the question is asked "how did your marriage come to be arranged?" the answer may well be intricate. Some clients, fearing that explaining all this to a lawyer will result in them being thought "devious" or (more likely) they may fear (usually correctly) that a lawyer will just not be able to follow the intricacies involved (to understand which one needs the training not of a lawyer but of an anthropologist). Many problems in primary purpose cases arose because the parties to the marriage "simplified" the steps leading up to the decision to marry, the "simplification" was interpreted by Entry Clearance Officers and Adjudicators as "dishonesty" and a perfectly genuine case would fail. Also, "women from certain cultures where men do not share the details of their political, military or even social activities with their spouses, daughters or mothers may find themselves in a difficult situation when questioned about the experiences of their male relatives" (from CIRM **Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution: UPDATE November 1996, D (Annex 5, 195)** quoted in Heaven Crawley (page 34).

In the early editions of **Immigration Law and Practice**, Ian A MacDonald quotes the memorable phrase "Thanet House slumbers while Brixton burns". But in those days, most individuals sitting in judgement at Thanet House would at least have had some inkling of where Brixton was; some might even have visited Brixton. Now, almost 20 years later, we have adjudicators some of whom have never heard of Green Street, and appear to have no curiosity about the thriving and lively ethnic communities in that part of East London. There are no quick or easy answers. In a multicultural society, it is astonishing that people (including lawyers) have so little knowledge, and no curiosity, about the cultures of other ethnic or religious groups who may live a few hundred yards away. A cultured QC may well pride himself on his knowledge of Horace and Plato, while never having read a line of Ibn Khaldun, Kalidas, Ghalib, or Iqbal. The great Muslim Festivals of **Eid** - in which hundreds of thousands of people here participate - are not considered worthy of mention in the national press or on television - other than in the context of a warning of possible traffic congestion in Southall. Until there is vastly more knowledge and understanding of ethnic minorities and their rich and diverse cultures, members of those minorities will continue to have a very raw deal whenever they come into contact with the law.

The myths of "credibility" and "discrepancy evidence"

The (largely bogus) notion of "credibility" is central to our legal system. In many cases, the decision as to whether or not to advise a client to give evidence must depend on one's assessment of the probability of a court coming to an adverse finding on credibility. (It is wrong to assume that oral evidence is always essential: even "primary purpose" appeals could be won without the need to subject the client to the unpleasantness of having to give oral evidence). Many immigration adjudicators are prone to adverse findings on credibility; once you have an adverse finding, the Immigration Appeal Tribunal will refuse to give leave to appeal, because, not having heard the witness - or more likely, the interpreter - the Tribunal is in no position to substitute their view of a witness for that of the adjudicator who heard the evidence. A moment's reflection, of course, will show that the whole thing is nonsense. A finding of credibility is **not** a finding of fact. **Scrutton LJ** once observed " I have never yet seen a witness who was giving evidence through an interpreter as to whom I could decide whether he was telling the truth or not", and **Bingham J** (as he then was) identified the problem in an article in **Current Legal Problems, 1985 page 1**:

> " If a Turk shows signs of anger when accused of lying, is that to be interpreted as the bluster of a man caught out in deceit or the reaction of an honest man to an insult? If a Greek, similarly challenged, becomes rhetorical and voluble and offers to swear to the truth of what he has said on the lives of his children, what (if any) significance should be attached to that? If a Japanese witness, accused of forging a document, becomes sullen, resentful and hostile, does this suggest that he has done so or that he has not? I can only ask these questions. I cannot answer them. And if the answer be given is that it all depends on the impression made by the particular witness in the particular case that is in my view no answer. The enigma usually remains. To rely on demeanour is in most cases to attach importance to deviations from a norm when there is in truth no norm." (Quoted by **Webster J** in **R v Secretary of State ex parte Dhirubhai Gordhanbhai Patel [1986] Imm AR** p 208).

Immigration adjudicators' findings on credibility are frequently - and demonstrably - wrong. When DNA finger-printing became available in the mid-1980s to establish disputed family relationships, there were large numbers of cases where DNA tests proved that men whose credibility had previously and repeatedly been doubted, had in fact been telling the truth all along. In the case of **Surab Ullah**, a man's application to bring his son to this country from Bangladesh was refused; enquiries in Bangladesh produced overwhelming support for the claimed relationship, but the adjudicator who heard the appeal found the sponsor "a completely unimpressive and deceitful" witness.

A DNA test then established that the relationship was 7,000 million million million times more likely than not. That is, this "completely unimpressive and deceitful" man was in reality perfectly truthful, and if anyone was "completely unimpressive", it was the adjudicator, purporting to be a reliable judge of character. There is clearly something seriously flawed in a system where such hopelessly inaccurate assessments of credibility arise. (see **Home truths written in blood**, Graham Smith, **The Independent, 16 December 1988**).

DNA tests are helpful in limiting the damage done by uninformed or erroneous findings on credibility in relationship cases. One of the most disturbing areas of immigration law during the 1980s and 1990s was that involving the notorious and shameful "primary purpose" rule in marriage cases. Persons wishing to come from abroad to join husbands or wives settled here were required to show that settlement was not the "primary purpose" of the marriage. The applicant was interviewed at the British post abroad, the sponsor in this country gave evidence at the hearing of the appeal, and, since what was at issue was the applicant's mental state at the time he or she decided to marry, credibility was all. The burden of proof was on the appellant. There was a very high refusal rate, while the success rate on appeal was dismal, with adjudicators regularly coming to findings on credibility in respect of people from countries they had never bothered to visit, whose languages they did not understand, and of whose culture they were ignorant. In practise, adjudicators rely heavily on the impressions of entry clearance officers abroad. In **Abdul Haroon (TH23814/96)**, R N Barton decided that "the respondent who conducted the interviews in Dhaka is best placed to assess credibility and I therefore give weight to the conclusions she reached". In fact, with almost no exceptions, ECOs too know nothing of the language and almost nothing of the culture and religion of the country in which they are temporarily posted. (In one case, IMM\ECR 0224\91, the ECO in Delhi laboured under the misapprehension that Gurgao - just outside Delhi - was a village in the Punjab, and criticised the appellant for departing from rural Punjabi tradition!). Each new ECO is provided with a "Best Practice Pack", which is supposed to set out details of cultural awareness and local customs, and the Foreign Secretary had in 1998 appointed an adviser on ethnic minority issues within the FCO who provided advice to various posts on a continuing basis. (ILPA Seminar: Entry Clearance and Decision Making 8 September 1998, question and answer booklet, page 14). Sometimes, an adjudicator goes even further than the ECO, finding that a couple had not even lived together in Bangladesh, even where the ECO had made no such allegation (Mrs C M Kennedy, **TH 112 96**); this is an excess of jurisdiction (**R v IAT ex p Akhtar and Bowen (1982) 126 Sol Jo 430 QBD**) where it was held that the appellate authorities' jurisdiction is wholly limited to deciding what is referred to them by the notice and grounds of appeal (as amended) and by the respondent's written explanatory statement). In **Iftikhar Khan (TH 3191 96)** the ECO had given "primary purpose" as the sole reason;

dismissing the appeal (without a hearing and with no fresh evidence), **J C Bartlett TD** opined that "the alleged period of cohabitation after the marriage, and other evidence before me, is insufficient to satisfy me that the parties intend to permanently live together as the spouse of the other as required by paragraph 281 or to show any devotion". What adjudicators know about expressions of matrimonial devotion in South Asia is not always clear.

In **Daniel (13623) 2 July 1996** the Tribunal stressed the requirement for caution in relying upon the demeanour of a witness whose language and culture is different.

MVD figures for 1997 show that, of 18132 applications received in Dhaka, 5829 (30.35%) were refused. The figures for Islamabad were 33011 applications received, with 5974 (21.72%) refused. In New Delhi, 54137 applications were received, and 7200 (13.24%) were refused

Departure from tradition

The following are passages from a Determination of J C Bartlett TD, dated 7 February 1997 (TH/3191/96)

> "Such customs and traditions have a great relevance in the culture of the communities abroad and to those who live in the UK who accept and follow them"
>
> "If the culture of an arranged marriage is important to the parties and is being followed then a good reason must be given why the customs and traditions which are seen as going hand in hand with that culture are selectively reversed or varied. Where the evidence supported such a custom or tradition is being followed this will be regarded by me as important fact, to which I give substantial weight, that the primary purpose of the marriage was not entry into the UK"
>
> "Tradition has been breached, I am not satisfied that appellant and sponsor were without first cousins to marry. It is probable such first cousins could be found in the present countries of residence of each. Why overlook such potential matches? For the appellant it is probable, given his experience of working abroad, that he saw marriage to the sponsor as the key to entry to the UK where he would expect a better life"
>
> "Tradition is that the wife on marriage joins and gives allegiance to the husband's family. Pakistan is a male dominated society and it is unlikely a male would be prepared to leave Pakistan and travel around the world to a foreign land at the request or demand of the proposed wife before

marriage or the wife after marriage. It is unlikely irrespective of whether it is a permanent migration or not"

Cousin marriage, although permitted in Islam (and generally prohibited in Hindu law), was never the norm; a typical family tree taken in Moulvibazar in 1985 covering three generations includes 45 married members - of whom not one had married a cousin. There is some evidence that parallel-cousin marriages (the marriage of son and daughter of two brothers) is favoured by "more well-to-do peasants in order to keep the property within the lineage and to reduce the expenses of marriage" (see **Rural Bangladesh: Competition for Scarce Resources**, by Eirik G Jansen, University Press Limited, Dhaka, 1987, p81), but the numbers are far fewer than sometimes suggested by ECOs: in a survey of 1719 first time Muslim marriages, 62 (3.6 per cent) were parallel-cousin marriages and 84 (4.9 per cent) were cross-cousin marriages (marriages between children of brother and sister): K M Ashraful Aziz, in **Kinship in Bangladesh**, International Centre for Diarrhoeal Disease Research, Bangladesh 1979, p. 59.

Approaches to "tradition" and "culture" presume uniformity

The failure to understand that "traditions" vary (1) from region to region (2) from class to class and (3) from generation to generation. In recent years, the rise of the urban middle class, and the increase in the number of women in professional roles must be taken into account. In one family, grandfather may disapprove of cameras and photographs; father may be happy with photographs but may draw the line at videos; the son might regard videos as quite acceptable.

Differing attitudes between generations of the same family may well be central to an understanding of "discrepancies". Immigration authorities (from ECOs to the Tribunal) have assumed that within a "closely-knit" community, all members of a family will have access to the same information. But there are many circumstances in which information available to some members will be withheld from others, and although this is usually understood by the persons concerned, it is not always freely admitted to.

Is it ever useful to talk about "Islamic culture"? Does the culture of Bengali Muslims have more in common with that of Bengali Hindus than it does with the culture of Muslims in other parts of the world?

"I have tried hard to understand what this "Muslim culture" is, but I confess that I have not succeeded. I

> find a tiny handful of middle-class Muslims and well as Hindus in north India influenced by the Persian language and traditions. And looking to the masses, the most obvious symbols of "Muslim culture" appear to be: a particular type of pyjamas, not too long and not too short, a particular way of shaving or clipping the moustache but allowing the beard to grow, and a lota with a special kind of spout".

Nehru, Jawaharlal, **An Autobiography** (London 1953), quoted (disapprovingly) in **Islamic Culture in Pakistan**, by Dr Abdur Rauf (Lahore 1988).

Assertions such as "Bangladesh is a strict Muslim country" are no more than meaningless generalisations. In 1974, the population of Sylhet was 4,760,000, of whom 3,932,000 were Muslim, and 492,000 (over 10%) were Hindus. In some areas of Sunamganj, the proportion of Hindus is greater. In the 1991 census, Hindus accounted for 12.2 per cent in Bangladesh as a whole.

See Manisha Roy's **Bengali Women** (University of Chicago Press 1972) for a detailed description of middle class urban Hindu women.

In **Arshad Begum (17309)** (I&N L&P vol 12, no 4, 1998, page 159), a deportation case, expert evidence was given by one Dr Ballard, concerning the situation of single women in the Mirpur area of Pakistan; according to the Tribunal "Although the family structure is highly supportive, loyalty is expected and this puts strict limits upon the personal freedom of all involved especially the women of the family". The expert had written that "marital breakdown, and especially the possibility of women seeking to live outside an extended family structure, and hence without the protection of a male patriarch - be that her husband, her father-in-law or her father - is regarded as highly shameful. Moreover in the absence of such protection a lone woman is extremely vulnerable to physical, financial and sexual exploitation. Remaining within the supportive context of a biraderi (extended family) structure of one kind or another is therefore crucial to a woman's personal survival, and is also the foundation for personal social security for any children she may have"

Typically, although a "departure from tradition" may be held against an applicant, a desire to uphold a tradition can seldom be relied upon. For example, in **Walayat Bibi (17103)** Mr Rapinet found that a 63 year old widow financially dependent on sons here but with daughters nearby to whom she could turn for "material and emotional support" could not show that she was living alone "in the most exceptional compassionate circumstances", and the requirement of the rules could not be displaced by

the cultural tradition of the eldest son being responsible for his widowed mother (I&N L&P vol 13, no 1, 1999, p19)

Potential sources of evidence:

Photographs showing couple together in UK, documentary evidence of living together,

After appellant's removal:

statements from persons who, travelling to and from Bangladesh, have carried gifts/letters etc from the sponsor in UK to the appellant abroad

Letters and telephone calls (though the proliferation of call centres and telephone cards means that in many cases there is no evidence at all of any contact between husband and wife)

Evidence of any periods of time the couple have spent together in Bangaldesh

Significance to be attached to birth of child

Some adjudicators have misdirected themselves that pregnancy/birth post-dating the decision was not "reasonably foreseeable" (such as Mrs P H Drummond-Farrall in **Juber Uddin).** This is obviously wrong in law. Disgracefully, some ECOs have taken the view that the birth of a child adds nothing to a case. "The child was only conceived after the appellant (an illegal entrant) first applied to regularise his stay. My colleague had to consider that the child was conceived merely to improve the appellant's chances to remain in the United Kingdom and was no reflection that this was a genuine marriage with the intentions that the appellant and sponsor would live together" (J Short ECO Dhaka, TH 00142 2000)

Most ECOs (and many adjudicators) do not understand the need to distinguish between "primary purpose" points (relating exclusively to the mental state at the time of marriage, the immigration history and the steps leading up to the decision to marry) and "intention to live together" (which relates to the future). Many ECOs wrongly assume that a man who freely admits "I married to stay in the UK" must fail under "intention to live together". Cases which would certainly have failed under "primary purpose" may be wholly unobjectionable from the point of view of future intentions.