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Changing Support for Asylum Seekers: An Analysis of Legislation and Parliamentary Debates

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Abstract

Over the past 15 years asylum seekers have experienced increasingly restrictive policies as regards accessing state support. This paper traces these developments through changes in legislation and regulation, and analyses the political arguments used in the House of Commons by those advocating and those resisting these policies. The arguments are examined in light of the political ideologies of partialism and impartialism to try to understand how and why the relationship between asylum seekers and the state has changed over time. The paper concludes that impartialist arguments have been largely unsuccessful at influencing policy in this political arena partly due to the inherent need of the democratic state to put citizens above outsiders, and rejects the rational model of policy making.

Introduction

Asylum seekers and refugees are unique, being the only group of non-citizens for whom the UK recognises a right of entry to their territory. Other non-citizens can be turned away at the border but, under the Refugee Convention, these people have to be admitted. Before the 1990s, the number of asylum applicants was low and the Cold War ensured there was political capital to be gained in granting refuge, therefore asylum did not cause a problem for the government; asylum seekers enjoyed rights to state support and employment largely on par to those of citizens. However, in the early 1990s the number of applicants rose to high, fluctuating levels and asylum became a major political issue, leading to increasingly restrictionist policies.

There have been six major pieces of legislation on asylum in 15 years, reflecting asylum's priority on the political agenda and in the public eye. These have led to vast changes in the processing, treatment and attitude towards asylum seekers. Unable to turn people away at the borders outright, other policy techniques have been used to reduce the number and costs of asylum seekers. Among others, one of these policy tools has been the reduction of state support for asylum seekers.

Studying these changes is interesting for their social, political, economic and ethical implications, but also because they reflect substantial changes in the relationship between the state and asylum seekers as outsiders. While granting access to the welfare system and employment markets shows welcome and acceptance of

newcomers, the opposite can be inferred from restricting this access.

This paper argues that state support has become more restrictive for asylum seekers and that arguments in the political discourse both for and against these changes have been made along classic partialist and impartialist lines. The analysis of the justifications and counterarguments used in the political theatre of the House of Commons also shows that policy in this area is not the result of reasoned debate based on empirical data, but the outcome of the expounding of ideologies, rhetoric and persuasion. Further, the analysis reveals that impartialist arguments hold little sway in a system biased towards partialist values, and that politics takes precedence over ideology once a party is in power.

This argument is set out by first giving a brief overview of the different schools of thought around the relationship between the state and outsiders, and between the welfare system and asylum seekers in particular. The methodology of the paper is then explained and its drawbacks discussed. The third chapter provides an explanatory chronology of the developments in state support for asylum seekers, exploring the trends and the context in which these came about. The fourth chapter provides the main body of analysis through a discussion of the different themes of arguments used in the House of Commons both by those propounding, and those objecting to, restrictionist policies on support. This is the result of a qualitative analysis of the 90

hours of debate which led to these elements of the asylum Bills being passed onto the statute book. The conclusion considers how the political discourse in the Commons relates to the theoretical positions examined in chapter two.

Ideologies of the State-Outsider Relationship

Fundamentally, debates around levels of support for asylum seekers are in fact debates and negotiations around the obligations of the state towards outsiders, or non-citizens. In order to understand the arguments expressed through this political discourse, one must understand the philosophical positions behind these opinions. This section briefly overviews how the relationship between outsiders and the state is understood by different schools of thought. These range from proponents of open borders who see freedom of movement as a human right, to those who believe that the state has no obligations to anyone other than its citizens within its borders. Roughly they can be divided into universalist, global liberal and impartialist arguments on one side, and partialist or communitarian on the other.

Impartialists

Impartialists believe that people have certain rights based on their humanity alone, and states have obligations to consider these in their policies. States are seen as cosmopolitan, international moral agents, responsible not only for the interests of its own citizens, but also with certain duties towards the wider 'human community' (Gibney 2004, Schuster 2003). Ethically centred around universalist and liberal values, impartialism operates under a rights based framework and the belief that humans are equal. They maintain that citizenship or nationality makes no difference to the obligations between fellow human beings (Joly 1996). They conclude that all people should be granted basic rights, to be respected by all states, including the right to free movement and participation in other societies (Gibney 2004, Meilaender 1999).

At the extreme, impartialist arguments can be taken to advocate completely open borders. In reality, most theorists acknowledge that there are some cases where restrictionist policies are acceptable but maintain that these should only be implemented under certain conditions;

“liberalism has to take seriously the moral claims of people who are outside a political community and want to get in. Exclusion has to be justified. At the most fundamental level, it is never a sufficient justification of a policy to say "this is good for us." We also have to show why we are entitled to pursue this good by the means of or at the cost of excluding others.” (Carens 1999:1083-1084).

Utilitarians, who seek to optimize human utility or achievements at a world level rather than national or community level, reach similar conclusions on rights to free movement and participation in other societies. They maintain that the movement of people from poverty and persecution into richer, more stable countries should be permitted and encouraged, as it increases world human utility. However, they do also take into account the negative impact of more arrivals on existing citizens. Theoretically there is a point where the global utility of allowing people to move into a particular country will be counteracted by the negative utility for the population already there. Under these conditions, utilitarians would argue that restrictionist immigration policies become justified. The difficulty of course is in determining the location of this tipping point and the criteria for assessing it. Given the gross inequalities in wealth and quality of life between states, utilitarians argue there is currently a much stronger argument for opening borders rather than restricting access (Meilaender 1999).

Open borders theory may be largely dismissed as highly unrealistic in the current political climate, but such idealist theorizing does have value for identifying the key values and moral principles which would be adhered to in an 'ideal world'. Carens (1999) argues that these values

and moral rules can still be applied, albeit in a more limited fashion, within the constraints of the real life situation. Thus, there is still a place for universalist principles even in a world divided into states of unequal power and wealth, where states control access to their borders and privilege their own citizens over non-citizens. For instance, even within a highly restrictive system, states are morally not entitled to adopt racist admissions criteria.

“I still think that if we took the principle of equal moral worth seriously, it would dramatically constrain the sorts of considerations that now drive immigration policy and would make borders much more open.” (Carens 1999:1089)

Partialists

In contrast to the views of impartialists, the partialist approach emphasises the importance of the links between the state and its citizens. It holds that states have no obligation to anyone outside their citizenship and are morally justified in prioritizing and privileging their own citizens over outsiders. In fact, this is a core responsibility of the state and vital to its survival (Gibney 2004, Schuster 2003).

At the heart of the partialist argument is the contract between the state and citizen. States offer citizens economic security, a certain standard of living, physical protection and the power of self-determination over their territory. In return, citizens give political loyalty and obedience to agreed laws and norms. Citizens are also bound to each other through the concept of a common national identity, frequently defined in contrast to the ‘other’. States serve to protect and represent this shared identity; a way of life; a culture and distinct people. It is this theoretical state-citizen balanced relationship which gives liberal democratic states strength and stability, and security and freedom to citizens (Bommes and Geddes 2001).

Partialist states are fundamentally closed systems, based on communitarian concepts in which outsiders and foreigners have little

place. Indeed, outsiders are more frequently seen as a threat to be kept away or at least under control. Foreigners may potentially pose a physical threat, but also a social and political threat through their unproven loyalty or willingness to abide by the rules of the society. They may threaten the welfare system if they can access it without having contributed to it, leading to problems for services and social tensions. They can also pose a cultural threat, undermining the ‘way of life’ of the population, diluting the commonalities between citizens and trust between people in the community (Gibney 2004, Banks 2001, Bommes and Geddes 2004).

Partialists consider non-citizens’ lack of ‘previous investment’, and therefore lack of belonging to the state, as sufficient to ethically justify excluding them from territory and society, particularly if they offer no direct advantage to the state through their presence. In contrast to impartialists, partialists argue that exclusion of non-citizens is justifiable simply by the right of communities to self-determination, i.e. the sovereign power of the state over their territory in all matters, including decisions of entry and participation (Carens 1999, Meilaender 1999, Schuster 2003).

Partialists can be criticized for over idealizing the relationship between states and citizens, and over emphasising shared culture in today’s interconnected, multi-cultural world, however states by their nature do lean towards partialism. Democracy ties them to putting the views and interests of their citizens first, at the risk of being unelected. Implementing policies that advantage outsiders is therefore politically risky, particularly in immigration and asylum where levels of immigration are highly variable and unpredictable (Gibney 2004). States in reality are not at the service of global moral values, but are primarily motivated by their own survival and exist precisely to serve those who elected them. Consequently, citizens must therefore always come first.

However, Schuster (2003) and Guiraudon (2001) argue that states are somewhat

constrained in their partialist activities by the impartialist values enshrined in national and international conventions (such as the ECHR and Refugee Convention). In addition, they are also limited by their claim to being *liberal* states, which requires them to live up to certain ethical standards to demonstrate this in practice.

Asylum seekers and the welfare state

Refugees and asylum seekers cause conflict for the state; instinctively partialist with little interest in admitting individuals who may be a burden or threaten security, states still have a legal duty to admit those seeking asylum. However, while refugees have certain social and economic rights assured under the Refugee Convention, asylum seekers have little protection in international law other than entry to the territory; their rights to participation in society and access to the welfare state are not guaranteed and remain under the control of the receiving state.

Importantly, states and societies are made up of more than just their territories; it is the key social institutions, labour markets and welfare systems which really define a country and society (Geddes 2005). Access to the welfare system is therefore not just about services, but also reflects and engenders belongingness, defining who is 'us' and who is 'other'.

Citizens are particularly protective of their welfare systems and want all contributors, and only contributors, to benefit from its vital protection and services (Schuster 2003). They want to protect their system from misuse by undeserving 'scroungers' and 'malingerers' who seek to benefit without contributing (Lund 1999). Some in this 'undeserving' category are fraudulent, deliberately taking advantage of the system, but there are also those deemed *socially* undeserving, even if the regulations give them legitimate access to the system. Asylum seekers are a classic category of the 'socially undeserving', alongside teenage mothers and the long term unemployed (Fekete 2001).

Interestingly, access to the welfare state is not simply 'in' or 'out', but is granted hierarchically, creating clear ranking or 'civic stratification' of individuals, reflecting their proximity to citizenship and full membership of the society (Bloch and Schuster 2002, Morris 2004). Access can also be varied over time through changing entitlement criteria, reflecting changes in the perception of people's belongingness and 'deservedness' to state goods. As discussed later in the paper, this effect can be clearly seen in the case of asylum seekers, and the arguments around the changes also reveal the differences between partialist and impartialist ideologies (Schuster 2003).

Within this discussion, it is important to understand that in the time period analysed, the ideology driving the welfare system itself changed enormously, moving away from the universalist ideals upon which the welfare system was founded post WWII. Most recently, Labour's "third way" changed the system from being concerned with the equal distribution of services and resources, to being a tool for social inclusion and individual advancement (Sales 2002, Lund 1999). Employment in particular is seen as the path to social inclusion and improvement. "Welfare to work" schemes¹ clearly communicate that employment is a mechanism for the 'undeserving' to become 'deserving'. The relationship between the welfare state and citizens is now characterized by the trading of rights to services for duties; 'no rights without obligations' (Lund 1999). This change in ideology has led to a significant restructuring of the public sector and a large increase in budgets. This was matched by tightening criteria for eligibility and the marginalization of 'undeserving' users of the system (Geddes 2001).

The rest of this paper seeks to understand how these conflicting ideologies and pressures are interpreted and used in debate in political discourse and how these

¹ For example, see <http://www.labour.org.uk/welfarereform04> (accessed July 2006).

have contributed to changing patterns of support for asylum seekers in the UK.

Methodology

This paper examines political arguments around changing support for asylum seekers for which the prime source of information is the transcribed debates in the House of Commons, available on the Hansard online at <http://www.parliament.uk/hansard/hansard.cfm>. These debates offer a rich record of political discourse that reveal the differing ideologies of political parties. They show politicians acting in their professional capacity within an institutional setting that is open to scrutiny. Crucially, everything that they say in this environment has to be carefully considered as it is recorded and may be used against them in future. The House of Commons is a unique arena in which political parties openly discuss and reason through their ideological positions and the consequences for policy. As Van Dijk states;

“parliamentary debates are the site where the various ideological forces in society, in the form of the political parties that represent them, are confronting each other in the public sphere.” (Van Dijk 2000, p.217).

The availability, completeness and consistency of this data means that political ideological standpoints can be examined with a historical perspective, analysing the changing social theories of these parties and their members.

The Hansard debates are a well used source of data for researchers (Stewart 2004). Hampshire (2005) made extensive use of the debates to provide historical context to his analysis of demography, race and belonging and immigration policy post WWII. Similarly, Schuster (2003) used debates to complement other sources of data for her book *'The Use and Abuse of Political Asylum in Britain and Germany'*. Van Dijk (2000) used the debates slightly differently, conducting a highly detailed discourse analysis, commenting on how arguments are constructed and

concentrating on the terms and rhetoric used.

This paper's methodology takes inspiration from the work of these researchers although by necessity is much more constrained in scope, concentrating only on the Hansard debates and taking a historical perspective on one element of policy.

Process

In all, over 90 hours of transcribed discussion taking place over 15 years were collected, entailing nearly 15,000 paragraphs and over 1,400 columns of Hansard text.

Relevant debates were identified through using certain key search terms in the Hansard search engine (such as 'asylum', 'bill' and 'immigration'), and working backwards from the date the Bill was passed onto the statute books. The main debates were obvious because they produced multiple hits for the same date. Debates on specific topics, such as the end of the employment concession or certain important regulation changes, were also identified using appropriate search terms.

Once identified, the Hansard text was formatted and imported into the qualitative analysis software programme NUD*IST² (N6). This allows paragraphs of text to be linked or coded to different themes, or 'nodes' which are developed by the researcher. Once coded, all the paragraphs linked to particular nodes can be requested from the programme in various combinations. In addition to reading through the paragraphs grouped by theme, patterns can also be discerned through examining the number of paragraphs coded to different nodes. Although this is not a statistical analysis it can demonstrate changing relevance of themes. The programme also enables word searches in all the documents imported.

The nodes used were either descriptive and analytical. Descriptive nodes were applied to entire documents and included the time period from which the debate originated

² Non-numerical Unstructured Data Indexing Searching and Theorizing

and the type of document it was. The analytical nodes described the themes of interest and were selectively applied to paragraphs of text. These nodes were primarily derived from an initial review of policy analysis and literature on support for asylum seekers. This review has not been written up as a separate chapter in this paper but was an important process which gave focus to the project as well as providing a timeline of the main changes in legislation and policy, their impact on asylum seekers and social agencies, and the main themes of academic argument for and against restrictionist policies (see bibliography for references). In addition to the themes identified through the review, others were added during the analysis as new, unanticipated issues emerged. The analytical nodes used are;

- Entitlement – concentrating on whether asylum seekers were genuine and were ‘deserving’ of state support;
- Ethics or morality – theoretical level arguments around state and personal humanitarian duty, duty to citizens and also wider state responsibility for conflicts;
- Practical/ financial – coping ability or impact of policies on the state and the individual;
- Europe – impact of European situation or policy;
- Legal – influence of international conventions, national law and court decisions;
- Security – threats to state security, especially in relation to terrorism;
- Political – parties using asylum for political point scoring against each other;
- Democratic – public opinion, press and the pressure from voters;
- Social – impact on citizens and society, including national identity, social cohesion, competition for

resources, also negative social impacts of policies;

- Race relations – discussions relating specifically to race and racism;
- Religion – religion as justification for opinions; and
- Legitimising liberalism – relating state policy to the wider values of society, its reputation and moral standing.

The table (Figure 1) appended in Annex 1 shows the number of paragraphs coded to each of these themes for each legislative time period.

The results in this table provided the guidance for the next stage of analysis, highlighting the most talked about issues and changes in their popularity across time.

Although this methodology was time consuming and resource intensive, requiring text to be read through several times, the body of coded text has been a powerful tool from which to develop findings, rearrange the data, verify and triangulate conclusions and map out specific issues through time. It is also very useful for auditing conclusions and tracing particular pieces of text. It has proved flexible and can be adapted to different themes and information sources, but also offers a user friendly structure around which to manage large volumes of qualitative data.

Methodological Drawbacks and the Process of Legislation

There have been a number of drawbacks in this methodology both at a practical and theoretical level.

On a practical level, the volume of information available in the Hansard means significant filtering was required (Stewart 2004). In this project the data was narrowed down to the Commons debates only, excluding the Standing Committees and House of Lords. This choice was made because not all legislation was debated in standing committee and because the publicly elected Commons would show

political allegiances and public opinion most clearly.

Secondly, the timetable and agenda of the debates were clearly not under the power of the researcher. Therefore, the issues discussed were not always those of most interest to the research and sometimes left questions unanswered. On one level this is a practical issue which the research had to deal with, however it also reflects an issue with the theoretical understanding of policy making itself and the relation to the debates in parliament. As the research project progressed, it became clear that the debates themselves did not always bear close relation to the legislation emerging at the end, demonstrating just how much of policy is decided, agreed and prescribed outside the scrutiny of the elected House.

The main problems affecting the potential for proper debates and scrutiny appeared to be: the lack of implementation detail in the legislation itself; the timetabling of the debates; the lack of political opposition or questioning of the Bills from the Conservatives once Labour are in power; and the power of the party Whips to control MP voting patterns.

Debates on legislation are often unable to examine policy proposals in depth because many clauses are worded such as to give wide powers to the Secretary of State which could be applied in a variety of ways to a variety of people. The details of the implementation of the clauses are frequently decided through regulation changes, statutory provisions and secondary legislation, which are not debated as publicly as the main Bills, if at all.

Mr Straw:

“This enabling, blank-cheque Bill gives the Secretary of State wide and ill-defined powers to use in regulations. It cries out for proper scrutiny and, so long as Ministers resist that, suspicions will be raised about the real motives behind it.” (Hansard, 11 December 1995: Column 723)

The way Bills are timetabled and amendments are made further undermines the power of the Commons to scrutinise and impact of a policy. Sometimes there is very little time for anyone to read the proposals, or debate them properly. Contrarily, some issues which seem of lesser importance are debated for hours.

Mr Gerrard (Walthamstow, Labour)

“I take a rather cynical view of the length of time that we have spent on the question of accommodation centres. I do not consider it an unimportant question,[...but...] it is a pity that we have spent so long on what is not the most important part of the Bill. The other evening, not a single Back Bencher was able to speak on the vital issue of cutting off support to, potentially, thousands of asylum seekers, because of the way in which the timetable operated.” (Hansard, 7 Nov 2002: Column 460).

The level of agreement between the two main parties once the Labour party came to power also significantly impacted on the debates and the way ideologies were expressed within them. While the Conservatives were in power their provisions to reduce access to state benefits and housing were severely criticised by the Labour front bench, leading to hours of debating on the Bills' proposals. However, after the change of parties in power, a broad consensus developed on asylum and Labour introduced policies that were as, or more, restrictive than the Conservatives' policies, leading Bloch (2000) to comment that the election of a centre left government in the UK had little impact on asylum policy. The role of opposition to restrictionist policies was at this time left to a few interested backbenchers, changing the nature of the debates, reducing discussion on basic ideological differences. These later debates were therefore not as rich in data for this analysis as the earlier ones when the Conservatives were in power.

Lastly, the power of the party whip means that the voting patterns of MPs do not necessarily match the discussion which has

gone on beforehand. As Annabelle Ewing (Scottish National Party) stated in a debate of the 2004 Act, concerning Clause 9;

“The Under-Secretary has heard every speech tonight, and every speech has been critical. I hope that he has been listening; he has said nothing yet. I look forward to hearing what he has to say, but he must accept that when every hon. Member makes such negative comments in a debate about his clause, surely the Government must think again”. (Hansard, 1 Mar 2004 : Column 694).

However the Bill was passed through this stage of the legislative process with the House divided: Ayes 304, Noes 65.

In conclusion, one of the early findings from the research, is that the discussions in the House of Commons are sometimes not as influential in the making of policy as might be assumed. This finding leads to a new understanding about the process of policy making and the role of debates, but does not undermine the methodology of the research. Even if the link between policy outcomes and the discussions in the commons are not as close as first expected, the parliamentary debates remain the public arena in which politicians explain their opinions and actions. They are therefore a valid source of information for gaining insight into the reasoning behind changing levels of support for asylum seekers.

Trends in Asylum Support

There have been six major pieces of legislation around asylum in the last 15 years although previously, there had not been any since the 1905 Aliens Act (Zetter et al 2003). This flurry of Bills delineates a time period within which the rights of asylum seekers to access the welfare state changed substantially, with increasingly restrictive steps being taken at each legislative stage. In 2006, asylum seekers in the UK without independent means of support are eligible for much less state

support compared to in the early 1990s³. This section chronicles the content of the legislation and major regulation changes, setting out the context within which these were developed and the main areas of controversy and debate.

Up until the end of the 1980s the number of asylum seekers in the UK was low and constant with about 5,000 applications a year. Asylum seekers were able to claim similar cash benefits as the general population, including emergency income support at 90%, and were entitled to permanent local authority accommodation (Sales 2002). Asylum seekers were also entitled to seek paid employment six months after making their claim.

However, with the end of the Cold War and conflicts in the Horn of Africa the number of asylum applications increased to 11,640 in 1989, 26,205 in 1990, and 44,840 in 1991 (Woodbridge, Burgum and Heath 2000, Schuster 2003), raising fears of increasingly large and uncontrollable numbers of people coming to the UK seeking refuge (see Figure 2). Simultaneously the UK entered an economic recession and period of high unemployment prompting cuts in public spending and a crackdown on benefit fraud throughout the system (Schuster 2003). Within this context the Immigration and Asylum Appeals Bill was introduced to parliament in late 1991, with a general election due in April 1992.

The 1993 Act concentrated on the appeals process and introduced fingerprinting of applicants, including children, to help prevent multiple fraudulent claims. It also contained a provision to withdraw the right to local authority housing for anyone with “*any accommodation, however temporary*” (Article 4(1b)). Significantly, this marks the first time that asylum seekers are specifically separated from the rest of the

³ Just as citizens do, to qualify for support asylum seekers must always show that they have no other sources of support or income. However while citizens are free and encouraged to find employment, asylum seekers are explicitly banned from employment for at least six months and therefore are trapped on benefits until their cases are decided.

population with the same level of need. As Mr Watson (Labour MP for Glasgow Central) explained, this was also a first for homelessness legislation;

“The introduction of this [housing] provision marks the first occasion since the introduction of legislation on homelessness on which a particular group of people has been singled out for the application of a lower level of rights than is enjoyed by anyone else in the country. It treats all asylum seekers as a guilty group. It requires them to prove their innocence before they can have a roof over their heads.” (Hansard, Column 257, 21 January 1992)

The passage of this Bill was interrupted by the general election, and the debates were characterised by frequent political point-scoring between the two main parties. During long and involved debates the Conservatives claimed to be upholding race relations in the UK and accused the opposition of being out of touch with the realities about asylum. The Labour opposition used strong ethical arguments against the implementation of the proposals claiming that it associated asylum seekers with criminality and was also inherently racist.

Three years later, the Asylum and Immigration Act 1996 was passed; the last under a Tory government. As shown in Figure 2, appended in Annex 1, the number of applicants had fallen from a peak of nearly 45,000 in 1991, to 24,605 in 1992, and even fewer in 1993, but the application levels rose once again in 1994 and 1995 due to the violent conflict in former Yugoslavia. The increase in applications was not matched by an increase in decision making capacity resulting in a backlog of applications, leaving thousands of people in limbo and creating large benefits and housing costs. When introducing the Bill to Parliament, Michael Howard stated;

“The population of asylum applicants has now reached 75,000. The annual cost in benefit alone is more than £200 million.” (Hansard, 20 November 1995: Column 336)

The 1996 Bill primarily aimed to speed up procedures through the designated ‘white list’ of safe countries, removing the right of appeal to removal to a safe third country and attempting to reduce arrivals by introducing new criminal offences for asylum seekers attempting to enter by deception. It also introduced important changes for asylum seekers’ support with two aims; reduce the financial burden on the state of applicants, and create a disincentive for people to claim asylum fraudulently for the sake of benefits.

To achieve these aims, the act reduced the number of benefits that asylum seekers were eligible for and also reduced the number of asylum seekers who were entitled to benefits at all. Sections 10 and 11 enabled regulations to be passed to exclude all asylum seekers from job seekers allowance, income support, housing benefit, child benefit and council tax benefit⁴. Asylum seekers were also withdrawn from local authority housing lists. Secondly, the Act withdrew all benefits for asylum seekers who applied in-country and those on appeal. Thus, only applicants who applied at port were now eligible for any support from the government. Mr Lilley, speaking on behalf of the Conservative government reasoned that;

“...anyone who claims at the port will get benefit. Those who do not must have convinced the immigration authorities that they have the means to support themselves in this country. It is reasonable to hold them to that assurance. They have given it, and demonstrated that they are not asylum seekers but business men, tourists or students.” (Hansard, 15 July 1996: Column 843).

Without access to housing support or benefits, many people became destitute

⁴ Although this gave the power to remove all these benefits through regulations not all were removed from everyone straight away. These clauses were introduced late into the Bill as attempts to remove these benefits through regulation changes earlier in 1996 (through the Social Security (Persons from Abroad) Miscellaneous Amendments Regulations 1996 SI 1996/30) was ruled *ultra vires* in the court of appeal. Benefits were temporarily restored until the 1996 Act was passed into law.

and had to rely on soup kitchens and charities. Following a legal challenge, local authorities were obligated to support destitute asylum seekers under the National Assistance Act of 1948. Families and unaccompanied children were also able to claim support under the Children's Act 1989. However this support was reported to be patchy and chaotic, with each area providing different levels and type of support including food vouchers, meals on wheels or cash assistance (Oxfam 2000). The real impact of the Act was therefore to move the duty of support to local authorities throughout the country. The majority of the cases and costs fell to London, Kent and the South East, impacting on council tax and council budgets.

The Labour government was elected in 1997 and immediately initiated a review of asylum procedures in the UK. The resulting strategy "*Fairer, Faster, Firmer – a Modern Approach to Immigration and Asylum*", was published shortly after the Human Rights Act was written into UK law in 1998. This set out to "*create new support arrangements to ensure that asylum seekers are not left destitute, minimise the incentive to economic migration, remove access to Social Security benefits, minimise cash payments and reduce the burden on local authorities*" (Home Office, 1998). Implemented through the 1999 Immigration and Asylum Act, this introduced complete reform of the support system for asylum seekers, although not in the direction that would have been predicted from Labour's arguments while in opposition.

The Act created the National Asylum Support Service (NASS); a central national system of support solely for asylum seekers running in parallel to the mainstream benefits system and funded through national taxation. When it was first introduced in April 2000, the support received by asylum seekers included accommodation on a no-choice basis, 70% of income support provided through vouchers redeemable only at certain shops, and an additional £10 cash allowance. This

level of support applied to all asylum seekers who had no other means of support, regardless of whether they applied in-country or at port. A dispersal scheme was simultaneously introduced to reduce the pressure on the South East by moving people to where accommodation was available throughout England, Scotland and Wales.

The decrease in the value of the support is significant. Income support is calculated to ensure that people are not living below the poverty line; however asylum seekers were now receiving only 70% of this level; by definition living in poverty.

While the recognition of the right to support for all asylum seekers, regardless of where they applied, was welcomed by campaigners and refugee organisations, vouchers were fiercely opposed. Previous experience of vouchers had shown them to be stigmatizing, inefficient and expensive both for government administration and for users. They exclude people from normal day to day activities by effectively barring people from participating in the cash economy. Asylum seekers were excluded from shopping in all but a few nominated shops (usually large supermarkets which do not offer best value for money compared to markets or charity shops), were unable to get change from the vouchers and were unable to take public transport or participate in activities that required payment. This economic and social disadvantage was compounded by the concentration of dispersal areas in deprived wards.

These problems were indeed recognized by the government when it abolished the voucher scheme and returned to the use of cash (still at 70% of income support) in early Autumn 2002 (Home Office 2001). While this was a positive development for asylum seekers, at about the same time, their rights to employment were further curtailed.

Previously, asylum seekers could apply to IND for permission to work in the UK if they had not received an initial decision within six months of applying for asylum. This

concession ended in July 2002, after which time new asylum seekers were unable to undertake any form of paid or unpaid employment, unless they had been granted permission by the Home Office in exceptional compassionate circumstances. This change in practice was largely due to the ongoing development of the European common asylum process, in particular the Amsterdam Treaty which contained the agreement to develop common minimum standards on the reception of asylum seekers in member states (Article 63, 1b)⁵. The negotiations on these standards developed into a negative spiral of finding the lowest common denominator (Bloch and Schuster 2002). States adopted the most restrictive standards to avoid presenting a 'soft' option for asylum seekers to 'choose' to come to their country. Thus, the UK adopted the most restrictive employment standard possible, several years earlier than it had to.

The government justified this change saying that the application procedure had been speeded up and most people were not now waiting for longer than six months meaning the concession was increasingly "*irrelevant*" (Beverley Hughes, Hansard 23 July 2002 :Column 1042W). Indeed, as can be seen from Figure 2, the processing of applications had been speeded up significantly and by 2002 the backlog of cases was much reduced. However, this change still impacted on those waiting for more than six months, inevitably remaining on benefits until their case was decided.

The next piece of legislation on asylum, the Nationality, Immigration and Asylum Act was passed in 2002 and implemented the strategy "*Secure Borders, Safe Havens: Integration with Diversity in Modern Britain*" (Home Office 2002). This marked a change in government policy from concentrating on speeding up the processing of claims, to improving the removal rates of failed asylum seekers. The processing of claims was by now much faster and exceeded applications despite large increases; there

were around 307,000 applications in the three year period between 1999 and 2002, and 340,000 decisions. As explained in the strategy, the increase in removals was to be achieved through increased monitoring, control and enforcement of deportations when the end of the asylum process was reached;

"The key principles underpinning our reforms are that asylum seekers are both supported and tracked through the system in a process of induction, accommodation and reporting and fast-track removal or integration." (Home Office 2002, p.14)

The Act introduced a number of measures where asylum seekers' support also acted as a tool for controlling their movements and facilitating their removal. This included reception centres for asylum seekers, envisaged to be open centres of varying sizes (between 200 and 3000 places were suggested) with all the necessary services and facilities on site. The philosophy behind this was "*separate but equal*". Controversially this initially included children's education although this was reversed after many hours of discussion in the Commons and Lords (Hansard, 24th March 2002, Column 354).

Although much debated, these centres were never implemented. Other clauses within the Act which were implemented but received less attention included the return of differentiation between asylum seekers through the process of their application (Section 55) and the further removal of benefits from failed asylum seekers (Section 54). Neither of these were fully debated at the time however they had a substantial impact on asylum seekers.

Section 54 prevented local authorities from providing support, including under the National Assistance Act and the Children's Act, to a variety of groups including failed asylum seekers who refused to co-operate with removal directions. People refused asylum were therefore not entitled to any support, in order to encourage them to leave voluntarily.

⁵ The change was formalised in 2005 as part of the EU Directive 2003/9/EC which lays down minimum standards for the reception of asylum seekers.

Section 55 denied access to NASS to applicants who did not apply “as soon as reasonably practical”, effectively denying support to in-country applicants (Clause 55(1b)). In practice it meant people who delayed applying for 24 hours or more after arriving in the country were left destitute, without permission to work or access to any state accommodation and support. There have been a number of legal challenges to section 55 under the European Convention of Human Rights article 3 which prohibits inhuman and degrading treatment. While the challenges have failed to overturn section 55 as a policy, they resulted in severe criticism of Home Office processes, and overturned decisions for certain cases (Refugee Council 2003). The rules were later changed to allow applicants three days to apply and still qualify for NASS support.

Only a year after the 2002 Act, the Asylum and Immigration (Treatment of Claimants etc.) Bill was introduced to parliament. It was passed in 2004. This was a large bill with 50 sections to which the government introduced many last minute amendments. The Act was almost twice as long as the Bill originally published. The Act introduced a number of changes that restricted support for asylum seekers, namely;

- Section 9: enabling the withdrawal of support from families whose claim for asylum has been rejected where the family has failed to take reasonable steps to leave the UK voluntarily. One potential outcome is that children are taken into care if their family does not leave the country because their parents do not have any means to support them;
- Section 10: amends Section 4 of the Immigration and Asylum Act 1999 (which provides hard case support for those who have failed in their cases but cannot be removed for reasons beyond their control) so that the provision of support is subject to conditions being met, including a requirement to perform community activities; and

- Section 12: removes any entitlement to back payments of benefits to those granted refugee status. Previously refugees could claim the difference between full income support and the lower level of benefits they had received as an asylum seeker. This was to be replaced with an integration loan (section 13).

This Act introduced new elements into the relationship between asylum seekers and the welfare state. Its provisions further enabled the use of welfare as a tool to influence people’s behaviour as regards leaving the country. While low levels of benefits and a lack of employment rights had long been considered a tool to discourage fraudulent applications (although the evidence for this being effective is debatable) this Act threatened to split up families and take children into care if they did not leave. This appears to break new ground and raised many questions and objections on ethical grounds from MPs in the Commons.

Mr. Hilton Dawson (Lancaster and Wyre, Labour):

“Clause [9] is so wrong in what it intends to do that it should be opposed by every hon. Member from every party in this House. The presence of the clause in the Bill demeans all of us here.” (Hansard, 17 December 2003, Column 1617).

Secondly, the Act introduced the prospect of people working in return for their benefits. It may be reasonable to argue that people should not receive support for nothing, especially if they have no right to be in the country, but this principle is not applied to other categories of welfare recipients and constitutes a further example of asylum seekers being differentiated from the rest of the population.

Lastly, the withdrawal of backdated benefits is significant because it marks a change in government attitude to refugees. Originally these back payments were introduced in recognition that the low levels of benefits designed to be a disincentive to fraudulent

applicants, but were not aimed at genuine refugees. Removing them therefore sent the signal that asylum seekers are not entitled to full access to the welfare state, regardless of the quality of their claim, and that disincentives apply to genuine applicants as well as unfounded ones. The removal of backdated benefits, which could be several thousand pounds if they had a long case, will have significant impact on refugees as this lump sum usually enables them to pay off debts accumulated as an asylum seeker, and give them some capital for a landlord's deposit when they move out of NASS accommodation⁶.

Only a year after the 2004 Act was passed onto the statute book, and with asylum applications at their lowest since 1997, another asylum Bill was introduced to parliament, to become the Asylum and Immigration Act 2006. This Bill implemented the five year strategy "*Controlling our Borders: Making Migration Work for Britain*" (Home Office 2005) and concentrated mostly on labour migration. However it did contain the provision to stop granting indefinite leave to remain for refugees and only give refugee status for five years. It also contained provisions to make 'section 4' support (hard case support for failed asylum seekers who cannot leave the country) more widely available. However while this could previously be given in cash, it was now only available in vouchers.

Thus, in only 15 years, asylum seekers have moved from being entitled to housing and benefits almost on par with citizens to being denied at various points in time;

- permanent accommodation;
- any accommodation if they have any alternative no matter how temporary;
- choice of accommodation and area of residence (leading many to decide to forego this and sleep on friends' floors)

- any accommodation at all if they did not apply at port or within a 'reasonable' period;
- the right to employment after more than six months of waiting for their case decision;
- full income benefit (with the proportion reducing from 90% to 70% of the recognised poverty line);
- access to child benefit, job seekers benefit, housing benefit and council tax benefit; and
- access to the cash economy, because of vouchers.

Recognised refugees have lost their backdated benefits and by proxy the tacit understanding that they were not the target of restrictive measures described as deterrents for fraudulent cases. Failed asylum seekers have had all benefits and support taken away in an effort to make them leave the country, and families have been further threatened that their children will be taken into care to persuade them to return to their own countries.

The chronology of legislative and regulation changes on asylum support demonstrates the increasing restrictiveness of policies allowing asylum seekers to access the welfare system. Since the legislative wave began in 1993 the policy proposals have introduced;

- blanket punitive measures that affect genuine and unfounded applicants alike;
- measures that separate asylum seekers as a group from the rest of the population socially, economically and physically; and
- measures that divide asylum seekers into subcategories of the 'deserving' and 'undeserving' purely on characteristics of their application process rather than the legitimacy of the claim itself.

Some of these measures, notably vouchers and the in-country and port differentiation have been adopted, rejected and restored

⁶ Personal communication with refugee integration caseworkers.

in a circular pattern of legislation. While in opposition, the Labour party argued against the restrictive measures and the separation of asylum seekers from the main population;

Mr Hattersley (Deputy Leader, Labour):

“We believe that once an asylum seeker is allowed to enter the country, he or she should be treated like any other resident—no better, no worse. Housing authorities should treat every applicant according to need.” (Hansard, 13 November 1991, Column 1104)

However, once in power they adopted measures which went further than the Conservatives had ever tabled.

The changes implemented through the legislation and regulations reflect important developments in how asylum seekers are perceived and attitudes towards their rights to access the welfare state. The next part of this paper examines the political discourse surrounding these developments in an effort to understand the ideological and contextual changes which led to increasingly restrictionist policies being considered acceptable, desirable and necessary.

Patterns of Political Discourse in Debates

In the 90 hours of debate analysed, a great variety of arguments were used both advocating and arguing against more restrictionist policies for supporting asylum seekers. Some arguments appeared constantly throughout the 15 years of discussions, while others were more time specific, prompted by particular proposals or circumstances.

A key turning point in the overall tone, length and content of the debates was the changeover of power between the main two political parties. While in opposition, Labour fiercely criticised the restrictive nature of the Conservative’s Bills. The debates around these were long and involved, with the two parties in conflict about the basic premises underlying the proposed legislation. This led to very explicit discussion from both sides of why the proposals were or were not considered

justifiable. However, once in power, Labour legislated along the same vein as the Conservatives before them, implementing more restrictive measures for asylum seekers. This new level of consensus between the parties reduced the explicitness of reasoning behind the legislative developments. As Peter Lilley (Conservative MP for Hitchin and Harpenden) stated in relation to the Labour strategy “*Fairer, Faster and Firmer*”;

“There is a limit and there are perfectly legitimate concerns about [...] the impact that large numbers of people can have on the fabric of society, the environment, housing and so on. If there were no such problems resulting from numbers and speed of inflow, there would be no rationale for the Bill, so implicitly we all recognise that those are the intrinsic problems.” (Hansard, 24 April 2002, Column 378).

Thus, opposition to the legislation after 1997 was almost exclusively left to individual backbenchers, changing the dynamics of the debates. In particular there was much less outright political point scoring between the parties (identified 16 and 11 times in the 1993 and 1996 debates respectively, but only 9 times in total in the debates once Labour were in power).

Although varying through time, there was still significant and interesting debate throughout the period analysed, with the common theme throughout the arguments on both sides being protection.

There were discussions across the floor of the House on the protection of race relations and social cohesion, of protecting humanitarian principles and the rights of citizens, of protecting the capacity of the welfare state and the duty of care, of protecting social inclusion and liberal democratic values, and of protecting the integrity of the immigration system and international conventions. All sides argued that their proposals or objections were in the name of protecting something important to society, but differed in what

they are protecting, and what they are protecting it *from*.

Protection from what?

Those advocating a restrictionist stance argue that they aim to protect society from the high numbers of asylum applicants and the associated social and economic costs. Core to this is the belief that many or most asylum applications are unfounded.

At the beginning of most debates, and in all the government strategies, there are strongly worded assurances of continuing commitment to the Refugee Convention and to protecting the rights and lives of refugees. However, these are usually directly partnered with a statement presenting asylum seekers as fraudulent and abusing the system; something that society is to be protected from. A typical example is the beginning of the debate on the 1993 Act by Kenneth Baker, Conservative Home Secretary;

“We accept our obligations under the Geneva Convention and intend to honour them in full. The purpose of the Bill is to enable us to discharge those obligations as efficiently and speedily as possible, first, in order to ensure that genuine refugees are not returned to countries where they may face persecution and, secondly, to curb misuse of the asylum process by people who are not genuine refugees.” (Hansard, 11th January 1993, Column 638)

This issue of ‘genuineness’ of applicants is at the heart of the debate on support for asylum seekers; refugees are recognised as a category of people that the state has a duty to support, yet the rights of asylum seekers remain a matter of some controversy and dispute. The perception that some people within this category are ‘undeserving’ heavily impacts on the legislation content, but crucially, there is disagreement on the proportion of people who are ‘undeserving’, how to identify them or how best to reduce their cost to the state.

The debates leading up to the 1993 and 1996 Acts were particularly formative for

this perception of the undeserving asylum seeker arriving to exploit the benefit system.

Mr Evans, Conservative MP for Welwyn Hatfield :

“...they want to get to Britain because we give them money to do nothing. That is what they come here for. They come in, go up to the social security and collect the money – no problem” (Hansard, 13th November 1991, Column 1114).

However during these debates there was obvious confusion over who exactly these ‘bogus’ applicants were and how many there were. Proponents of restrictionist policies showed how the system was being exploited with anecdotes about people making multiple claims or clearly unfounded applications, and statistics to show how small a percentage of people were granted refugee status. However those opposing the Bills also had their own anecdotes about genuine cases and statistics showing that a majority of people were in fact allowed to stay, suggesting the problem was much smaller than claimed. As a result, any impartial analyst listening to the debates would be unable to make an informed decision as to whether the policies being proposed were sensible or proportionate. For example, in the same debate it was said;

Mr Kenneth Baker (Conservative Home Secretary):

“...It is clear that many people are now using asylum claims as a means of evading immigration control. As numbers rise, a decreasing proportion are found to qualify for refugee status. In 1980, in the United Kingdom, 64 per cent. of claimants were recognised as refugees. Last year, the figure was about 25 per cent. In Germany, it was less than 5 per cent.” (Hansard, 13th November 1991, Column 1086)

Mr. Elliot Morley (Glanford and Scunthorpe, Labour):

“...Even the Government's figures show that those granted leave to remain and those allowed to stay because of exceptional circumstances account for

nearly 90 per cent of the applications last year. Therefore, only 10 per cent were considered unreasonable, and that is not a large proportion.” (Hansard, 13th November 1991, Column 1159)

The disagreement arose from whether all cases failing to receive refugee status were to be considered fraudulent, even if they were given lesser forms of protection such as Exceptional Leave to Remain (ELR). In opposition Labour objected to the pejorative labelling of all these people as ‘bogus’, and claimed that the government was using asylum as a political tool, stirring up the feelings of voters in the lead up to elections.

Mr Allen (Nottingham North, Labour):

“The only bogus part of the debates in Committee was the Conservatives’ attempt to paint every individual who seeks refuge and succour in our land as some sort of social security scrounger” (Hansard, 13 November 1991: Column 646)

After the change of government in 1997 there was a distinct move away from the terminology “*bogus*”, which was used 53 times in the 1993 Act debates, 122 times in the 1996 Act debates, but only 19 times between 1997 and 1999 and in later debates was used exclusively in reference to bogus colleges or marriages.

Entitlement and legitimacy generally were discussed far less in later debates, being mentioned in 65 and 78 paragraphs in the 1993 and 1996 debates respectively, but only in 28 paragraphs in 1999, 5 in 2002 and 31 leading up to 2004 (see figure 1). Yet this lack of discussion should not be taken to mean that it is no longer important, rather it reflects the new state of consensus between the two main parties, both accepting the premise that many or most asylum seekers are fraudulent or unfounded, and that it is justifiable to treat them differently from the rest of the population. This change in attitude from the Labour government can be seen in their first strategy on asylum in 1999, in which Jack Straw stated in the preface;

“... there is no doubt that large numbers of economic migrants are abusing the system by claiming asylum.” (Home Office 1999).

This change did not go unnoticed in the Commons;

Mr. Allan (Liberal Democrat MP for Sheffield, Hallam):

“I want to tease the Home Secretary [Jack Straw] to put something on the record. He went from one extreme to the other by saying that all asylum seekers' claims are founded, and then that 70 per cent. are unfounded, and seemed to imply that they were all [...] setting out to be deliberately abusive. That is a dangerous characterisation, and I do not think that he has the evidence to support it. Some asylum seekers will be cynical abusers, but many others are sad and desperate people whose claims simply do not meet the 1951 convention criteria.” (Hansard, 16 June 1999 : Column 470)

Others also challenged this perception of asylum seekers as fraudulent and asked for the evidence to back up the claim, but this was not forthcoming. Given it is such an important pillar for government policy this premise is worth exploring in a little more detail. The lack of empirical backup is significant, particularly given the Home Office’s own research undermines the link between access to benefits and fraudulent claims. This is reliant on a theory of migration in which people make rational, informed choices about where they go to seek asylum. Yet Home Office research found that many asylum seekers had no choice on which country they came to but were ‘channelled’ by trafficking agents. Those that could choose made this choice based on whether they had relatives or friends here; their belief that the UK is a safe, tolerant and democratic country; previous links between their own country and the UK including colonialism; and their ability to speak English or desire to learn it. The research concluded:

“There was very little evidence that the sample respondents had a detailed

knowledge of: UK immigration or asylum procedures; entitlements to benefits in the UK; or the availability of work in the UK. There was even less evidence that the respondents had a comparative knowledge of how these phenomena varied between different European countries. Most of the respondents wished to work and support themselves during the determination of their asylum claim rather than be dependent on the state.” (Robinson and Segrott 2002, p.viii)

Other research has shown that the fluctuating pattern of applications is more closely linked to conflicts occurring at that time across the world, rather than any change in benefits policy as would be expected if the majority of claimants did come for benefits (e.g. Collyer 2004). Neither did Home Office statistics back up their policy rationale;

Mr Neil Gerrard (Labour MP, Walthamstow):

“It becomes absolutely clear when one examines the figures that there is no hard evidence to back up the simplistic claim that cash benefits act as a draw. The fact is that the statistics have never been analysed. I have not seen the slightest analysis of the figures from the Immigration and Nationality Directorate to back up the claim”. (Hansard, 16 June 1999: Column 424)

Bearing the evidence base in mind, the high level of acceptance of the construction of the asylum seeker as a threat for society who fraudulently seeks to take advantage of the system is very significant. At first contested, but later accepted by Labour, this image was extremely influential on the legislation and was magnified by fears of increasing, unpredictable and uncontrollable numbers of people making their way to Britain, in particular as the level of claims increased (see figure 2). Even if lacking in actual evidence to support it, this was the threat, both in the present and of unknown scale in the future, which MPs argued society and the public needed protection from, and which provided the

justification for restrictive policies towards asylum seekers.

Protection of what?

Fundamentally both those arguing for and against restrictionism are seeking to protect a way of life within the country, but their priorities of what to protect most, and at what cost, vary considerably. Those arguing for restrictionist policies argue they are protecting the goods of the state and society, especially the welfare system. Those arguing against these policies mainly seek to protect the values of a liberal democratic society and progress of the social policy agenda.

Jobs, Homes and Taxes

A major argument used in the debates is that asylum seekers put unsustainable demands on state resources in terms of housing, welfare services and employment⁷. The welfare system is a finite resource based on a closed system of inputs and outputs, therefore the presence and resource use of asylum seekers impacts on citizens both as users and contributors to the system. Citizens feel aggrieved if they cannot access the services they want, yet see outsiders who have not had any input into the welfare system receiving goods from the state. Many MPs argue that the UK is a small, overpopulated island with already large demands on its welfare services and limited capacity to accept more needy people.

This is a valid argument to some extent, and was particularly salient before 1999 and the implementation of the dispersal programme. At this time asylum seekers were concentrated in certain areas, namely London and the South East, which suffered a disproportionate burden of support⁸. This was aggravated by the 1996 Act which denied support to in-country applicants,

⁷ Although employment was not an issue once asylum seekers' employment rights were rescinded.

⁸ Central government did reimburse councils some of the costs of supporting asylum seekers, however this was insufficient to cover all the costs and did not compensate for the reduction in capacity for the other service users caused by the influx of additional people.

resulting in local authorities becoming wholly responsible for them under the National Assistance and Children's Acts. This unfairly led to the cost of a national problem being passed onto the local tax payers and services users with tangible consequences. As Mr Yeo (Conservative MP for South Suffolk) stated;

"... the absolute numbers, while disturbing, are not the overriding problem. The real problem is that those asylum seekers impose a disproportionate burden on certain local authorities, particularly in London, because asylum seekers tend to concentrate either at the point of arrival or in areas where there is a refugee community already established. Some local authorities are having to accept a duty to secure housing for 250 or more asylum-seeker households a year. That exacerbates existing housing pressures and means that local people on waiting lists will have an even longer wait for permanent housing." (Hansard, 21 January 1992, Column 262)

Similarly, Sir John Wheeler (Conservative MP for North Westminster) stated;

"In the City of Westminster there has been a tenfold increase in the number of asylum seekers wanting homeless person's accommodation in the past three years. My authority is no longer able to house those people, nor is it able to rehouse people living in the city who have a long-standing connection with it, so something has to be done." (Hansard, 2 November 1992, Column 26).

MPs emphasised the government's duty to the tax payer was ensure that social funds are used appropriately, especially as these pressures were occurring at a time of economic recession, shrinking social housing stocks and cuts in the welfare state. Asylum seekers at this time were still able to work after six months, therefore there was an additional pressure of competition for employment. The situations in some areas led MPs to question of how much citizens should have to sacrifice for the sake of outsiders. Mr. Terry Dicks (Hayes

and Harlington MP, Conservative) summed up the feeling of the time;

"When we allow people into the country, be they middle class or poor, we must not run away with the idea of helping them. If such people are not genuine asylum seekers we must take action to protect the rest of the community, including the ethnic minorities, from them. Many hon. Members have spoken about the pressures on our social services and educational and housing provision. The current employment situation is not conducive to allowing in more people to seek work. Often there is no such work to be had, but if there is, the asylum seekers should not take it at the expense of people already here." (Hansard, 13th November 1991, Column 1148)

Once the dispersal programme and NASS were introduced, and employment restrictions were implemented, this argument was used less vehemently as individual MPs did not feel that their constituencies were suffering disproportionately to the rest of the country. The burden of asylum seekers on taxes, accommodation, health services and social services was still used as an argument but referred to national costs as opposed to the situations in specific areas.

When arguments around the cost to citizens were used it was noticeable that many debaters were careful to explicitly include ethnic minorities within the category to be protected from the new arrivals, in order to demonstrate that this was a matter of social protection of the existing population, not of race. It was also frequently mentioned how the pressures also affected 'genuine refugees' who were unable to access services they were legitimately entitled to, and for whom the process of applying for asylum was slowed down by the large number of unfounded cases. Van Dijk (2000) also found this technique to be widely used and called it the 'disclaimer', allowing the speaker to emphasise that they cannot possibly be racist, because they support helping 'real'

refugees, allowing them to then focus on the 'bad' immigrants.

While sometimes this was clearly being used as a debating and rhetoric technique, there were also occasions where there was indeed a demonstrable impact on refugees caused by high numbers of applications and their costs to the state. For instance in 1992, 150 people from Bosnia were brought to Ealing as refugees but had to be refused because London boroughs' sharing scheme had broken down and the refugees could not be housed (Hansard, 2nd November 1992, Column 25). This case illustrates the argument repeatedly made, that restrictive measures on asylum were for the benefit of genuine refugees (although those arguing against the policies point out how these same measures equally affect 'genuine' refugees as well as unfounded applicants).

While the economic and social costs of asylum seekers are not to be underestimated there is also an element of overstating their impact and of using asylum seekers as scapegoats for underlying problems. Several speakers, mainly Labour, pointed out in the 1993 and 1996 debates that the recession and high unemployment could not be blamed on the asylum seekers, and the shortage of social housing was mainly due to the building programmes having ground to a standstill and the introduction of right to buy, rather than an increase of asylum applicants.

Mr Ainsworth (North East Coventry, Labour)

"The hon. Member for Gravesham (Mr. Arnold) blamed asylum seekers for the housing waiting list. Other Conservative Members blamed asylum seekers for unemployment. I do not know when a council house was last built in that borough or how many council houses have been built in that borough in recent years. The lack of council housing is a massive problem, compared with the size of this problem. It is disgraceful to put the blame for the lack of council housing on to asylum seekers. " (Hansard, 2nd November 1992, Column 74).

Those opposing restrictionist policies also argued that the cost of the asylum system was mostly due to the long delays in processing which left asylum seekers on benefits for years rather than the actual number of applications or level of benefits they could access. Also, they pointed out that while the costs of supporting asylum seekers may seem high, they remain only a small proportion of the total social security budget.

Mr Alton (MP for Liverpool, Mossley Hill, Liberal Democrat)

"Another awkward fact is that far from making unreasonable demands on our national security budget, last year asylum seekers accounted for one quarter of 1 per cent of claimants. Let us view the matter in perspective. Many of those cases would, by definition have been genuine". (Hansard 11th December 1995, Column 736)

Race relations and social cohesion

Another important argument used during the Conservative years, linked to the social pressures of large numbers of asylum seekers and competition with citizens, was the protection of race relations. Restrictionists argued that tensions would, or were rising when people saw outsiders using their local resources at their expense. Thus, strict immigration controls and limited entry and rights of foreigners were essential to protecting race relations. This argument was given added weight from events of racial violence and conflict in other countries in Europe at the time, notably France and Germany. This attitude was epitomised by Michael Howard's statement;

"I say as clearly as I can that this country will not have good race relations unless it also has firm, fair immigration controls. The two are absolutely inseparable. They march together, and we ignore that combination at our peril." (Hansard, 20 November 1995, Column 345)

Others protested that the logic of this argument was flawed, turning the issue of racism onto the victim and away from those holding the racist attitudes in the first place.

They argued that rather than promoting race relations, these policies were racist in themselves and contravened the Race Relations Act (e.g. Hansard, 13th November 1991, Column 1101).

Interestingly, when they came to power, Labour did not argue the need for restrictionism to protect race relations, but concentrated instead on social cohesion, reflecting a general change in public policy discourse. Rather than focus on the public's direct perception of migrants, they focussed on addressing people's perception of the system. Their prime concern was public confidence in the system's fairness and resistance to fraud, as opposed to the actual number of foreigners in the country.

Mr Gwyn Prosser (Dover, Labour MP)

"Nothing undermines people's support and acceptance of the important principles of asylum more than the perception that the system is not working, the process being abused and our borders not being properly controlled. If people feel that their hospitality is being abused, they will want to withdraw that hospitality" (Hansard, 24 Apr 2002 : Column 382).

Although this argument may have a different emphasis, the end result is very similar, entailing greater restrictions and controls on those applying for asylum.

Values and Ethics

One of the main arguments for those advocating a more liberal approach than the policies contained in the Bills is the necessity of preserving moral values, liberal democratic principles and upholding international agreements; more abstract issues than tangible social security budgets and housing availability.

They appeal to humanitarian principles and a sense of natural justice, asking that people all be treated with a certain level of dignity and that their human rights be respected. Specifically they protest against policies of blanket punishment which are applied to the entire group of asylum seekers in an effort to influence the

behaviour of those who are fraudulent, therefore punishing the 'genuine' as well as the 'bogus'.

Mr Allan (Nottingham North, Labour);

"The ethos [...] is that because some people abuse the system, it should be made tough for everyone. It is like a teacher giving the entire class detention because someone who cannot be identified stole the chalk. Nowhere is that more apparent than in the proposals for the support of asylum seekers in the future." (22 February 1999, Column 65)

Mr Gerard (Walthamstow, Labour);

"What is fundamentally wrong with section 55 is that, like some earlier measures such as vouchers, it penalises the genuine claimant. It was supposed to deter the abusive claimant, but in effect it penalises the genuine claimant. That is why section 55 is so absolutely immoral." (Hansard, 1 March 2004: Column 652)

They argue that, given the outcome at stake for genuine refugees, it is better to allow some people to take advantage of benefits to which they may not strictly be entitled, rather than leave those who are deserving in destitution or without protection.

Simon Hughes (North Southwark and Bermondsey, Liberal Democrat):

"In dealing with those who come to Britain seeking asylum, humanity and decency are as important as efficiency. Our international reputation is as much affected by how we treat the strangers at our gates as it is by how we treat our own. That is why this has been an important debate." (Hansard, 7 November 2002, Column 463)

In the debates, several MPs reflected how the decisions they make through their votes reflect not only their own moral standards, but that they equate to the moral values of the country as a whole. These values are an important part of national identity and define what type of country the UK is; to uphold them is to uphold the reputation and history of the country, and

consequently its moral and political authority. Proposals that will lead to people living in poverty and the separation of families undermine these values, and with it the standing of the country. They argue that it is the state's treatment of people such as asylum seekers, towards whom there is little incentive to act generously, which test its real ethical standards.

Mr Gummer (Conservative MP for Suffolk coastal)

"[the bill] sets a bad example. [...] if the Conservatives were presenting this case and the Government were in opposition, they would be fighting it tooth and nail. I just wonder what we would think if one of the friendly nations across the channel introduced this change in the law. We would say, "Gosh, that just shows how good British law is: we would never do something like that." If it took place in some African state, we would say, in rather superior mode, "I wish they'd follow the British system." We would be unable to justify it happening anywhere else, yet in a few moments the Minister will get up to justify it here in Britain—the nation that has always stood for fair do's for people even when it is inconvenient." 1 March 2004: Column 684

A common riposte and put down to such arguments is that the speaker is therefore advocating an open borders policy. No MPs have in fact supported such as policy but there are many who argue, in line with Carens (1995), that it should be possible to have a functioning asylum system within which human dignity and ethical standards are maintained.

Mr Allan (Nottingham North, Labour):

"...all people should be treated with dignity and respect. Whether people have come to the United Kingdom fleeing poverty or persecution, they can still be treated with dignity. Those fleeing poverty alone will properly be refused asylum, but that is no excuse for treating them poorly during the process." (Hansard, 22 February 1999, Column 64)

Social policy agenda

Many Labour MPs felt that the restrictive elements of legislation implemented by their own political party when in power were a betrayal of its founding principles and its social agenda policy. They argued that these should be protected rather than tossed aside and protested that this was leading to a situation where asylum policy conflicted with other Labour policies, notably their commitment to reducing child poverty and tackling social exclusion⁹. These could not be squared with policies which force people to live below the poverty line, segregate people into detention and reception centres, and stigmatise people through the use of vouchers. They pointed out that asylum seekers are specifically excluded from key government social policy, demonstrating how differently this group were now considered compared to citizens. This seemed a far cry indeed from Labour's arguments in the early 1990s that housing and resources should be provided on a needs basis irrespective of immigration status.

Mr McDonnell (Hayes and Harlington, Labour)

"People have referred to income support as the poverty line. The Government were elected to tackle poverty. The Prime Minister, wonderfully, has set a target of eliminating child poverty not just in this country but throughout the world; the target year is 2015. Now, we are taking a poverty line level that we inherited from the previous Government - which we do not accept and are trying to improve - and forcing children and families to live below that level." (Hansard, 16 June 1999, Column 450).

This conflict of policies, combined with the social cohesion argument explained earlier, contains echoes of the situation of the Conservatives and race relations seen in the early legislation on asylum.

⁹ See for example the 'Every Child Matters' policy, the Children's Act 2004, the work of the social exclusion unit (<http://www.socialexclusionunit.gov.uk/news.asp>).

Those opposing restrictionist policies also argue that the welfare system's original mandate should be protected, and that the perversion of the welfare system into an immigration tool is highly undesirable. Ms Abbott (16 June 1999, Column 415) compared the low levels of support for asylum seekers to the pre-welfare state administration of the Poor Laws of 1834. These created workhouses for the poor which had deliberately terrible conditions, precisely to deter people from seeking aid there (a point also made by Fekete, 2001). In particular they protested against using support as a disincentive, or a way of forcing people to do things. Section 9 in the 2004 Act epitomised this approach and resulted in an outcry of criticism on ethical grounds.

Mrs Brooke (MP for Mid Dorset and Poole, Liberal Democrat):

Clause [9] uses the threat of making families destitute as an enforcement measure. However we look at that, it is a stick—a very crude one—and I greatly fear the unintended consequences of using it. The first will be that the fear of families about how they will survive, and whether they will be separated, will drive them underground. Surely, the health and welfare of all children in this country should be absolutely paramount. This measure seems to deviate from all the principles that most of us are here to defend. (Hansard, 1 March 2004, Column 652)

Several MPs conclude that it has got the stage where the motives for support arrangements have nothing to do with welfare and inclusion but aim for the exact opposite; they seek to exclude and divide (see also Bank 2001). They point out that people denied access to welfare, or segregated from society find it much harder to integrate and are therefore easier to deport once their asylum case is refused. This was exposed in particular in the discussions around reception centres proposed in the 2002 Act. While the debates focussed on whether it was a better place to support asylum seekers and

to help their children integrate, the House was reminded by a Labour backbencher that reception centres were not about support, but about the efficiency of the asylum process and the need of the Home Office to be able to track and remove people once their claims are assessed (5th November 2002, Column 169).

In a related line of argument, those objecting to the legislative measures argue that they are counterproductive and will cause more social, practical and financial problems than they would solve, thus impeding social policy progress. The increasing importance of this argument can be seen in the contrast between the debates in the 1990s which concentrated on the social pressures and budgetary difficulties from the government's point of view, compared to the 2000s, when speakers demand to know how individuals are meant to cope financially on the levels of support available. They rhetorically ask how people are meant to live on 70% income support provided mostly in vouchers and what will happen to those who are destitute and not supported? With support and research from various non-government organisations they argue that restricting access to the welfare state results in more homelessness, more children being taken into care, more people being housed in inappropriate and over crowded locations, more people being pushed into illegal working to supplement their income, and more people going underground to avoid the authorities taking their children away.

Mr. Tony Worthington (Labour MP for Clydebank and Milngavie):

“I am concerned about the evidence given by the UNHCR, the Refugee Council, UNICEF and Amnesty International. That formidable group of organisations has been very critical of what we are doing. I ask the Minister to think again, because I think that the proposals will severely backfire on the Government”. (16 June 1999: Column 449)

Overall those arguing for the protection of the social policy agenda conclude that the

asylum policies result in the poor supporting the poorest, directly counteracting Labour's work on reducing poverty and building social cohesion and equality.

Rational policy

Sometimes MPs were not in disagreement about the outcome that was desired; the protection of the national welfare system, economy and community relations, however they disagreed that the proposals in the Bills would actually achieve these goals. They attacked the rationale, or lack of it, behind some of the moves, aiming to protect the principle of sound, reasoned, evidence based policy. Sometimes more practical than ideological, these arguments raised interesting questions about why and how policy is being made.

Mr. Neil Gerrard (Labour MP, Walthamstow)

"The principle and the practice both matter, and we should not support the imposition of the system unless we are convinced on both points". (Hansard, 16 June 1999: Column 424)

Many times MPs asked why the slow administrative process, poor decision making and high number of successful appeals were not tackled in the legislation as opposed to reducing the benefits asylum seekers are entitled to. They questioned whether in fact all this legislation and additional powers were necessary, or if the aims could be simply achieved through a more efficient and effective process within existing regulations.

Mr. Charles Wardle (Independent MP for Bexhill and Battle):

"My right hon. and learned Friend's proposals are most welcome, provided that they can deliver practical results. Does he accept that a Bill by itself will not deter bogus asylum seekers, any more than Canute could stop the tide? Therefore, will he apply even more resources than he has announced so far to process the backlog of thousands of asylum applications, thereby saving the taxpayer hundreds of millions of

pounds?" (Hansard, 20 November 1995: Column 345).

This argument was particularly used when the asylum system was in disarray and there were long backlogs of cases. As the process has been speeded up, the argument has become less relevant but has somewhat been transferred to the next stage of the process; the removal of failed asylum seekers from the country.

Similarly, some MPs have argued that the policies designed to save money are in fact more costly than the previous situation. This applied particularly to vouchers, the use of temporary rather than permanent housing and the introduction of NASS in parallel to the mainstream benefits system.

Mr Hattersley (Labour)

"In London, the cost of permanent council accommodation in a family house is £8,500 per year, whereas the cost of bed and breakfast is £14,500. Clause 3 is expensive as well as unacceptable." (Hansard, 13th November 1991, Column 1104)

Mr Allan (Nottingham North, Labour):

"A great deal of criticism has been levelled at the voucher system that has operated for in-country applicants and is to be implemented in a new way for all applicants. It is a hugely inefficient system which is costly in cash terms and in terms of human dignity. [...] There is a logic in the Home Office holding the budget for the support of asylum seekers. [...] Once the budget and the funding responsibility have been identified, however, the cheapest and best way to deliver support is via the benefit system." (Hansard, 22 February 1999: Column 64)

MPs arguing along these lines also question why the government decided to reintroduce the differentiation between in-country and port applicants, and the use of vouchers, when these had been previously accepted as problematic and ineffective (see Home Office 2001). Although such contradictions and problems are regularly pointed out by backbenchers, the Conservative opposition

chose not to push the government on this issue.

Mr Gerrard (Walthamstow, Labour)

“Again, the implication is that someone who claims in country is making a weak claim. We have had this debate during every asylum Bill since 1996, and the Home Office's own statistics show that the rate of recognition of asylum claims made within the country for year after year is hardly different from—and in some years exceeds—the rate of recognition for people who apply at port” (Hansard, 1 March 2004 : Column 652).

These arguments asking for or criticising the rationale of the policies proposed are unusual in that they use or ask for hard evidence, statistics or research. These sources of data are noticeable in the rest of the debates only for their absence.

Overall both those for and against the restrictionist policies in the legislation have relied on arguments centred on protection, but have shown their ideological differences through what they have prioritised. The more liberal emphasise the importance of maintaining a strong ethical position and of protecting the values of liberal democratic societies. Others question the rationale behind the policies and disagree with the policies proposed for practical as well as ideological reasons. The restrictionists on the other hand seek to protect more concrete issues such as budgets, housing stocks, jobs and services for citizens.

Conclusion

The analysis of the legislative trends and the parliamentary debates has provided an interesting insight into how ideological principles are transferred into practice in the political arena.

Throughout the debates those for and against restrictionist policies argue in classic partialist and impartialist terms. Those advocating the policies are concerned primarily with protecting the state and its citizens. They emphasise the difference between asylum seekers and citizens, propounding the image that this

group are deliberately fraudulent and cheat the system, therefore should not be entitled to the benefits of the state. They carefully protect themselves from charges of racism and of contravening the spirit of the Refugee Convention through disclaimers that the restrictive policies are aimed at helping ‘genuine’ refugees, while ignoring how this very group are affected by the blanket nature of the restrictions.

Those opposing more restrictions on asylum support emphasise the similarities between asylum seekers and citizens, appealing to people’s sense of common humanity and natural justice. Similarly to Carens (1999) they argue that universalist values can be applied to an asylum system to ensure that it is fair and humane. They also highlight the need for liberal democratic states to uphold certain values to maintain their moral and political standing both nationally and internationally, thus supporting Schuster’s (2003) assertion that offering asylum is a legitimising force for liberal democracies.

What is also apparent is that impartialist arguments are usually defeated in parliament and the overwhelming trend in asylum support legislation has been towards increasing restrictions. Small amendments are sometimes won such as the £10 in cash given alongside vouchers, the decision not to educate asylum seeking children in reception centres and the increase in time considered ‘reasonable’ for people to make an asylum application from 24 hours to three days. These victories for impartialists however appear fairly insignificant compared to the overall developments in this area.

This suggests that impartialist arguments translate poorly into practice and raises the question of why that is. This can be partly explained by looking at impartialist arguments from the perspective of a politician. Impartialist ideas appear to have little concrete benefits for them in dealing with budgets, resource pressures, voters and the press. They will not help them to achieve any of their immediate targets or gain much political capital with their

constituents, and importantly, although they criticise policies proposed, impartialists rarely offer any viable alternatives for policy. Overall, the benefits of the impartialist approach are largely intangible and difficult to define, while its costs are far clearer.

In contrast, partialist politicians can argue that through their policies they have been proactively tackling an issue that is important to the public and are protecting the welfare system, citizen's jobs and national identity. They can argue they have reduced the impact on certain areas through dispersal and NASS, have protected the job market through the employment restrictions, and have reduced the benefits bill by cutting the eligibility of asylum seekers to state support and by speeding up the process of applications. Although somewhat constrained by international and national law and sometimes challenged through the courts, this approach has largely been uncontested by the mainstream population and press as it has no tangible costs for them and provides concrete benefits.

Viewed from this perspective, it is easier to understand the how the intrinsic partialist leaning of a democratic state translates into actual policy. Clearly, while it may be possible to stick to high moral values in opposition, once in power it is politics that has priority over ideology. This provides some explanation for Labour's about-turn on their policy for supporting asylum seekers after 1997. Ideologically one would expect Labour to support asylum seekers' rights to access the welfare state, which they did in opposition, but once in power this was no longer a viable political position for them. It therefore seems that in practice the location of the utilitarian's 'tipping point' between the costs to citizens and benefits to outsiders varies not only according to ideology, but also according to whether one is to be held accountable for the results.

It can also be concluded from the analysis of the debates and the resulting legislation that policy is not developed and justified rationally or logically. The paucity of

references to statistics and evidence in the political discourse reveals how ideas gain ground not through reasoned discussions informed by empirical research, but through the expounding of ideologies, rhetoric and persuasion. Even when parliament is presented with evidence that severely undermines the explanation behind a policy, this does not prevent the legislation being passed (for example see Hansard 16 June 1999: Column 422). As seen in chapter 5.1 of this paper, the founding premise of government strategy, the view that asylum seekers deliberately come to take advantage of benefits, is highly questionable according to research. Although this is pointed out multiple times in the debates, there is no great concern expressed that the policy could be ineffective as a result.

This also ties into the relatively poor link found between the debates and the policy outcomes finally voted through the House of Commons, as described in the methodology chapter. The fact that policies are not being explained in rational terms, and that there is little opportunity or effectiveness in opposition ideas to impact on Bills, raises questions about how, where and why policy is being made. What is this vast amount of asylum legislation actually for? Unfortunately the answer to this question clearly requires more than the analysis of parliamentary debates and legislation.

The rejection of the rational model of policy making in asylum issues and the evidence that universalist ideological arguments hold little sway in an institution biased towards partialism, suggests that new avenues of debate and persuasion will have to be found by those advocating a liberal approach. Understanding the ideological reasoning and arguments that are most influential in driving policy decisions is an important step in this process. This paper has gone a small way towards this, attempting to trace the macro philosophical ideologies to actual political discourse, but clearly is only the start of the debate.

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Annex 1

	up to 1993	1993 - 1996	1997 - 1999	2000 - 2002	2003 - 2004	2005 - 2006
Entitlement	65	78	28	5	31	8
Ethical/ Moral	29	30	45	11	50	16
Practical/ Financial	31	29	31	3	5	27
Europe	14	3	0	5	0	0
Legal	7	11	33	3	8	0
Security	5	3	9	3	6	2
Political	16	11	1	3	4	1
Democratic	2	9	4	5	10	1
Social	34	27	37	41	23	15
Race relations	33	22	10	3	0	2
Religion	2	6	0	0	0	0
Legitimising liberalism	9	11	5	3	13	1

Figure 1: Number of paragraphs coded to each theme in each legislative time period

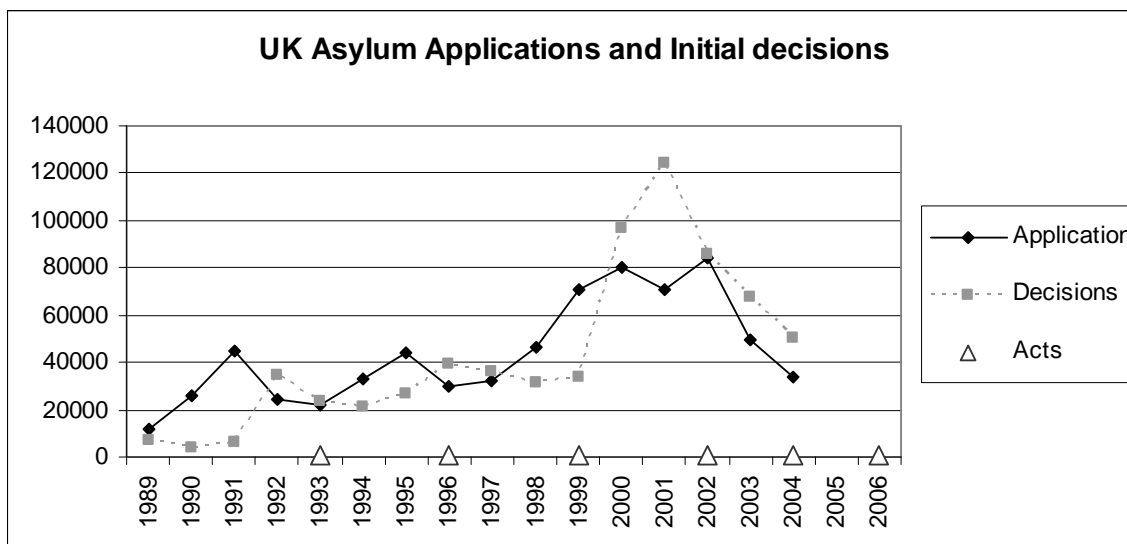


Figure 2: UK asylum applications (principal applicant only) and initial decisions (Woodbridge, Burgum and Heath 2000, Heath and Jeffries 2005)