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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

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

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 states, which requires them to live up to certain ethical standards to demonstrate this in practice.

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 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 chmt(55(i)150(

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 '

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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.

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*IST [2] (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

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

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

population with the same level of need. As

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 " " (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 " "

(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 though 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 " ". 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 “ ”, effectively denying support to in-country applicants (Clause 55(1b)). In practice it meant people who

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

they are protecting, and what they are protecting it ____.

Those advocating a restrictionist stance argue that they aim to protect society from

> 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

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;

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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)

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, 13

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 ti6usly,

chose not to push the government on this issue.

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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	1