Submission to the Home Affairs Selection Committee

Developing a consensus on an effective immigration policy

February 2017

Amnesty International UK is a national section of a global movement of over three million supporters, members and activists. We represent more than 600,000 members, supporters, activists, and active groups across the United Kingdom. Collectively, our vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. Our mission is to undertake research and action focused on preventing and ending grave abuses of these rights. We are independent of any government, political ideology, economic interest or religion.

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Introduction:

1. By this submission, Amnesty International UK (AIUK) seeks to raise some broad foundational questions for the Committee to consider in the course of its inquiry concerning the treatment of people subject to immigration controls and third parties, particularly close relatives, who are directly affected by their treatment.

2. The primary focus of AIUK in relation to immigration has for many years been the UK asylum system, and more recently the UK's response to a global refugee crisis that has grown rapidly year on year since 2013. However, this has not been the sole focus of our refugee and migrant rights work. Moreover, our experience of the asylum system has meant working alongside others (NGOs, lawyers and other actors) across other areas of the immigration system and has relied upon familiarity with the immigration context within which the asylum system sits. Since the relevance of respect for human rights and their abuses are not limited to the latter, and public attitudes and policy development in relation to asylum and immigration are likely to be and remain significantly interconnected, we wish to take this opportunity to draw to the Committee's attention a broad concern regarding the UK immigration system. We hope the Committee will benefit from directing its inquiry to the same.

3. The concern is that the formulation and implementation of immigration law and policy pays far too little attention to the lived experience of those subjected to the immigration system. Failure to adequately consider or understand the interests, needs or experiences of those whom it seeks to control is likely to lead to unnecessary or unintended harm. It risks introducing or exacerbating vulnerability to exploitation or abuse[1] and suffering such as destitution,[2] family separation[3] and mental health harm.[4] These are all too prevalent consequences of the immigration system.

4. The apparent approach to Eritrean asylum claims over the past couple of years as revealed by the remarkable disparity between the Home Office refusal rate and appeal success rate[5] and subsequent freedom of information disclosures;[6] and the readiness

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[1] Exploitation and abuse may range from violence, trafficking and enslavement to unfair wage practices and deficient housing; and may take place in various social settings including, but not limited to, domestic and work places. Precarious immigration status provides an abuser or exploiter with a threat, which may be explicit and/or implicit, if the consequences of loss of status or exposure of absence of status and their impact on the individual and particularly her or his family (whether in the UK or elsewhere) are or are perceived to be a greater harm. As for what is precarious, this depends on the particular circumstances of the individual.

[2] This has long been a feature of the asylum system. As immigration control reaches further into ordinary social activity – including access to housing, employment and healthcare – there is a risk of increased prevalence of destitution and poverty-related harms relating to the wider immigration system resulting from exclusion.

[3] The expanded use of detention, deportation and removal powers, coupled with changes to immigration rules that have imposed additional financial thresholds for family migration, are particular concerns here.

[4] A particularly dramatic example is provided by the High Court finding inhuman and degrading treatment or punishment in the exercise of immigration detention powers in six cases since 2011, the most recent judgment being that of 12 January 2017 arising from the punitive use of isolation against a mentally ill detained woman, subsequently acknowledged to be a victim of trafficking and a refugee. See http://www.bailii.org/ew/cases/EWHC/QB/2017/10.html

[5] Data is available from the Home Office quarterly immigration statistics on asylum. When considering this data is it is important to note that the overall grant rate by the Home Office disguises some of the impact of the Home Office actions because grants include leave granted to unaccompanied children refused asylum, and Eritrean nationals make up a significant number of unaccompanied children seeking asylum in the UK.

[6] The Public Law Project has published information about this: http://www.publiclawproject.org.uk/news/69/home-office-disclosure-reveals-efforts-to-reduce-the-numbers-of-eritrean-nationals-granted-asylum-wi

However, the impact on people seeking asylum from Eritrea is not limited to children.

of the Government to describe and treat European Economic Area nationals and their family members as "*negotiating capital*",[7] are but two current and salient examples of the worst of this approach to formulating and implementing law and policy in this area. People (and obligations in respect of their right to asylum or to respect for private and family life) are collectively made subordinate to general policy ambitions such as deterring others from claiming asylum or obtaining a better deal in negotiations with the European Union and its remaining members.

5. Treating people merely as multitudes of pawns to be pushed or pulled in this or that direction in the service of policy objectives at a macro level is to dehumanise them as well as to risk harm to their safety and welfare, and that of their family. This is bad for them, and bad for the policy. Policy made in this way tends to discount the interests, needs and constraints on affected people and, therefore, how they will be likely to respond. It risks harming these people, encouraging or compelling them into situations of greater vulnerability because they will not or cannot adhere to behaviour demanded or assumed by the policy. It is also to risk choosing policy objectives, intrinsic to which are the very conditions for failure.

6. The risk of over-promising and failing to deliver in relation to immigration policy were highlighted in a policy briefing by the All-Party Parliamentary Group on Migration in July 2011.[8] Thus, the Committee should give particular consideration to the needs, interests and lived experience of the immigration system of those subjected to it; and how an effective system should respond to these. The concern is that formulating an immigration system with no or little consideration or care for the lives of those it largely seeks to govern may be expected to meet with resistance – at least some of it reasonable, perhaps necessary – and in so doing is thereby likely to promote rather than ease the concerns expressed by the Committee Chair in her speech at the launch of this inquiry.[9]

7. When rhetoric or narratives promoted around the policies pursued also tend to dehumanise or negatively portray those subject to these,[10] such concerns are likely to be compounded. This is all the more so where there are clear disparities between the notional target of the rhetoric or policy, the group of persons in fact affected by the policy and the group of persons perceived by members of the public to be either

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[7] This was expressed in a letter from the Free Movement Policy Team at the Home Office to the group 3million and is available at: https://medium.com/@The3Million/the-home-office-responds-to-our-question-about-deportation-of-eu-citizens-4fba8f4e94fe#.qhy7o1x25

[8] See http://www.appgmigration.org.uk/sites/default/files/APPG_migration-Public_opinion-June_2011.pdf

[9] The Chair highlighted an absence of fairness and public support and confidence that has led to an angry and polarised debate on the subject of immigration. That debate has received a lot of attention, and not just recently. In a report prepared for UNHCR, *Press Coverage of the Refugee and Migrant Crisis in the EU: A Content Analysis of Five European Countries* (December 2015), Cardiff School of Journalism, Media and Cultural Studies, Berry, Garcia-Blanco and Moore, found that press coverage in the UK was the most polarised and negative, including a unique hostility towards refugees and migrants. See: http://www.unhcr.org/56bb369c9.html Related concerns prompted the Joint Committee on Human Rights to recommend, as long ago as March 2007, that "*Ministers recognise their responsibility to use measured language so as not to give ammunition to those who seek to build resentment against asylum seekers, nor to give the media the excuse to write inflammatory or misleading articles.*" See the Committee's Tenth Report of Session 2006-07, *The Treatment of Asylum Seekers*, available at: https://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/81/81i.pdf

[10] A far from unique example was given by the then Prime Minister in referring to people seeking asylum in Europe as a 'swarm' in July 2015, a portrayal aggravated by the incorrect implication that all or a disproportionate number of these people wanted to come to the UK.

targeted or affected.[11] These concerns are also likely compounded by intentionally visible, often disproportionately costly,[12] enforcement activity which risks confirming rather than easing public perceptions and anxieties.[13]

8. In this submission we make some further observations under three subheadings – social integration, forced migration and children.

Social integration:

9. There is currently considerable attention – including parliamentary attention – given to the question of integration. Two All-Party Parliament Groups are engaged in inquiries concerning integration – the groups on social integration[14] and on refugees.[15] The Government has recently published *The Casey Review: a review into opportunity and integration*,[16] and the Communities and Local Government Select Committee, which is conducting its own integration inquiry, has recently received oral evidence from Dame Louise Casey, the author of that report.[17]

10. Much of the discussion on this topic proceeds with little attention to a fundamental hurdle to successful integration by people subjected to the UK's immigration system; a hurdle spanning right across UK immigration law and policy: uncertainty. In contrast to the many voices expressing concern at how difficult it is or is perceived to be for settled communities to experience change in their social and cultural environment,[18] the rapid change in immigration rules, fees and processes directly affecting people subject to immigration control is barely discussed.

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[11] We addressed this in our oral evidence to the Public Bill Committee considering the Immigration Bill 2015-16 (*Hansard* HC, Public Bill Committee, Fourth Sitting, 22 Oct 2015 : Columns 140-141, Q301) by providing a brief summary of the many people likely to be affected by measures in that Bill and its predecessor, despite their having an entitlement to be in the UK – including thousands of children entitled to British citizenship. More information on this latter group is provided by the Project for the Registration of Children as British Citizens (PRCBC), see: https://prcbc.wordpress.com/what-we-do/

[12] We touched on this in our written evidence to the Public Bill Committee considering the Immigration Bill 2015-16, particularly in relation to the volume of marriages referred to the Home Office; see: https://www.publications.parliament.uk/pa/cm201516/cmpublic/immigration/memo/ib20.htm The assessment of the Chartered Institute of Housing regarding the Government's right to rent scheme highlights similar concerns: https://www.theguardian.com/housing-network/2017/feb/01/right-to-rent-immigration-checks-vulnerable-people-risk?CMP=share_btn_tw

[13] In October 2013, the Prime Minster (then Home Secretary) confirmed that 'go home' vans she had commissioned had not been a good idea in that they were "*too blunt an instrument*" (*Hansard* HC, 22 Oct 2013 : Column 157). Under the previous Labour administration, the preponderance of news updates regarding enforcement activity (e.g. raids on business or other premises) on the UK Border Agency became a feature of the Agency's website. A related concern has been the several Ministerial announcements regarding reviews or consultations of NHS access since 2010.

[14] The group's interim report is available at: http://d3n8a8pro7vhmx.cloudfront.net/themes/570513f1b504f500db000001/attachments/original/1483958173/TC0012_AAPG_Interim_Report_Screen.pdf?1483958173

[15] The group's report is pending.

[16] The report is available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/575973/The_Casey_Review_Report.pdf

[17] A transcript of the evidence is available at: http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/communities-and-local-government-committee/integration-review/oral/44991.pdf

[18] This is something identified in both the APPG on social integration and Casey Review reports *op cit*.

11. Yet for many years, people subject to immigration control have been expected to adjust to a swathe of rules changes,[19] hikes in fees[20] and other changes affecting how they may or must engage with the immigration system or how that system engages with them.[21] These developments can, and in many cases do, fundamentally alter the basis on which people who have come to the UK to work, study or join family may continue to do so. They may make people's ordinary lives precarious; and subvert the expectations and efforts of people seeking to comply with immigration rules.[22] This in turn may undermine confidence in the immigration rules and system; and cause distress, unfairness and vulnerability to exploitation and exclusion. It may also undermine people's agency and sense of agency, which in itself risks leaving people more vulnerable to exploitation and exclusion.

12. Much of the integration discussion proceeds on the basis of an inquiry into what ought or ought not to be expected of people who are or recently were subject to immigration control.[23] Discussions of the so-called 'two-way street'[24] envisage some consideration of what ought or ought not to be expected of settled communities in welcoming these people. Some consideration is given to what central and local government may or should do by way of establishing an environment conducive to better integration –

[19] There have been 70 statements of changes to the immigration rules over the last ten years, and the rules themselves now extend to 20 parts and 26 appendices with reams of often highly complex and interrelated paragraphs.

[20] An illustration is provided by the rise in fees for naturalisation (how an adult may seek to become a British citizen), which have risen from £735 in 2010 to £1,236 in 2016. This masks the overall increase in fees for many adults seeking to first settle (a necessary precondition for naturalisation) since not only have immigration fees also risen greatly, but the number and frequency of immigration applications that many need to make to reach the point where they may apply for settlement (indefinite leave to remain) have increased too.

[21] The impact of rules and legislative changes in making the immigration system complex and inaccessible has been frequently remarked upon by our senior courts. Most recently, in concluding the judgment of the Supreme Court in *R (Mirza & Ors) v Secretary of State for the Home Department* [2016] UKSC 63 on 14 December 2016, Lord Carnwath observed: "*I have found this a troubling case. It is particularly disturbing that the Secretary of State herself has been unable to maintain a consistent view of the meaning of the relevant rules and regulations. The public, and particularly those directly affected by immigration control, are entitled to expect the legislative scheme to be underpinned by a coherent view of their meaning and the policy behind them. I agree with the concluding comments of Elias LJ (para 49) on this aspect, and the "overwhelming need" for rationalisation and simplification.*"

[22] In the mid-2000's the Government sought to make changes to the highly skilled migrants programme introducing new restrictions on people who had come to the UK under this scheme being able to secure settlement as they had intended. The High Court ruled these unlawful in *R (HSMP Forum UK Ltd) v Secretary of State for the Home Department* [2009] EWHC 711 (Admin). While this judgment does not establish a wider unlawfulness in the changing of rules relating to continued stay or access to settlement in the UK, the case highlights the devastating impact that changing rules can have on people who have moved to the UK on the basis of a previous position in the rules. In the case of people who had arrived under that programme, the Joint Committee on Human Rights concluded in its Twentieth Report of Session 2006-07 the changes had unlawfully interfered with people's private and family life, see: http://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/173/173.pdf

[23] This is often at a somewhat generalised level of adherence to asserted British values (albeit these are generally very far from clearly defined); or at a more mundane level made by reference to seemingly assumed traits such as knowing when and where to queue (see the oral evidence of Dame Louise Casey, Q40). It is at least questionable whether either offers much of clarity or substance.

[24] The APPG on social integration in its interim report identified that social integration was a two-way street. Dame Louise Casey in her evidence to the Communities and Local Government Select Committee both denied and confirmed that it was, see Q13 & Q53 *op cit*.

provision of English language teaching being one point of focus.[25] However, little if any consideration is given to how the immigration system – its rules, fees and processes – contribute to social integration or the environment in which it is or is not achieved.

13. This is a serious failing at both the individual and general level.

14. At the individual level, over many years, the UK immigration system has become for many an extremely complex,[26] inaccessible[27] and punishing system.[28] Uncertainty is at the heart of much of this. As mentioned, people subject to immigration control, including when doing their best to engage with and comply with the system, face repeated and sudden changes to the rules, hikes in the fees and changes to processes. Such changes undermine people's ability to engage and comply – whether because they cannot meet changed conditions, they cannot afford increased fees or they do not

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[25] This was, for example, identified by the Casey Review.

[26] Judicial pronouncements on the complexity of the immigration rules have become far too numerous to fully enumerate, but in addition to those of Lord Carnwath *op cit* include: "*These provisions have now achieved a degree of complexity which even the Byzantine Emperors would have envied.*" *per* Jackson LJ in *Pokhriyal & Anor v Secretary of State for the Home Department* [2013] EWCA Civ 1568; "*It is, however, a striking fact that the immigration rules are already hugely cumbersome. The complexity of the machinery for immigration control has (rightly) been the subject of frequent criticism and is in urgent need of attention.*" *per* Lord Dyson in *R (Alvi) v Secretary of State for the Home Department* [2012] UKSC 33; "*...the speed with which the law, practice and policy change in this field is such that litigants must feel they are in an absolute whirlwind and indeed judges of this court often feel that they are in a whirlwind...*" *per* Longmore LJ in *DP (United States of America) v Secretary of State for the Home Department* [2012] EWCA Civ 365; and "*The Master of the Rolls (para 40), echoing words of Jackson LJ, described the law in this field as 'an impenetrable jungle of intertwined statutory provisions and judicial decisions'. It is difficult to disagree...*" *per* Lord Carnwath in *Patel & Ors v Secretary of State for the Home Department* [2013] UKSC 72.

[27] The High Court has noted the difficulties faced by an increasing number of litigants in person (but it must be recalled that litigation will likely only ever constitute a tip of the proverbial iceberg since many other individuals will simply not know how or that they can litigate or be deterred from doing so by myriad other reasons): "*With the retreat of legal aid, an increasing proportion of public law claimants are acting in person. Through no fault of their own, the immigration history that they are able to portray in their claim, and the issues to which that history has given rise, are often inaccurate.*" per Hickinbottom J in R (Singh & Ors) v Secretary of State for the Home Department [2013] EWHC 2873 (Admin).

[28] The immigration authorities are invested with wide and severe powers including to strip people of their immigration permission (leave), detain indefinitely, remove and bar them from returning. In such a complex and chaotic system, exacerbated by the removal of appeal rights and legal aid for many, the risk of these powers being used unnecessarily, unfairly or simply in error is a grave reality for many people. The scale of concern (both in terms of the numbers of people potentially affected and the harm caused to each of them) may in some part be assessed by such matters as to the subject matter of the Committee's current English language testing inquiry; the rulings of the High Court that the Government-made procedure rules dating from 2005, which have governed several thousand asylum appeals in the detained fast track, have been unlawful for imposing a rapid time timetable that was unfair to appellants seeking to pursue their asylum appeal (see most recently *R (TN & Anor v Secretary of State for the Home Department* [2017] EWHC 59 (Admin)); and the revocation in 2012 of the sponsorship license of the London Metropolitan University with potentially devastating effect on several hundred international students at that university (something touched on in the Committee's Eighth Report of Session 2012-13 on The Work of the UK Border Agency (April to June 2012). These examples are merely indicative, and similar injustices may be done by action directly affecting one individual or family. The severity of injustice and harm that can be caused is highlighted in the extreme cases of judicial findings of violation of the right not to be subjected to inhuman or degrading treatment or punishment (see fn. 4); yet the scale of even this injustice is not measureable by judicial findings since other examples may not come to light for reasons such as victims have not secured legal assistance or their claims have been settled with confidentiality agreements.

understand what is expected of them. This latter is exacerbated where people are unable to access any or competent legal assistance.[29] Changes have also deprived people of opportunities and expectations, including to settle, that had been available to them when they first sought and secured permission to enter or remain in the UK. It is important here to understand that being subjected to immigration control is not a one-off, but an ongoing experience. Moreover, for a great many people – whether they are looking to stay only temporarily or to settle permanently – it will require multiple periods of permission (leave to enter or remain) each of which requiring a separate application subject to updated conditions, fees and processes at each stage.[30]

15. For people whose hopes, plans and lives may be heavily invested in the UK – for example, through their work, their studies, their relationships, the circumstances of their family and the amount they have paid (including to the Home Office) to pursue these in the UK – this is a cause of injustice and undermines confidence. This is not simply a matter of those who intend or desire to settle here. Migration constitutes a significant (not merely financial) investment for most migrants. Moreover, their friends, neighbours, colleagues and, most particularly, family are also affected – and this includes many British citizens and settled residents.

16. Injustice is compounded by the erosion of the means to resist or seek a remedy – legal aid and appeal rights have been withdrawn in the case of a great swathe of immigration cases[31] – and by a host of measures which by design make life intolerable by excluding people who cannot establish their British citizenship, settled status or other lawful presence from a range of ordinary and necessary aspects of life – accessing work, rented accommodation, healthcare etc.[32] Moreover, since the system has become increasingly complex not only for those subject to it, but also for the immigration authorities charged with implementing and overseeing it and those (such as employers, landlords, healthcare providers, registrars) asked to take on pseudo-immigration roles, the prospect for and consequence of error has become more acute. There are thus more ways by which error by officials and/or others as to a person's immigration status (including error or delay concerning what status the person holds or to what status she or he is entitled) can cause significant harm; and the harms that may result (e.g. destitution, isolation, vulnerability to exploitation, detention, removal) are themselves likely to exacerbate the person's difficulties in seeking to rectify any error or establish her or his entitlement.[33]

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[29] Changes made to legal aid provision by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 have significantly exacerbated this, as Amnesty International has highlighted in its 2016 report, *Cuts that hurt*, see: https://www.amnesty.org/en/documents/eur45/4936/2016/en/

[30] For example, someone granted permission to remain in the UK on the basis of their private life having lived in the UK for 20 continuous years, or seven such years if a child, currently can anticipate having to make and pay for four separate applications (fee is currently set at £811) before reaching a point at which she or she may apply for settlement (current fee is set at £1,875). If she or he wished thereafter to apply to naturalise as a British citizen, this would entail another fee (current fee is set at £1,156). However, on current projections, over the course of the period, she or he ought to expect these relevant fees to rise very significantly.

[31] The Immigration Act 2014, in particular, removed appeal rights against immigration decisions save for when an asylum claim or human rights claim was being refused or refugee leave or humanitarian protection was revoked. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 largely removed legal aid for non-asylum immigration cases.

[32] Much of this has been done or made more severe by the Immigration Acts 2014 and 2016, and the 'hostile environment' (a term introduced by the present Prime Minister, when Secretary of State for the Home Department) primarily introduced by this legislation.

[33] To take but one example, the Government has long recognised that NHS healthcare providers can play an important role in identifying victims of trafficking and providing encouragement and information for them to

17. All of this is likely to have wider effects. The system is complex, costly and, it at least appears, increasingly unmanageable. So many of its outcomes are obviously chaotic and unjust.[34] The steady accretion of ever more powers[35] and wider remit has only served to extend the scale and breadth of these concerns while widening the gap between perceptions of what in the name of immigration control needs to be done and what is achieved.

Forced migration:

18. The Government's response to a global refugee crisis that has grown rapidly and dramatically over the last three to four years has been punctuated by rhetoric and policy that consistently fails or refuses to attend to what is the reality for people in flight.

19. The Government has largely refused to assist its EU partners with the unusual scale of forced migration to the continent in 2015 and since, thereby undermining others efforts to secure a collective response.[36] It has compounded this by delay and obstruction to its pre-existing duties under the Dublin III Regulations to accept transfer of unaccompanied children from the EU to join family members in the UK.[37] These policy positions and the rhetoric that has accompanied them have not eased the plight of people forced to flee, but have tended to exaggerate the gap between what is perceived as being necessary and possible on the one hand, and what is visibly achieved and results on the other.

20. The outcomes for many people have been catastrophic – lives lost on dangerous sea and land journeys,[38] and women, men and children subjected to squalor and deprivation[39] in circumstances causing distress, trauma and vulnerability to

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escape their enslavement; see e.g.: https://www.gov.uk/government/news/help-for-nhs-staff-to-spot-and-support-trafficking-victims However, this is premised on trust and confidence between victim and healthcare provider (otherwise the former may neither disclose nor even attend), which is generally undermined by data sharing of the NHS with the Home Office for immigration purposes.

[34] The then Home Secretary, now Prime Minister, described the immigration system as "*chaotic*" in March 2013 (*Hansard* HC, 26 March 2013 : Column 1500), when she announced her decision to disband the UK Border Agency. She also then identified as key problems the policy and legal framework in which it operated, its cultures, and its lack of transparency and accountability.

[35] There have been nine immigration acts (discounting the Special Immigration Appeals Commission Act 1997 and Criminal Justice and Immigration Act 2008) in the last 20 years. Each has generally increased powers of immigration officers and the Home Office including to stop, search and seize, arrest and detain, remove and deport including without recourse to any appeal or an appeal that may be exercised before removal from the country.

[36] The Government refused to participate in the EU's relocation scheme even before this was formally discussed among Member States. The scheme has since been largely unsuccessful as other countries have similarly resisted or refused to participate. More generally, the Government has maintained a position – softened by legislative and litigation pressure in respect of unaccompanied children – that it will not assist its European neighbours by offering to receive any share of those people seeking asylum in the EU.

[37] The Government took steps to give some effect to these longstanding obligations only after the judgment of the Upper Tribunal (Immigration and Asylum Chamber) in *R (ZAT & Ors(Syria)) v Secretary of State for the Home Department* [2016] UKUT 61 (IAC).

[38] Last year saw a peak in recorded deaths in the Mediterranean surpassing 5,000.

[39] This has become an all too familiar situation across much of Europe, from Calais and Dunkirk to Greece and the Balkans, and at various locations in between.

exploitation.[40] Moreover, the refusal of the UK and other EU Governments to ensure safe passage and reception to people seeking asylum, and migration deals that have been struck or sought, now risk a grave shrinkage in safe space for refugees at a time when the causes of forced migration are, if anything, spreading and becoming more intractable.[41]

21. The longstanding position of the UK and other EU Governments not to support search and rescue operations in the Mediterranean provides a particularly stark example of policy objective at the macro level that either ignored or failed to comprehend the true plight of affected people. At its worst, the policy set out to sacrifice the lives of people at sea in the hope – tragically not realised[42] – that this would deter others from making the journey. In any event, the policy failed to consider or appreciate the weight of factors driving people to make unsafe journeys. A similar flaw is at the heart of policy objectives still pursued in relation to Libya. It is well known that the situation facing refugees, migrant workers and other migrants in that country includes widespread use of detention in appalling conditions and exploitation, abuse and kidnapping for ransom – each marked by systemic rape, torture and other abuses.[43] Many victims are aware of these various cruelties before arriving there.[44]

22. Seeking to avoid responsibility for providing asylum by these means risks gravely exacerbating the scale and longevity of the current global crisis. It too undermines confidence – not least among those refugees, British citizens, settled residents and others whose family members are left to face a host of risks and traumas for want of access to a visa permitting them to be reunited in the UK.

Children:

23. In November 2008, the UK withdrew its immigration and nationality reservation to the 1989 UN Convention on the Rights of the Child, and the following year the Home Office was made subject to a children's welfare and safeguarding duty.[45] Yet the Home Office continues to treat children in many circumstances as mere appendages

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[40] Refugees' vulnerability to trafficking and exploitation has long been recognised – see for example the UN Office on Drugs and Crime background paper, *An Introduction to Human Trafficking: Vulnerability, Impact and Action* (2008), which includes: "*Movement under duress exacerbates existing vulnerabilities and creates new conditions under which individuals are made vulnerable to exploitation and trafficking. Refugees, internally displaced persons and asylum seekers, who find themselves in highly volatile situations and without traditional protection mechanisms, are extremely vulnerable.*" See http://www.unodc.org/documents/human-trafficking/An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf

[41] Lebanon, Jordan and Turkey have long since sought to seal their borders with Syria, while Iran and Pakistan have been forcing hundreds of thousands of Afghan refugees pack to a country in turmoil as Kenya threatens Somali refugees with much the same. Meanwhile, conflict and persecution has not eased globally. Last year, South Sudan joined the ignoble list of countries with over one million of its citizens forced into exile by persecution and conflict.

[42] The first months of 2015 – after the end of the Italian search and rescue mission which the UK and other EU Governments had refused to support – saw a rise in people attempting the crossing of the central Mediterranean and a far more dramatic rise in people losing their lives. See: https://www.amnesty.org.uk/sites/default/files/sarbriefingpdf_0.pdf

[43] Our research has repeatedly highlighted this in recent years. See e.g.: file:///C:/Users/ssymonds/Downloads/MDE1915782015ENGLISH.pdf

[44] As, for example, we have highlighted, many women on the route via Libya take contraception before arriving there in anticipation of being raped; see: https://www.amnesty.org/en/latest/news/2016/07/refugees-and-migrants-fleeing-sexual-violence-abuse-and-exploitation-in-libya/

[45] Section 55, Borders, Citizenship and Immigration Act 2009.

of adults (usually parents), exhibiting little if any care or understanding of these international and domestic law children's duties. There are many egregious examples. Three will suffice.

24. The continued denial of family reunion rights to unaccompanied children found to be refugees and the responsibility of the UK, and hence unable to be reunited with parents and siblings elsewhere is plainly inconsistent with obligations to give primary consideration to children's best interests and promote their welfare.[46] The charging of a £936 fee to children entitled by law to register as British citizens is similarly incompatible – the fee acts as a barrier to the citizenship rights of many and (even allowing for the claim that £272 is the cost of processing the child's registration) is mostly made up of mere profit to the Home Office.[47] The removal of the policy whereby children resident in the UK for seven years could secure indefinite leave to remain (settlement) in recognition of the fact that their futures lay here and its replacement over time by a regime granting these children permission to stay for renewable periods of 30 months (at considerable cost on each occasion) has created new barriers and uncertainty for children that is also incompatible with these duties.[48]

Conclusion:

25. As highlighted in this submission, there is a disconnect between the formulation, presentation and implementation of law and policy in the UK's immigration system and the experience, expectation and interests of those subject to that system (and indeed others whether because they are related to those subject to it, or mistakenly treated as subject to it). This causes or leads to considerable harm to many people. It also undermines confidence in the system. To both secure confidence and avoid harm, far greater attention needs to be given to the circumstances of those subject to this system.

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[46] Neither the immigration rules nor Home Office published policy caters for this age group of refugees, who are acknowledged to be entitled to asylum in the UK.

[47] More information is available at: https://prcbc.wordpress.com/why-are-children-not-being-registered/

[48] The concession was removed in December 2008. The current substitute provision is to be found at paragraph 276ADE(1)(iv) of the immigration rules. Whereas the concession, where applied, provided settlement for a child who had lived in the UK for seven continuous years, the current rule provides for renewable periods of 30 months leave to remain with financial costs highlighted at fn. 30.