

## **The Refugee Council's submission to the Universal Periodic Review on Human Rights.**

17 March 2022

1. The Refugee Council was established in 1951. We are the leading organisation dedicated to supporting people seeking asylum and refugees in the UK. We work directly with thousands of refugees each year, supporting them from the moment they arrive in the UK. We also speak up for refugees using our direct work as an evidence base, and ensure refugees have a stronger and more influential voice in decisions that will affect them.
2. The information provided in our submission to the Universal Periodic Review (UPR) on Human Rights is rooted in evidence and information coming through our direct service delivery work, research and advocacy work on issues concerning forced migration to the UK, as well as work with diaspora and Refugee Community Groups (RCOs) across England.
3. In our response, we will specifically focus on the rights and international protection afforded to people seeking asylum and refugees in the UK and how those progressed since the last UPR review in 2017.

### **Overview**

4. Overall, we are very concerned with the steps that the UK Government is taking to change the human rights framework. We have been seeing, over the years, a regression of rights and steps to undermine the provisions enshrined in key human rights treaties. Given the focus of our organisation we use as the key example the reforms the government is seeking to introduce through the Nationality and Borders Bill. Those proposals seek not only to re-model the UK's protection landscape, but the government is also putting forward its own interpretation of key principles and mechanisms of international refugee law, contrary to the years of jurisprudence (including through UK courts and tribunals) and decades of international co-operation in this area.
5. The government is growing increasingly hostile to human rights and is at the least indifferent in its adherence to the international human rights norms. The humanitarian protection policy is increasingly being delivered through measures used for immigration controls to regulate flows of migrants and is wholly inappropriate when dealing with refugee and asylum populations. It leads to a situation where the UK is not providing refugee or humanitarian protection to people fleeing war, persecution and violence and instead is focusing on adjusting its visa regime with differentially designed systems according to nationality e.g. those fleeing Hong Kong, Afghanistan and Ukraine.
6. The UK is withdrawing from international co-operation on forced migration, humanitarian and development support, e.g. by limiting UK Aid and choosing to cease co-operation with key European partners in this area. Continued withdrawal will lead to a weakening of the international human rights system and it is likely other states will follow suit, pushing responsibility for helping refugees to countries in the conflict areas, who are already struggling given the disproportionate responsibility they retain.

### **Asylum system**

7. The UK asylum system is need of reform. Rather than protecting and promoting the human rights of every person seeking asylum, the legal framework leads to increasing discrimination and unfairness of some of the most vulnerable members in our society.

8. The proportion of decisions that result in a grant of protection has increased in recent years; several factors including improvements to the quality of decision making are likely to have contributed to this. However, applicants are waiting increasing lengths of time for an initial decision and this cannot be explained simply by the global pandemic or the increase in the number of applications during 2021. Compounding people's wait is the introduction, at the end of 2020, of new rules on inadmissibility; in part to replace the Dublin system available to EEA members. The lack of return agreements results in inadmissibility procedures largely just adding to the time a person waits for their claim to be processed.

9. Access to legal advice remains a problem; although theoretically available for people who claim asylum, they have difficulties in practice and access to good quality publicly funded advice remains patchy even for those at initial decision stage. Complexities of a case, having received an initial refusal or matters deemed immigration and therefore not funded, compound the barriers.

10. The commitment to limit the use of immigration detention is not being followed in practice. The UK continues to operate the biggest detention estate in Western Europe and just recently opened a new immigration detention centre for women. This is despite engaging with the alternatives to detention pilots, which are working very well, according to a recent UNHCR review. The majority of people are released from detention into the community, rendering their detention pointless in the first place. Additionally, the UK continues to detain children.

11. The tone set by those in power finds a potent base, consequently, we are seeing an increase in hate crime and far-right activity, including demonstrations and attacks towards ethnic minority groups, which include people seeking asylum as well as lawyers who provide advice to this group.

## **Refugees**

12. The UK strategy towards reform of the asylum system is based on deterrence measures. Despite additional funding in recent years no specific steps and plans have been laid out to support refugees, recognised through the asylum system, to rebuild their lives in the UK.

13. We know that refugee family reunion is a foundation to good refugee integration in their host communities, yet it is near impossible for refugees to fully benefit from those provisions, e.g. in cases of siblings or children being allowed to sponsor their parents to join them in the UK. People struggle to realise their rights to family and private life and the current approach by the decision-makers harms people who have already suffered so much.

14. The government narrative on resettlement, that it has a proud history and that it is the preferred route for UK refugee arrivals, ignores the fact that resettlement is not available for many of the world's refugees and denies equality of protection and eligibility to other refugees, resulting in a two-tier system. Recent calls for the government to commit to resettling 10,000 refugees per year, have not been heeded.

## **Violence against women and girls**

15. The government must ratify the Istanbul Convention without further delay. There are significant gaps in our domestic violence legislation, particularly when it comes to prevention and offering protection against gender-based violence (GBV) to women from migrant communities who have irregular immigration status, because, e.g. they were refused asylum. It is shameful that immigration controls take precedence over saving women and girls from GBV.

16. When passing the Domestic Abuse Act, the government failed to take the opportunity to ensure the new domestic legislation was in full compliance with Article 3(4) of the Istanbul Convention.

### **Economic, social and cultural rights**

17. The UK population is facing an increasing cost of living which coupled with drastic welfare reforms leads to a rise in poverty. Refugees and people seeking asylum are particularly affected and present with overall poor socio-economic outcomes.

18. People who claim asylum cannot work, most of them is destitute and cannot meet their essential living needs. The government created a support system separate from the mainstream welfare protection system to provide housing and essentials (food and toiletries) to this group. They are barred from working and the government failed to respond to calls to lift the restriction, explain and review the policy.

19. Unfortunately, the level of support is set very low (much lower than the welfare benefit rate), meaning people on asylum support struggle to secure enough food for themselves and their families on daily basis.

20. Additionally, although they are provided with housing and all costs are met by the government, the standards of accommodation are very poor and put their health and life at risk.

21. Key health and welfare support services are moving on-line, our clients continue to face significant barriers with access to technology and information and are digitally excluded. The government refuses to take steps to address this issue and factor in the need for phones, telephone credit and internet data into their considerations and calculations of what is deemed to be an essential need for this cohort.

22. Overall, people on asylum support struggle to meet their essential needs and they cannot maintain an adequate standard of living. They don't feel secure and able to meet their needs. Living hand to mouth has a particularly negative impact on children's development and education.

23. Once an asylum claim is granted a person has 28 days to leave (move-on) from asylum support into the mainstream housing and benefits system. Our extensive research in this area as well as direct experience of supporting refugees who suddenly became homeless and destitute, clearly shows that the time provided for transition is too short. There is no safety net for refugees and the government set a system that puts them at a significant disadvantage when processing a claim for welfare benefits (Universal Credit) takes at least 5 weeks.

24. Despite primary healthcare being available to anyone who needs it, refugees and people seeking asylum face significant barriers when accessing primary and secondary healthcare. Some are incorrectly refused registration with doctors (GPs), many are incorrectly billed for hospital and specialist treatment despite being exempt from paying. We work with many women seeking asylum who are pregnant and too afraid to attend antenatal meetings and don't have a midwife because they fear hospitals will share

information about them with the Home Office and they will be detained and deported.

### **Nationality and Borders Bill and Human Rights Act review – planned legislative changes**

25. Although the aim of the UPR is to look at the situation currently in the UK, we think it is important to explain the upcoming significant changes to the UK's human rights and international protection framework which are being introduced through primary legislation.

26. The Nationality and Borders Bill is nearing the end of its parliamentary process and we expect it will become law in Spring 2022 albeit not all provisions will take effect immediately. Overall, the Bill will introduce sweeping changes to the refugee and asylum law and, in the opinion of leading human rights lawyers and academics, will put the UK laws in contradiction of the norms introduced through the key international human rights treaties, including the 1951 Refugee Convention.

27. We are unable to discuss all of the provisions in detail in this submission, further information is available under the following link: <https://www.refugeecouncil.org.uk/resource-category/parliamentary-submissions/>.

28. Several clauses in the Bill stand out in particular.

29. Clause 11, will introduce two categories of refugees: Refugees who travel to the UK through third countries via irregular routes (like crossing the Channel in a small boat) will be given a new form of temporary protection with limited rights to welfare benefits and family reunion, and have their status reassessed after 30 months. This provision will effectively create a two-tier system where some refugees will have more rights than others, purely based on how they entered the UK. Limiting refugee family reunion for refugees who arrived in the UK after passing through a third country could affect thousands of refugees each year, and severely curtail one of the main routes for refugees to arrive in the UK. It would also harm the integration chances of those who have been recognised as refugees in the UK.

30. Clauses 14 – 16, deal with the inadmissibility of asylum claims, which can be triggered if a person travelled through, or have a connection to, what is deemed a 'third safe country'. The new rules also introduce the power to remove people seeking asylum to a safe country that agrees to receive them, even if they have never been there or have any connections to it. The UNHCR has commented that this contravenes the principle of 1951 Convention

31. Clause 28 and Schedule 3 introduce offshore processing of asylum claims, they seek to emulate elements of the model used in Australia which has been condemned. Sending people seeking asylum offshore to as yet undefined countries where they would have to be detained undermines the Refugee Convention by shifting the UK's obligations elsewhere, setting a dangerous precedent, which if other developed countries followed, would see the majority of people seeking asylum being sent to countries that have far fewer resources and infrastructure to support them.

32. Clause 39 deals with the criminalisation of people who enter the UK irregularly, making it a criminal offence for knowingly arriving or entering the UK without leave or valid entry clearance. This may lead to a four-year prison sentence. Criminalising vulnerable people in this way is not only wrong but also deeply costly and resource-intensive.

33. The aforementioned legislative proposals constitute just an element of wider changes to the human rights law and the rule of law. The government has begun to review the Human Rights Act, an important

piece of national legislation that transposed the European Convention on Human Rights to domestic legislation. The proposals and consultation documents display a worrying shift towards lowering protection for some cohort of people in the UK including foreign nationals.