

# **EXTRACTS**

## Stage 2 Specialist Paralegal Course

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# Specialist Paralegal Course (SPC)

Through research a student on the SPC programme will be providing a law based answer or solution to a question or problem found within a general subject area. The student determines the area of law he/she wishes to research and the question or problem which their research will resolve.

Note the simple example below:-

Q. General subject area of Law?

A. **Property Law.**

Q. **Particular interest?**

A. **Conveyancing.**

Q. **More specifically?**

A. **The cost and time taken.**

Q. **Especially?**

A. **The Conveyancing procedure.**

Q. **Precisely?**

A. **Unnecessary and or time wasting procedures.**

Q. Draft Research Title?

A. **"How can present day Conveyancing procedures be modified to produce a more cost and time efficient system?"**

The above example should give you an idea of how you can go about choosing an issue to base your research on.

**As an exercise:** think of an area of law that would be of value to your own area of work or interest; then narrow it down to a specific question or problem using the above format as an example. Researching the answer or solution could be the basis for your own SPC award.

All students are given help and assistance on how to research, prepare and produce a piece of researched work as a dissertation. Students are also able to submit draft dissertations for comment and direction before final submission.

If you have any further questions that you would like answered send them to us at [law@saslawcourses.org](mailto:law@saslawcourses.org) Now please take a look at an extract.

# Extracts

Below are extracts from two of the school's past LLM students (one male, one female). Both extracts are taken from the opening pages of their LLM dissertations. Although you are not currently on a LLM programme the main difference between their dissertation and the dissertation you will be expected to produce for your SPC programme is the number of words, 8,000 min instead of 20,000 min. The basic research approach and layout will be generally the same. And your serious efforts to emulate the standards of LLM graduates may earn you a Distinction.

## Student 1

### CHAPTER ONE

#### 1.0 GENERAL INTRODUCTION

This research evaluates the extent to which the refugee legislation of Great Britain is affective in protecting the rights of refugees:<sup>1</sup> and to what extent international norms relating to the protection of these rights, to which Britain is a signatory, are reflected in its domestic legislation and practice.

Various instruments, domestic and international, define the term "refugee". The 1951 Convention Relating to the Status of Refugees<sup>2</sup> (here after referred to as the 1951 Convention.) defines a refugee under Article 1A (2) *inter-alia* as,

*"One who as a result of events occurring before January 1951 and owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality...and being*

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<sup>1</sup> This includes the Immigration Act, 1971, 1976 and 1988, The Asylum and Immigration Appeals Act, 1993, 1996, The Immigration and Asylum Act, 1999 and The Immigration and Asylum Bill, 2002.

<sup>2</sup> The 1967 Protocol Relating to the Status of Refugees consequently amended this Act.

*outside the country of his former habitual residence as a result of such events is unable or owing to such fear is unwilling to return to it.”*

However the 1967 Protocol Relating to the Status of Refugees (here after referred to as the 1967 Protocol) provides that considering that new refugee situations have arisen since the convention was adapted and the refugees concerned may therefore not fall within the scope of the 1951 Convention, there is need to disregard the prior date line of 1<sup>st</sup> January 1951.

This definition was incorporated in to the British Refugee legislation by the Immigration and Asylum Act of 1993,<sup>3</sup> which assented to the provisions of the 1951 Convention.

On the other hand a right in relation to human rights law<sup>4</sup> is a claim any one has against a state or any institution as a result of his / her being a human being. It comprises of social, economic, cultural, civil and political rights.

International concern over human rights issues and the right to humane treatment in all situations has led to the adoption of a number of treaties and protocols.<sup>5</sup> These instruments speak in broad terms of the minimum standards of treatment for all persons. They therefore extend to refugees seeking asylum who do not forfeit their fundamental human rights when they leave their countries of origin.

The legal obligations of states to protect human rights under human rights law are standards by which states can be legitimately and objectively judged. A state's lack of compliance with its obligations means that public, national and international pressure be it political, diplomatic, economic or social can be used justifiably against it.

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<sup>3</sup> Under Section 2.

<sup>4</sup> Human Rights Law Handbook, 2000.

<sup>5</sup> These include *inter-alia* the 1951 Convention, 1967 Protocol, the Universal Declaration on Human Rights 1948 and the European Convention on Human Rights 1950.

The aforementioned points to the fact that in the contemporary international legal order, the state as a legal personality in international law has a duty and obligation to respect the human rights of individuals within its jurisdiction, including the protection of the rights of refugees.

It is against this background that this thesis is going to assess the effectiveness of the refugee law of Great Britain in protecting refugee rights in accordance to the international law regime provisions for the same.

## 1.1 BACKGROUND

Institutionalised protection of refugees at the international level started with the League of Nations in 1918 after the Russian Revolution and the collapse of the Roman Empire after World War I.<sup>6</sup> Both these events caused massive displacements of people and refugee outflows. The United Nations was established in 1945 after the League of Nations and one of the first institutions it created was the International Refugee Organisation in 1947. This was the first organisation to deal exclusively with refugee matters. It was set up temporarily after the Second World War to deal with status determination and to provide opportunities for protection, repatriation and resettlement of refugees.

Comparatively Britain as early as 1905 had the Aliens Act which prevented refugees, mainly the Jewish, the poor and those fleeing from Eastern Europe from seeking refuge in Britain.<sup>7</sup> The Act was limited, however to boats carrying more than 20 passengers and those travelling steerage class who could be excluded if they were unable to support themselves and their dependants. This

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<sup>6</sup> Refer to the Annual Human Rights Report on Uganda, 1998 at page 36.

<sup>7</sup> Refer to Duran Seddon in Immigration, Nationality and Refugee Law Handbook, 2002 at page 4.

Act was the first rudimentary machinery for checking entry and built the foundation for refugee law development and expansion in Great Britain.

This was followed by the Commonwealth Immigrants Acts of 1962 and 1968 which were a consequence of the racist agitation of the 1960's. The latter Act was rushed through parliament in three days to deny entry to East African Asians settled in Kenya, Uganda and Tanganyika (now Tanzania) who were U.K. passport holders, unless they had a parent or grand parent born, raised or naturalised in the U.K. These Acts were followed by the Immigration Appeals Act, 1969 which established a system of immigration appeals.

These led to the promulgation of the Immigration Act, 1971 which is the locus classicus for immigration controls in Britain. It has been amended over the years by the Immigration Act, 1988, the Asylum and Immigration Appeals Act, 1993 and 1996 and the Immigration and Asylum Act, 1999 which of recent is being amended by the Immigration and Asylum Bill, 2002.

## 1.2 STATEMENT OF THE PROBLEM

This dissertation appraises the extent to which to which Great Britain's legislation and practice with regard to refugee law fulfils the protection of refugees' rights in obligation to international human rights and refugee law instruments to which it is a signatory.

As the U.N.H.C.R has noted:

*“Today refugees are a major global problem of our time often inseparable from the range of problems affecting the political, social, cultural and economic development of the world.”<sup>8</sup>*

Britain has no Bill of Rights but incorporates most of the rights in the European Convention on Human Rights, 1951 in its Human Rights Act, 1998.<sup>9</sup> Of importance is the provision prohibiting torture and inhuman and degrading treatment or punishment.<sup>10</sup> This is an absolute right, which cannot be derogated from. It is in recognisance of the fact that all persons are equal before and under the law and shall enjoy equal protection of the law.

The above stated thus obliges Britain to recognise the rights of all persons notwithstanding the fact that they are refugees or not.

Worth noting, however, is that Great Britain to a large extent protects refugees’ rights in its practice and legislation and observes international law obligations to the same.

This paper further looks at the need for reform of the refugee law of Britain to cater for the loopholes in the Immigration and Asylum Act of 1999.<sup>11</sup> It conclusively looks at recommendations for the protection of refugees’ rights to be fully realised.

### 1.3 SCOPE

### 1.4 LITERATURE REVIEW

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<sup>8</sup> The United Nations High Commissioner for Refugees’ opening statement at the U.N.C.H.R executive committee 37<sup>th</sup> session on 6<sup>th</sup> October 1986.

<sup>9</sup> The U.K had earlier on ratified this Act in 1951.

<sup>10</sup> Under Article 3

<sup>11</sup> It focuses especially on the proposed changes the Immigration and Asylum Bill of 2002 is going to bring about and how they are going to improve the welfare of refugees.

# Student 2

## Chapter 1

### Introduction

Many developing nations are engaged in international trade with the hope that such relations will raise living standards and improve upon the general well-being of the citizens of the country. Yet this hope has not been realised over the years. On the contrary many developing countries have witnessed deteriorating terms of trade and have to export more to import same amount of goods. Continuously International trade relations between the North and the South has been characterised by inequalities and disadvantageous trade practices against the countries of the South.

Despite the shortcomings, trade has been seen as a sinequanon to economic development. The question is how can developing nations realise the real benefit of International trade.

In the light of recent alarming rates of poverty in Africa and other developing Countries – mainly due to poor economic development – there is the need for a systematic evaluation of how trading regulations and practices are structured amongst nations.

Of what many authors have written about the current state of trade practices amongst nations, Brown (1993) and other writers have criticised the unfair trade between the D.C

and the more developed countries have been over the years. For example, whilst the United States of America is subsidising its agricultural sector, it chooses to impose tariffs on goods outside. These tariffs surely give very little chance to D.Cs to be able to export their agricultural products to the United States of America. In the unlikely instance of some of these agricultural products reaching the United States of America market, the prices that the exporting D.C would be very minimal indeed. Until tariffs on agricultural products were systematically reduced, there is no easy way the D.C could access the US market.

**This dissertation sets out to explore the following;**

- Basic of International trade and emergence of International trade law.
- Critical examination of existing trade rules and regulation guiding between north and south.
- Determination of the unfair trade relation between north and south in a manner that has led to worsening economic growth situation for the developing nations to the advantage of developed countries.
- Search for alternative rules to remedy the existing unfair trade relations.

International trade has helped economic growth in many countries but has not always helped in a broad base economic development. The economic impact of trade on most developing nations appeared therefore to have widened the inequalities between developing nations of the south and developing nations of the north.

Over the years it would appear as though some form of international specialisation which find expression in the developing southern nations concentrating on export of

primary commodities as against developing northern nations exporting processed and industrialised goods to the developing nations.

The emergence of this trade practice has contributed to the current unfair trade relations against the south to the extent that more and more arguments are being made against the present pattern of International trade.

Some of the arguments being raised includes unnecessary and unjustifiable tariff regime against the poor nations in favour of the advanced nations.

It is clear that the reduction in tariff measures could lead to a considerable increase to trade earnings in developing nations. It is argued that a fifty percent reduction in the trade barriers of the significant countries of the north will raise developing countries exports by 50 billion dollars a year. Others have pointed to a much larger potential gains for the developing nation that will arise from the liberalisation of the trade in goods and services.

It is also estimated that lack of market opportunities leads to at least 500 billion dollars a year in cost to developing nations.

Another consideration for the unfair pattern of trade between north and south stems from the fact that the present day international trade, was fashioned out from the colonial era relations. To the extent that the colonial masters that constitute the countries of the north that obviously are gainers of the present trade relations show very little willingness to changing it even though it is clear that this relations continually create impoverishment amongst the countries south.

Against the background isolated there has been a lot of concerns and motivation for many researchers to think about alternative ways and strategies towards to shifting or switching the current practices into a more advantageous or fairer perspective for the world community.

## **1.6 Structure Of The Dissertation**

**Chapter 2** Takes a deeper look at...

**Chapter 3** Looks at the methodology and...

**Chapter 4** Discusses findings and examines...

**Chapter 5.** Conclusions and...

**End of Course Extracts**

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