

Nationality and Borders Bill:

The following is an extract from the joint submission of Migrant Voice and Amnesty International UK to the Public Bill Committee on this Bill. Recent **developments in Afghanistan** through light on much of the errors, risks and injustices at the heart of this Bill. This extract, therefore, provides an analysis of those developments as they concern this Bill, directly or by way of example.

1. Both Ministers and Parliament should reflect on what has been exposed of the Government's immigration and asylum policy by the crisis in Afghanistan. To do so, it is necessary to recall that notwithstanding the emergency situation that erupted in mid-August, the underlying crisis is very far from new. There are two important ways in which that is so:
 - a. Ever since the Soviet invasion in 1979 sparked a huge increase in the number of Afghans fleeing the country, Afghans in Pakistan and Iran have constituted one of the world's largest and most protracted refugee populations, currently officially at around 3 million people.¹ Official figures, however, greatly underestimate the number in these two countries for it is well documented that each is host to similarly large numbers of undocumented Afghans.² Afghanistan has been riven by conflict and oppression for decades – under the control or influence of corrupt governments, various warlords, the Taliban, military interventions and other external actors – and the number of people internally displaced was already over 2.5 million at the end of 2019.³ Persecution and civilian deaths, while fluctuating, have remained high for years.
 - b. The intensification of Taliban influence, violence against civilians and targeting of human rights defenders in the wake of the US-Taliban peace agreement and the US decision to withdraw is also well documented.⁴ The implications of this for women and girls, journalists, civil society activists, religious and ethnic minorities, LGBTIQ+ people and locally employed staff, amongst others, were manifest long before the calamity that necessitated emergency evacuations in August.
2. Against this background, successive Home Secretaries have pursued immigration and asylum policies, which this Bill, as explained further in this submission, does not set out to fundamentally alter. Rather, it will extend these policies, even dramatically so, with the same overall purpose of largely avoiding asylum responsibilities and more successfully restricting immigration to the UK to people who are categorised as “*the brightest and the best*”. That categorisation, it transpires, whether by intention or otherwise, largely favours white, English-speaking, relatively wealthy, highly educated, professional or particularly skilled and relatively high-earning people. It certainly does not constitute a policy of either favouring need over privilege, reducing inequality or, in any respect, sharing responsibility.
3. In relation to Afghanistan, some of the most significant impacts have been:⁵

¹ As at end 2020, UNHCR's official figure for Afghan refugees was 2.6 million.

² UNHCR's official figures for Afghans in Iran are that there are around 760,000 Afghan refugees, a further near 600,000 Afghans on various extended visas and around 2.25 million undocumented Afghans in the country. UNHCR identifies there to be more than 1.4 million Afghan refugees in Pakistan. More information is provided in Amnesty UK's October 2020 submission to the International Relations and Defence Committee: <https://committees.parliament.uk/writtenevidence/13034/pdf/>

³ See submission to International Relations and Defence Committee *op cit*

⁴ In its summary of the situation in Afghanistan, for example, the International Relations and Defence Committee the destabilising impact of US discussions with the Taliban and decisions to withdraw troops: *The UK and Afghanistan*, 2nd Report of Session 2020-21, January 2021, HL Paper 208.

⁵ Data here and elsewhere in this submission is from the official immigration statistics quarterly release, last published 26 August 2021, giving data up to end June 2021 (unless stated otherwise).

- a. From 2017, 3,777 Afghans have been given permission to remain in the UK for protection-related reasons. This includes 284 unaccompanied children refused asylum but permitted to stay during their childhood. Only 283 of these 3,777 Afghans have received protection here by resettlement. Everyone else has had to reach the UK to enter its asylum system and been dependent on that system for their protection. Most, almost certainly the great majority, of those 3,494 men, women and children will have had to rely on smugglers, making dangerous and traumatising journeys to reach safety here because no alternative route was available to them. 105 of the unaccompanied children – who may have been granted or refused asylum – were transferred to the UK under section 67 of the Immigration Act 2016 (now defunct), which previously provided a safe and managed route to the UK from Europe.
- b. In addition to the 3,777 Afghans provided some form of protective status in the UK from 2017, 941 Afghans (905 of whom, women and children) were granted permission to come to the UK under a refugee family reunion visa. That safe route alone provided protection to far more Afghans than resettlement and it was entirely dependent on a refugee family member (adult parent or partner) having first reached the UK and successfully traversed the asylum system. Refugee family reunion rules only permit adult refugees to sponsor partners and minor children. Restrictive immigration rules on other family migration, which have been tightened further in recent years, have and continue to prevent many British Afghans and other Afghans settled in the UK sponsoring family members to join them.⁶ Child refugees in the UK are generally not permitted to be reunited here with even their parents and siblings meaning many will be looking on now in increased fear that they may never again see their closest family.⁷
- c. From 2017, 3,479 Afghans in the UK have been refused asylum by the Home Office. Some will have appealed successfully. A few will have successfully made fresh claims. Over the same period, 2,388 Afghans have been taken into immigration detention in the UK. During that time, 421 people have been returned to Afghanistan (the figure for all years from 2010 is 5,710). Given the depth and longevity of the humanitarian crisis and conflict in Afghanistan, many of those people will not have returned to their home, many will have remained or been displaced again, including across borders. Some of these people may now be casualties of the war or persecution by various parties to the conflict. For Afghans living in the UK without permission, the stress brought on by current events will likely be more pressing but not new.
- d. As at end June 2021, there were 3,213 Afghans awaiting an asylum decision (a few on appeal). The great majority of these people (2,354) have been waiting more than 6 months for an initial decision on their asylum claim. This figure has risen quarter-on-quarter since end March 2017, when it was 1,045. Not only is the ongoing uncertainty for these people – as for all people long in limbo in the UK asylum system, generally excluded from work and much ordinary social activity – distressing and debilitating, it both saps people’s capacity to integrate if and when their claim may be successful and adds to the system’s delays and costs.
- e. Since Ministers persist in referencing the points-based system in discussion of safe routes – a system that has no relation to protection from persecution – it may be

⁶ Family migration rules were significantly restricted in 2012, including to introduce income and savings requirements above the previous condition that a person could support and accommodate their partner and children for whom a visa was sought; and largely removing the opportunity for people to sponsor other elderly and dependent relatives.

⁷ More on this and other refugee family reunion is available here: <https://famieltogether.uk/>

necessary to reflect on data concerning that system. In none of the years from 2010 have total sponsored applications of Afghans to come to the UK and to work under this scheme and to stay in the UK to work under this scheme ever exceed 30. In none of these years since 2015 have total sponsored applications of Afghans to apply to come and of Afghans applying to continue their stay to study under this scheme ever exceeded 150.

- f. The only scheme the UK has operated over all this time that has included some protection focus has been what is now known as the Afghan Relocation and Assistance Policy (ARAP). From 2010, the forerunner to this scheme included what was referred to as the ‘intimidation policy’ by which, on its face, Afghans employed by the UK Government since 2001, who could satisfy the Home Office that they were at real risk because of that employment, could secure a visa to relocate in safety to the UK. ARAP replaced this. It was announced by the Home Secretary in September 2020 but only introduced in April 2021.⁸ As late as 3 August 2021, the Home Secretary and Defence Secretary wrote to General The Lord Dannatt, former head of the British Army, acknowledging certain inadequacies with ARAP and committing to correct these in the rules in the Autumn.⁹ That same letter confirmed that around 2,500 Afghans and families were expected to be relocated under the scheme in the coming weeks. Prior to that, 1,400 had been relocated under ARAP in previous weeks. Before that, under all schemes, only 1,400 people had been relocated to the UK from 2014. It is now readily and tragically apparent how restrictive has been the intention and operation of these schemes before now. The scale of the relocation effort was greatly scaled up but only once it became all too certain that the window for its operation direct from Kabul (and nowhere else in or outside the country) was short and insufficient for many. That meant that many locally employed staff and their family did not escape. It also meant any capacity to evacuate other Afghans at especially heightened risk at that time was hugely diminished.
4. The UK is, of course, far from alone in Europe (or indeed among other relatively rich countries) in pursuing immigration and asylum policies that have largely sought to exclude Afghans (and other refugees). Policy across the EU is largely to the same effect. That has and will cost many lives. The UK has and continues to show little or no willingness to share responsibility with other nations – particularly Pakistan and Iran – on whom the fate of millions of Afghans largely rests. Nonetheless, if Ministers are to make comparisons with EU neighbours, they must start by acknowledging the large and increasing disparity between the very small number of Afghans (or indeed other refugees) hosted by this country and the larger numbers in the asylum systems of, and given protection in, comparable EU countries. For example, if all the 20,000 Afghans to be resettled to the UK in the years ahead¹⁰ were to arrive today, the UK would only then roughly match France and still far trail Germany in the number of Afghans provided protection in the country.¹¹

⁸ The announcement in September is here: <https://www.gov.uk/government/news/more-afghan-interpreters-who-risked-their-lives-supporting-british-troops-to-begin-new-lives-in-the-uk>

⁹ <https://www.gov.uk/government/speeches/afghan-relocation-and-assistance-policy>

¹⁰ <https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme>

¹¹ UNHCR data as at end 2020: <https://www.unhcr.org/refugee-statistics/download/?url=qm819l>