



House of Lords Debate - Principles Behind Contemporary UK Asylum and Refugee Policy

Amnesty International welcomes this important debate. It provides a vital opportunity to reflect upon the impact of Government asylum policy. It comes within a week of the Home Secretary expressly welcoming as “*vital and necessary*” a collection of proposals put forward by an adviser to one of her predecessors¹ that is so reckless that UNHCR has felt compelled to respond by publicly denouncing the report in which they are found as based on “*critical factual and legal errors*”.²

If that assessment is correct, it should be devastating. Policy that is based on factual and legal error is from its conception impregnated with the very seed for its own failure. And the assessment is correct. Worse, the assessment is not merely correct as to the proposals advanced by the Centre for Policy Studies but has been and remains correct as to the asylum policy that Government has long pursued and continues to pursue. That policy is and remains based on critical factual and legal error.

The UK asylum system is in an utter state of collapse. It is highly likely that this calamity is affecting the wider immigration system, but the facts concerning the asylum system are stark.³ The system is overwhelmed by backlogs, which Government policy has created.⁴ The impact is one of crisis – thousands of people stuck for long and indefinite periods, frequently in conditions that are inadequate, unsanitary, overcrowded and even unlawful, causing disease, distress and, there is every indication to conclude, deaths.⁵ There are significantly more people now dying in this system, including babies.⁶

The last three Home Secretaries – discounting Rt Hon Grant Shapps whose term of office lasted less than a week – have made crossing the Channel by small boat a focal point. During their respective terms in office, they have each contributed to the sense that these crossings constitute some kind of national ‘threat’ and emphatically committed to make the crossings “*unviable*”.⁷

When Rt Hon Sajid Javid took office as Home Secretary in April 2018, the backlog of asylum claims awaiting decision for more than 6 months was less than 14,000. The Government’s

¹ *Stopping the Crossings*, Centre for Policy Studies, Nick Timothy & Karl Williams with Foreword by Rt Hon Suella Braverman

² <https://www.unhcr.org/uk/news/press/2022/12/638da3344/unhcr-news-comment-on-uk-asylum-reform-proposals.html>

³ Data presented and drawn upon in this briefing is taken from the official immigration statistics quarterly release, November 2022.

⁴ Most forcefully by a policy from 31 December 2020 to refuse or delay processing claims that are designated as ‘inadmissibility’, a policy now incorporated into law by section 16 of the Nationality and Borders Act 2022.

⁵ The recent conditions at Manston are well documented and utterly appalling. The conditions in the wider asylum system continue to receive too little attention including the substantial rise over recent years in the number of people in asylum accommodation who have lost their lives: <https://www.asylumseekermemorial.co.uk/>

⁶ <https://gal-dem.com/asylum-seeker-infant-deaths-home-office-investigation/>

⁷ Rt Hon Sajid Javid may not have used the term ‘unviable’ but expressed the same intent:

<https://www.telegraph.co.uk/news/2018/12/31/sajid-javid-redeploys-two-cutters-channel-amid-mounting-pressure/>

quarterly statistics show that backlog to have risen during every quarter since. It now stands at around 100,000. The total backlog of all claims is around 150,000.

When it was first reported over the 2018 Christmas holiday period that a few people had crossed the Channel by small boat to seek asylum, Rt Hon Sajid Javid described this as a “*major incident*”, which was sufficient for him to abandon his family holiday in South Africa.⁸ Since that time the number of people crossing the Channel by small boat to seek asylum has consistently grown. In 2019, the total number could be measured in 100’s; in 2020, it could be measured in 1,000’s; and it is now measured in 10,000’s. But while there has been a significant increase in the number of asylum claims received by the UK since the second half of 2021, prior to that time the number of claims received fell and rose within a consistently modest margin. Yet, the backlog always grew. The significant change is the visibility not the number of the people seeking asylum in the UK.

The Rt Hon Priti Patel significantly ratcheted up rhetoric and policy that is hostile to people seeking asylum – particularly but not solely the people who do so by small boat. The current Home Secretary has simply continued this and taken it further.⁹ The express aim of such policy is ‘deterrence’. That is primarily expressed as deterrence of small boat crossings.¹⁰ However, the reality is that the deterrence at which policy aims is the deterrence of seeking asylum.

The Rt Hon Suella Braverman unintentionally exposed this in her most recent evidence to the Home Affairs Select Committee in answer to a question from one of her backbench colleagues.¹¹ Yet, it has never been much of a secret. Home Office policy has for years been that no asylum claim can be made unless the person seeking asylum has first reached the UK:¹²

- The immigration rules have for years made no provision for anyone to obtain a visa for the purpose of seeking asylum in the UK.
- Moreover, the rules have for years expressly provided for the refusal or withdrawal of any visa that is thought to have been sought or obtained for a purpose other than one permitted by those rules.¹³
- The rules have also for years maintained a list of countries, the nationals of which are required to secure a visa for all travel to the UK; and that list has consistently been maintained and updated to include all countries from which any significant number of people seek asylum.¹⁴

⁸ *ibid*

⁹ Rt Hon Suella Braverman’s rhetoric has extended to describing people seeking asylum as “*invaders*” barely 24 hours after a firebomb attack upon people seeking asylum detained at Western Jet Foil, Dover.

¹⁰ The Permanent Secretary identified this purpose specifically in relation to the Rwanda deal at the oral evidence session before the Home Affairs Select Committee at which he attended with the Home Secretary and the Clandestine Channel Threat Commander on 23 November 2022: see Q458. However, deterrence is at the heart of the New Plan for Immigration from its first being publicly consulted upon in March 2021 (a consultation by which it was roundly rejected but which ministers determined to ignore): <https://www.gov.uk/government/consultations/new-plan-for-immigration>

¹¹ Q423-Q428 of the oral evidence session, *ibid*

¹² Home Office policy dating from September 2011 is here: <https://www.gov.uk/government/publications/applications-from-abroad-policy>

¹³ More on this and related sourced information and analysis is available from this Amnesty briefing: https://www.amnesty.org.uk/files/2021-01/Amnesty%20International%20UK%20-%20Safe%20and%20Legal%20Routes%20Briefing_0.pdf

¹⁴ El Salvador was e.g. most recently added to the UK’s visa list after a rise in the still modest number of Salvadoreans seeking asylum in the UK.

Earlier this year, Parliament passed legislation that expressly requires asylum claims to be made “*in the UK*”.¹⁵ The Nationality and Borders Act 2022 has also, in several ways that violate international human rights and asylum law, entrenched the policy of deterrence. This is done by measures that punish and penalise people for seeking asylum by the only means that is available to them – usually a dangerous journey, controlled by dangerous organised criminals.¹⁶

The results of this deterrence policy have been dire from all perspectives bar one. That exception is the perspective of organised crime. Smugglers, traffickers and other abusers are thriving. They thrive because governments refuse or fail to take their responsibilities or provide people safe access to fair and efficient asylum systems. They thrive both from the journeys people are compelled to make to escape danger and deprivation, and from the miserable and menacing conditions with which people are met on and even at the end of their journeys – including in the UK. The number of unaccompanied children going missing in the UK ought to be stark revelation about the risk of this deterrence even for people whose safety and welfare, by reason of their age and specific statutory duties, are most clearly prioritised or are supposed to be.¹⁷

Amnesty International has clearly and repeatedly – in dialogue with officials, correspondence with ministers, evidence to Parliament and in open public discourse – warned of the dire consequences of the Government’s deterrence policy and of its unlawfulness and impracticality. We have consistently drawn attention to the fact that the UK remains a relatively modest recipient of people seeking asylum and hosts a relatively modest number of refugees.¹⁸ We have explained the disastrous causal connection between pursuing this policy and the insecurity of refugees across the globe by rejecting the asylum responsibilities that, under international human rights and asylum law, the UK has contracted to share with others. None of this can encourage other nations, including many far poorer nations hosting far larger displaced populations, to maintain and improve their provision for refugees.¹⁹ Indeed, it can only do the opposite – either by continuing to stretch the manifestly unfair and disproportionate responsibilities which are demanded of other nations, or by giving wretched licence to abandoning such responsibilities by the UK’s example.

It is ironic that at this time the Foreign Affairs Select Committee is inquiring into the suitability of a Government strategy across security, defence, development and foreign policy that currently makes the strong assertion that “*a world in which democratic societies flourish and fundamental human rights are protected is one that is more conducive to our sovereignty, security and prosperity as a nation*” and identifies “*commitment to universal human rights, the rule of law, free speech and fairness and equality*” as fundamental to British identity.²⁰

¹⁵ Section 14 of the Nationality and Borders Act 2022

¹⁶ Amnesty briefed and provided evidence to Parliament throughout the passage of this Act. Our briefings and evidence on the Act’s asylum provisions remain valid: <https://www.amnesty.org.uk/resources/nationality-and-borders-bill-2021-22>

¹⁷ Most recent media reports have focused on missing Albanian children, but dozens of other children have gone missing too: <https://www.bbc.co.uk/news/uk-england-kent-63845680>

¹⁸ Comparative data is available from UNHCR: <https://www.unhcr.org/refugee-statistics/>

¹⁹ At the end of 2021, UNHCR recorded that “*Low and middle income countries host 74 per cent of the world’s refugees and other people in need of international protection. The least developed countries provide asylum to 22 per cent of the total.*” *ibid*

²⁰ *Global Britain in a competitive age: The Integrated Review of Security, Defence, Development and Foreign Policy*, CP 403 (“the Review”), paragraphs 14 & 15, pages 13 & 14

Government asylum policy not only contradicts all of this. It violates universal human rights and the rule of law. It does so for reasons that are selfish and manifestly unfair – being an attempt to refuse to share responsibilities that already fall far more heavily on others, including nations far less able to carry these. It even does so, via the Government’s deal with Rwanda,²¹ at the expense of lionising as a model of respectability a government whose continued record on human rights abuses, repression of free speech and international instability is shocking.²²

In this short briefing, we do not again attempt to unpick the various iterations of the Government’s baleful asylum policy – the various ways in which it violates international human rights and asylum law, and the specific harms it does to the UK’s legal system, the nation’s self-respect and bank balance, and the lives and wellbeing of the relatively few people who seek asylum in this country. There is too much and it is all too urgent to again focus on that detail when the political disaster of refusing to understand or respect evidence, fact and law is so pervasive and entrenched within this policy.

No good has come from this policy.

No good can come from this policy.

And if those responsible for it do not urgently dismantle it and redirect the asylum system to meeting the UK’s international duties by fairly and efficiently determining the asylum claims of all regardless of how they may arrive, it will only get ever harder and more costly to repair the damage being done. We strongly encourage the creation of real and accessible safe routes by which people, especially people with family and other connection here, can seek asylum in the UK. But more even than this, **we demand respect for international human rights and asylum law in the case of every person who exercises their right to seek asylum in this country.**

²¹ Amnesty has summarised key concerns regarding this deal in our written submission to the International Agreements Select Committee: <https://committees.parliament.uk/writtenevidence/109753/pdf/>

²² Rt Hon Suella Braverman’s responses to questions concerning Rwanda’s human rights record at the oral evidence session before the Home Affairs Select Committee, Q444-Q457, gave clear indication of how little understanding or care the Home Secretary has given to this particular matter, including both the appalling consequences of a relatively recent and similar arrangement by Israel with Rwanda and the conduct of the Rwandan government more generally. *ibid*