Note on UK Refugee Protection from 1951-1993:
Between Signing and Incorporation of the 1951 Refugee Convention

1951: UK signs Refugee Convention

1954: UK ratifies Refugee Convention but does not incorporate the convention by statute into domestic law. Reasons for non-incorporation: (a) Refugee Convention reflects existing protection in UK law (Aliens Act 1905); (b) retention of autonomy and executive discretion (Stevens, 2004).

1956: Hungarian refugees admitted to the UK (initially 2,500 then 21,000 people). Admitted at the discretion of the Home Secretary. Extremely popular cause – Lord Mayor of London’s Appeal raises £2.5 million for these refugees. Government donates £355,000 towards transportation and resettlement costs. Stevens (2004) suggests “there can be no doubt that the refugee issue had become a political tool in east-west relations; the admission of Hungarians was as much a political statement against Communism as a humanitarian gesture”.

1962: Commonwealth Immigrants Act 1962 is enacted. This Act requires those in possession of a Commonwealth passport to apply for a work voucher from the Ministry of Labour, if they wished to enter the UK for employment. Previously Commonwealth citizens had the right to enter the UK without restriction.

1967: Many Asians leave Kenya and travel to the UK.

1967: Prime ministerial Wilson Committee examines the issue of immigration appeals and agrees that asylum appeals fall within the general immigration system - however these appeals would be expedited and held in private. UNHCR to be advised of appeals by asylum applicants and to be treated as a party to appeals on request. Route of appeal: 1st appeal to a single judge (appointed by the Lord Chancellor) and 2nd appeal (only on error of law by first judge or if his/her findings were grossly misdirected) to three person Immigration Appeal Tribunal (judges not required to have legal qualifications but lawyer required to preside at sittings). In-country right of appeal available for asylum seekers where entry clearance granted, or refusal of leave to remain, when contesting the destination the Home Office wished to send individual, or when contesting a deportation order.


1968: Commonwealth Immigrants Act 1968 is enacted: only holders of a UK and Colonies’ passport who have an ancestral link with the UK are entitled to enter the UK. For others, a quota system of entry vouchers is use.

1971: Immigration Act 1971 is enacted. The Act merges the law relating to immigration, deportation and Commonwealth citizens in one statute. Act limits entry and abode of Commonwealth Citizens to those who have a parent or grandparent born in the UK. Immigration Act 1971 does not expressly cover asylum. Asylum is covered within the ‘Immigration Rules’ which set out the practice to be followed in the administration of the Immigration Act 1971. Stevens (2004) suggests that by leaving asylum related matters to the Immigration Rules, the UK had an asylum system which was “administrative and largely discretionary”.
1972: President Idi Amin of Uganda issues expulsion order against all Asians who are subjects of the UK, India, Pakistan or Bangladesh. 50,000 of these individuals hold British passports – they are unable to be classified as refugees in UK under Art 1A(2) of 1951 Convention as not outside of their country of nationality. Also contentions with Commonwealth Immigrants Act 1968 (above).

1973: The 1973 Immigration Rules spell out the criteria of Art 1A(2) of the Refugee Convention. Refugee Convention itself is referred to in a footnote. The Immigration Act 1971 and Immigration Rules reflect the position that the Refugee Convention should be taken into account, but is not directly enforceable in UK law.


1975: US withdrawal from Vietnam leads to many ethnic Vietnamese from South Vietnam to flee to west. UK agrees to take Vietnamese (later Cambodians and Laotians) who have connections with UK. UK carries out sea rescues of South East Asian refugees. Important policy distinction: these individuals were accepted for asylum prior to their arrival in the UK as part of an agreed quota (Stevens, 2004).

1980s: UK receives large number of applications for asylum from Sri Lankan Tamils.

1984: Secondary legislation is passed which mandates written reasons for refusing an asylum claim.

1985: UK introduces visa requirement for Sri Lankans wishing to enter the UK.

1987: Immigration (Carriers’ Liability) Act 1987 receives Royal Assent – ships and aircraft to be fined £1000 for every undocumented passenger transported (retrospective effect to 05 March 1987)

1987: Bugdaycay v Secretary of State for the Home Department [1987] Imm AR 250. This case is the first time the House of Lords (now Supreme Court) is asked to examine issues arising under the Refugee Convention. Lord Bridge at p. 253: “This is the first time your Lordships’ House has had to consider the Convention”. Lord Bridge at 263: “the resolution of any issue of fact and the exercise of any discretion in relation to an application for asylum as a refugee lie exclusively within the jurisdiction of the Secretary of State subject only to the court’s power of review”.

1987: Home Office introduces a standard questionnaire to be completed by port applicants.

1988: Secretary of State for the Home Department v Sivakumaran, et al [1988] Imm Ar 147 – House of Lords considers the standard of proof in establishing a ‘well founded fear of persecution’. House of Lords adopts objective test which requires a lower standard of proof than normal civil standard of ‘balance of probabilities’. Lord Keith at p. 151: “the requirement that an applicant’s fear of persecution should be well-founded means that there has to be demonstrated a reasonable degree of likelihood that he will be persecuted for a Convention reason if returned to his country”. This test is also worded in the case at p. 152 as “a reasonable probability”, “a real chance that he will suffer persecution”, “reasonable chance”, “substantial grounds for thinking” or “serious possibility”.

1988 onwards: Many Kurds leave Turkey, Iraq and Iran and travel to the west.

1990: Both port and in-country asylum applications are now referred to Home Office. Previously, immigration officers did not need to refer port applications to the Home Office where there was an
alternative country to which the applicant could be removed or if there were other grounds for refusing entry.

1991: European Community adopts policy of local safe haven in Middle East for Kurds.

1991-1993: Break-up of Yugoslavia leads to major refugee streams (1-3 million people displaced) to western European countries. From Jan-July 1992, 4000 Yugoslavs enter the UK each month. In August 1992, UK government announces flexible approach to those coming from former Yugoslavia and relaxation of third country returns. As Yugoslav crisis worsens and public concerns over bogus asylum claims increase, the government introduces legislation for distinct asylum determination procedures. Asylum and Immigration Appeals Act 1993 receives Royal Assent in July 1993 (comes into force on 26 July 1993). Stevens (2004) notes its core provisions were to:

- Ensure primacy of the 1951 Convention (s.2)
- Empower immigration officers, amongst others, to fingerprint asylum applicants and their dependants (s.3)
- Grant the majority of asylum seekers a right to remain in-country pending appeals (s.6)
- Permit detention of applicants awaiting deportation following curtailment of leave (s.7)
- Create an accelerated appeals system for claims held to be “without foundation” (s.8 and sch.2, para 5).

**Figures**

UK (number of asylum claims received)
1991: 44,840
1989: 11,640
1985: 4,389
1984: 2,905

European Community (number of asylum claims received)
1983: 70,500
1988: 290,650

Global Refugee Population
1985: 10 million
1991: 17 million

**Core sources**


Asylum and Immigration Appeals Act 1993

*Bugdaycay v Secretary of State for the Home Department* [1987] Imm AR 250

Commonwealth Immigrants Act 1962

Commonwealth Immigrants Act 1968
Immigration (Carriers’ Liability) Act 1987

Immigration Act 1971

*Secretary of State for the Home Department v Sivakumaran, et al* [1988] Imm Ar 147

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