

# LAG: covering immigration and asylum law since the 1970s

**LAG** 50 YEARS  
1972–2022  
the access to  
justice charity

**In a time when immigration law and asylum rights are at the forefront of everyone's minds, we provide a potted history of LAG's asylum and immigration law coverage, and hear from two of our wonderful and long-time authors, Jawaid Luqmani and Sue Willman.**

In June 1973, the LAG *Bulletin* published its first immigration article, succinctly titled 'Immigration – 1973' and written by Clive Morrick, LAG's then assistant director and *Bulletin* editor. Analysing the Immigration Act 1971, he pointed out that: 'It is important to understand that the Act is only a framework. The Rules (*absolutely essential for any adviser's bookshelf*) control the working of the Act.' Documenting the Statements of Changes in Immigration Rules, an absolutely Herculean task, became a regular part of the magazine's immigration law coverage. This task has been undertaken by the indomitable Jawaid Luqmani for nearly 30 years after joining the 'Recent developments in immigration law' writing team in November 1993, a series revived by ILPA's Rick Scannell in 1986 (and see opposite).

In 2001, LAG published the key text on asylum support, *Support for Asylum-seekers*, written by Sue Willman, the late Stephen Knafler and Stephen Pierce (and see overleaf). Sue had written her first asylum piece for *Legal Action* in January 1997 on the Asylum and Immigration Act 1996 and the Housing Act 1996: 'After the Act: exploring the residual rights of destitute asylum-seekers'. She wrote: 'Faced with advising clients that their only option is "destitution", advisers have been forced to stretch their imaginations to the limit.'

In January 2002, Sue wrote the first of the regular 'Support for asylum-seekers updates', aiming to follow the chapter structure of the book. She was joined

by Sasha Rozansky in December 2010 and Deborah Gellner in June 2013. Now celebrating their 20th anniversary, these twice-yearly updates are still written by Sasha and Deborah, with co-author Lara ten Caten.

Today, the magazine also has regular articles on immigration detention by Bhatt Murphy authors Janet Farrell, Colin Gregory and Jane Ryan, and immigration case law by David Neale (past author teams came from Tooks and Garden Court). And that's not to mention the one-off articles, training courses and conferences along the way. We are so thankful to all of our authors and trainers from the 1970s to date for bringing essential immigration and asylum information to practitioners, often not found elsewhere. Never has it been more needed than today.



## Three decades of immigration law changes

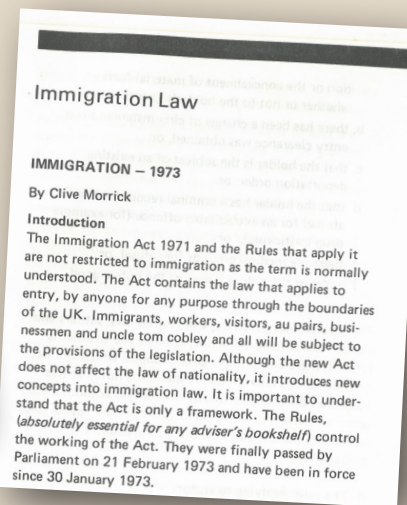
'It's not really law, is it?' were the words of wisdom from someone at what is now the Legal Aid Agency to the late and much-missed David Burgess at about the time, around 30 years ago, that I first started writing articles on developments in immigration law. I was brought into the writing team by Rick Scannell at Garden Court Chambers, who also roped in Chris Randall, then a partner at Winstanley-Burgess. The articles revolved around an examination of the few reported immigration cases and the occasional change of policy introduced by the Home Office at a time when those alterations were often preceded by detailed consultation with practitioners. Changes to the Immigration Rules often happened two or three times a year, which seemed to tax us and as a consequence of which we had to divide up the onerous work under the watchful eye of our then editor, Lesley Exton.

Today, my articles are almost exclusively about trying to keep up with the various rules that are introduced, amended and then re-amended, and despite the Law Commission's recommendations on simplifying the Immigration Rules,\* navigating those changes feels more challenging than ever.

The frequency of changes to the rules and the seismic legislative shifts have meant that there has been little shortage of material over the past 30 years or so, with the numbers

of reported cases constantly increasing. Noticeable shifts have seen the creation not only of the 'hostile environment' but also post-Brexit quick-fix solutions. We were reminded, courtesy of Statement of Changes in Immigration Rules CP 542 (poultry production and food haulage drivers), that a migrant worker is not for life but just for Christmas.

The current crisis in Ukraine has also seen the UK go its own way rather than necessarily adopting the approach taken in EU territories. There are clearly pressures to do more, but the system within the UK is largely predicated on control at the border, hence the staunch maintenance (currently, at least) of a pre-entry visa regime. Whether the political will and desire to offer sanctuary will result in longer-term solutions that would benefit others (and, to be clear, other conflict zones around the world have not stopped producing displaced people) is unlikely, since, as was pointed out to me some years ago by a political pundit, Great Britain is an island and if there are too many people, it will just sink. Some may feel that its immigration policies, with successive, increasingly restrictive approaches (in most cases), sank Britain years ago. Perhaps the commentator I mentioned at the beginning of this piece was far more prescient than anyone would have



imagined, and would have been even more so had they added the words, 'It's all politics.' Whatever changes are ahead, I am sure that *Legal Action* will cover them.

\* Simplification of the Immigration Rules: report, HC14/Law Com No 388, 14 January 2020.

Jawaid Luqmani is a partner at Luqmani Thompson & Partners. He was appointed to the Law Society Council (legal aid) in October 2021.





## Support for asylum-seekers: 25 years on

In January 1997, I was working late nights at Hammersmith Law Centre, overwhelmed by asylum-seeking families who were literally street homeless with no means of support. In response, I wrote an article for Legal Action aimed at advisers like me faced with destitute clients with few options: 'After the Act: exploring the residual rights of destitute asylum-seekers' aimed to inspire legal creativity.

Although the term 'hostile environment' had not yet been coined by Theresa May, her predecessors had introduced the Asylum and Immigration Act (AIA) 1996. It excluded asylum-seekers from access to the mainstream housing and benefits they had previously received, creating a two-tier system of support that forced thousands of people into destitution. The flawed assumption was that refugees were coming to the UK to access socio-economic rights.

In May 1997, a Labour government came into power and decided to extend these policies. The Immigration and Asylum Act (IAA) 1999 excluded all asylum-seekers and others subject to immigration control from welfare provision, ranging from housing and social security benefits to residential care for older people. The Children Act and social care safety net was also taken away in a stroke. The blow was only slightly softened by an austere system of 'NASS' (National Asylum Support Service) support. Asylum-seekers should receive 'no-choice' housing administered by private contractors and voucher support at 70 per cent of the official poverty line. The IAA 1999 institutionalised the segregation of socio-economic rights between asylum-seekers/migrants on the one hand and those with recourse to public funds on the other.

At this time, there was no easy access to information on the internet, so there

### The Stephen Knafler QC Scholarship: update

Applications are now open for the refugee/migrant scholarship at City Law School, set up to commemorate Stephen Knafler QC: [www.city.ac.uk/prospective-students/finance/funding/the-stephen-knafler-qc-scholarship/\\_recache](https://www.city.ac.uk/prospective-students/finance/funding/the-stephen-knafler-qc-scholarship/_recache). This is thanks to generous contributions from Anthony Gold solicitors, Landmark Chambers, Garden Court Chambers, Doughty Street Chambers and others.

If you or your firm/chambers/organisation would like to donate so the scholarship can be offered to a second migrant student, see: <https://community.city.ac.uk/city/donate-to-city-single-donation>. There is a drop-down menu for donors to select the scholarship, or please contact Kelly Rush, Donor Relations Officer at City University: [kelly.rush.1@city.ac.uk](mailto:kelly.rush.1@city.ac.uk).

was a desperate need for LAG to step in and host training updates (the first was 'Housing and welfare for asylum-seekers: support under Part VI of the IAA 1999' in May 2001, which I ran with Jan Luba QC, Deborah Gellner and Stephen Knafler) and publish the *Support for Asylum-seekers* handbooks (the first edition in July 2001, Sue Willman, Stephen Knafler and Stephen Pierce).

In 2001, in the foreword to the first handbook, the late Helen Bamber, then director of the Medical Foundation for the Care of Victims of Torture (now Freedom from Torture), described 'the misery and muddle' caused by the complexity of the support provided to those seeking asylum, including torture survivors. Asylum-seekers were housed in dispersal areas where they faced hostility, and with no funds to cover the cost of travel or phone calls. She expressed hope that the guide through the muddle might encourage others to tackle this impenetrable area of law. She said: 'This book not only helps advisers to understand the law, but also points them towards how to change it.'

In her forthcoming book (*The Impact of UK Immigration Law: Declining Standards of Public Administration, Legal Probity and Democratic Accountability*, June 2022, Palgrave Macmillan), immigration solicitor Sheona York argues that the muddle we both experienced at Hammersmith Law Centre in the 90s and ever since is not merely incompetence, but a deliberate policy of failing to prioritise or resource the Home Office's immigration control functions. The IAA 1999 privatisation of provision of accommodation and support for asylum-seekers is just one of many examples that, she argues, have legally distanced asylum-seekers from remedies for inadequate access to healthcare, squalid accommodation and failures to make support payments.

Private contractors have consistently been proved incapable of supporting

disadvantaged people in need of sanctuary. The Home Office has failed to properly oversee the millions of pounds of public money spent on delayed provision of poor accommodation. A Refugee Council report, *Living in limbo* (July 2021), noted that the number of people waiting for over a year for an initial decision had increased almost tenfold from 3,588 people in 2010 to 33,016 in 2020. I acted in *R (NB and others) v Secretary of State for the Home Department* [2021] EWHC 1489 (Admin); [2021] 4 WLR 92, in which Linden J decided that the home secretary (through private contractors) was unlawfully housing asylum-seekers in military barracks in Kent.

NB is just one of the victories in countless small battles that have given encouragement, improved conditions and shone a light on the racist support system. But these legal challenges and the surrounding publicity and campaigns have not delivered the substantive change I dream of - a return to the fairer pre-AIA 1996 system. Instead more rights - to work, to rent, to access healthcare - have been eroded, and the new Nationality and Borders Bill perpetuates the fallacy that a sub-standard welfare system will deter asylum claims.

Of course, it's cause to celebrate that LAG has provided a home to exchange knowledge about this innovative area of law for 25 years. That is only possible because of those who have written and spoken and contributed. This is a moment to recognise the contribution of all the lawyers, advisers, NGOs and activists who have worked to ensure that thousands of asylum-seekers and migrants, including those en route from Ukraine, can enjoy a slightly less hostile environment.



Sue Willman, solicitor, Deighton Pierce Glynn and King's Legal Clinic, King's College London.

