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Joint Committee on Human Rights

Oral evidence: Human rights of asylum seekers in the UK, [HC 821](#)

Wednesday 26 October 2022

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Members present: Joanna Cherry MP(Chair); Lord Dubs; Florence Eshalomi MP; Lord Henley; Baroness Ludford; David Simmonds MP; Lord Singh of Wimbledon.

Questions 1 - 9

Witnesses

[I](#): Jonathan Ellis, Affairs and Policy Strategic Lead, Refugee Council; James Fookes, Research and Advocacy Co-ordinator, Anti-Slavery International; Zehrah Hasan, Advocacy Director, Joint Council for the Welfare of Immigrants.

Examination of witnesses

Jonathan Ellis, James Fookes and Zehrah Hasan.

Q1 Chair: Welcome to today's meeting of the Joint Committee on Human Rights. We are a cross-party joint committee, which means that we have members from both the House of Commons and the House of Lords. In today's evidence session, we will be looking at human rights concerns related to the rights of asylum seekers in the United Kingdom and hearing from representatives of organisations that work with, and campaign on, issues relating to refugees and asylum seekers.

Our first witness, joining us via Zoom, is Jonathan Ellis, the public affairs and policy strategic lead at the Refugee Council, an organisation that works with refugees and people seeking asylum in the United Kingdom.

Next we have James Fookes, who is with us in person. He is the research and advocacy co-ordinator at Anti-Slavery International, an organisation that campaigns to end all forms of slavery and slave-like practices in the world. James has expertise in migration, asylum and modern slavery.

Last, but by no means least, we have Zehrah Hasan, who is the advocacy director at the Joint Council for the Welfare of Immigrants, an organisation dedicated to campaigning and defending the rights of refugees, asylum seekers and migrants. Zehrah previously worked as an immigration and asylum barrister at Garden Court Chambers, where she specialised in representing survivors of trafficking and torture as well as lesbian, gay, bisexual, and trans asylum seekers.

Zehrah, I shall direct my first question to you. Why do asylum seekers come to the United Kingdom?

Zehrah Hasan: I would start by setting the context. The most recent data we have shows that 80% of refugees across the world live in the global south. The vast majority of refugees, about 70%, live in neighbouring countries. Of the refugees who then travel onwards to Europe to seek safety, 2021 statistics show that far more people go to Germany, France, Spain or Greece. Only a minority of people seeking refuge choose to travel to the UK. The main reason why those people come to the UK is because they have family or community connections here. We can all imagine that if we were forced to rebuild our lives elsewhere, the first place we would go is somewhere where we had family or community ties. A 2018 study found that more than half of more than 400 people in northern France who wanted to travel to England had a family member already in the UK.

The other important factor as to why asylum seekers might come to the UK is that they speak the language. English is the third most spoken language in the world; it tops the list of second languages spoken. It is also important to remember how Britain's colonial legacy is often why people from certain countries speak English. Most states where English is an official language are former territories of the British Empire.



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Our clients at JCWI have also reported seeking safety in the UK because they have been unsafe elsewhere. For example, they may have experienced racism and abuse, including by the police, in Calais and in Italy. They perceive the UK's human rights standards to be better and consider that, because of their experiences, they would be better protected in the UK. Unfortunately, I would say that, as a result of this Government's migration policy, this could not be further from the truth. This Government have presided over the Nationality and Borders Act, which is one of the most draconian pieces of immigration legislation we have seen in decades, and they have announced plans to scrap the Human Rights Act. They have consistently announced increasingly cruel and brutal anti-migrant policies.

Finally, some people come to the UK because they have no choice; they have been trafficked or forced here by smugglers. Last year, at least 10,000 children and adults were trafficked to the UK and forced into exploitation or modern slavery. For JCWI, the question is not why people seek safety in the UK; it is what risks they are they forced to take to come here. What happens when they get to the UK? How are they treated? Why are they treated that way? What are the solutions to the problems people face?

The simple answer is that this Government are forcing people to make dangerous journeys across the channel, because there are no functioning safe routes. We are seeing people being subjected to an ever-expanding hostile environment and to exploitation because they cannot access basic resources or work opportunities to support themselves and their families when they get here. People who seek sanctuary in the UK want the same thing we all do, which is to be treated with dignity and respect. They want to live happy and fulfilling lives, they want to be part of our communities. To make this a thing of reality rather than a thing of dreams, we must work towards that system. That system is unfortunately not what this Government are currently doing.

Chair: Jonathan, is there anything you would like to add to that very full answer from Zehrah?

Jonathan Ellis: People are facing danger in their own countries, such as Syria, Afghanistan, Eritrea, and they are fleeing to feel safe. The last asylum statistics show that there was a 76% recognition rate. That is a 30-year high. There are really high numbers of people who feel that connection and want to feel safe in this country. That is really important. Recent Refugee Council research looking at people making that dangerous crossing across the English channel shows that 91% of people in those small boats came from 10 countries where we see human rights abuses. It is a real issue. The vast majority of people are fleeing persecution and coming to the UK because they seek safety.

Chair: Did you say that 91% of people who come to the UK across the channel in small boats come from countries where there are well-documented human rights abuses? If it were to be suggested that the majority of these people are economic migrants, your statistics suggest



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that that is not correct.

Jonathan Ellis: We have a report on our website, which we commissioned last year, which has that figure. We are not saying that they will go on to get refugee status, but they are coming from countries where there is well-documented abuse of human rights. We should be careful in our language. We should have a culture of belief when people arrive here, and we should be really sensitive about people being able to give the full story of why they are seeking safety.

Q2 Chair: If somebody is fleeing human rights abuses, for example, how much choice do they have in where they are going and how they will get there?

Zehrah Hasan: As a result of this Government's refusal to open the safe routes that people need, they definitely have very limited choice about the means they use to come here. To claim asylum in the UK you must be on UK soil. Unfortunately, there are no functioning safe routes for travelling to the UK. Therefore, people fleeing war, persecution, violence and abuse are forced to make that perilous journey across the channel. If this Government really cared about saving lives and ensuring that people do not have to make that dangerous crossing in the first place, putting themselves and their families at risk, they would listen to the evidence that has been repeated time and time again, and open the safe routes that people need. We can go into more detail on the lack of routes and the routes we would suggest in a short while.

In terms of choice, some people do not have a choice, because they are trafficked to the UK or they are forced here by people smugglers. One of our clients—we shall call him Abdul—had his journey to the UK arranged by his cousin. He and his children were forced on to a boat at Calais at gunpoint by smugglers. He was then beaten by the smuggler throughout the journey. Instead of being offered any protection or refuge when he arrived in the UK, he was detained to be deported to a country he had no connection to. While we were able to support him—his removal directions have been cancelled by the Home Office and he has been released from detention—his experience mirrors the experiences of many people.

Regardless of choice, and regardless of means, if any of us feared for our lives, if any of us worried about our loved ones and wanted to rebuild our lives elsewhere, we would want to know that others would help us to safety. Instead, we are seeing this Government demonise and punish people—grandmothers, fathers, children—who are escaping war, conflict and persecution.

A clear example of how government policy is forcing people to make these crossings is comparing the Ukrainian scheme with the Afghan scheme. The Home Office's most recent statistics show that Afghans were among the top nationalities using boats to reach the UK in the second quarter of 2022. That is in a context where the Afghan resettlement scheme was slashed by 3,000 places and stalled for over a year.



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On the other hand, Ukrainians are one of the only groups of refugees who can travel to the UK on a visa to seek safety here. They were absent from the Home Office statistics on people who had to use a small boat to come to the UK, so this clearly shows that safe routes work. We have many criticisms of how the Ukrainian scheme has operated; it has been subject to extensive delays, families have been put at risk, and it is by no means perfect. But it is evident that by providing over 100,000 visas to travel safely to the UK, Ukrainians have not had to make that dangerous journey.

By contrast, it has been no surprise that, earlier this year, one in four people making the journey over the channel were Afghans, because of the lack of functioning routes for them.

Chair: Earlier this year, one in four people on those small boats—25%—were Afghans?

Zehrah Hasan: Yes. The treatment of Ukrainian refugees is absolutely what we should be mirroring for other refugees. Everyone deserves to have a route to safety, regardless of their skin colour or their religion. The disparity that we can see between racialised refugees and white refugees is stark, and demonstrates how often government immigration policy is drawn on racial lines. That is a really important context to consider, and it also shows how safe routes clearly do work.

Chair: Jonathan, do you have anything to add to that? The question was about how much choice asylum seekers have in where they go or the means of getting there.

Jonathan Ellis: What choices people face is a powerful question. In recent times, I have had the opportunity to talk with politicians and have focused on countries like Eritrea. What options are there for someone fleeing Eritrea, in the Horn of Africa, to find safety? They might flee north to go into the power vacuum in Libya and the horrible things happening in that context, or they may make that dangerous journey across the Mediterranean. If they have that connection to the UK, how are they meant to get here? They have very limited choices. It would be great if our asylum seekers policy focused on what options there are for people who are seeking safety from countries like Eritrea.

I have spoken to people in this country who have put their lives in the hands of people smugglers, and they have had no idea where they were going to end up. People do not always make clear choices about where they want to go when they have that level of desperation and want to be safe. This policy issue is hugely complicated. We are facing a global refugee crisis, with people being forced to flee. How would we feel? Where would we seek to go? What are the safe routes that we might want to undertake? Those are such powerful questions, and we see the current limitations on people from countries like Eritrea seeking safety.

Chair: James, would you like to add anything?



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James Fookes: It is important to realise the relationship between asylum and trafficking, with specific reference to Afghan and Eritrean refugees, who are also incredibly highly represented in statistics or referrals of trafficking victims from outside of the UK. It is very common that a person on their route to claim asylum will be trafficked and end up being placed in labour exploitation or in an incredibly abusive situation, instead of being able to enter the UK and receive safety and accommodation for asylum support. That comes down to their inability to find safe routes into the UK. They will have to place their lives in the hands of traffickers much of the time. That means that instead of them being able to claim asylum in the UK and then receive the support they need, they are being trafficked into the UK and placed into incredibly exploitative situations, which they could be in for years before they are identified and supported.

Chair: Is there a difference between people who are people smuggled and people who are trafficked? If so, what is it?

James Fookes: Yes, there is a very big difference, a technical legal difference. Smuggling is a crime against the state. It is about people being smuggled across borders, away from the country's immigration laws. Trafficking is a crime against the individual. It is about an individual who is moved from one place to the other—that may or may not be across borders—for the purposes of exploitation against their will. We must be careful of the notions of consent that we use, because people may feel that they must decide to come to the UK, and they may trust a people smuggler and think that they will give them a route into the UK.

On the other side of that, they will be trafficked into a position of exploitation after being smuggled into the UK. Smuggling is different. Smuggling is almost a one-off transaction. A person pays an often extortionate amount of money to be smuggled into the UK, and that is it. Trafficking is about the exploitation that happens to them once they have been moved.

Q3 **Chair:** The current Home Secretary, Suella Braverman, has said, "The only route to the UK is through a safe and legal route". Zehrah, you said that there are no functioning safe and legal routes. Can you expand on what you mean by that?

Zehrah Hasan: The current routes are inadequate. The very limited routes that exist are highly restrictive, and some routes just have not been delivered. The reality is that the Government are narrowing the number of so-called safe routes, while also pushing people to take the only alternative option, which is to cross the channel. In theory, we have family reunion routes for refugees, which are supposed to provide a safe way for family members to join someone who has already been granted refugee status in the UK. This route has now been devastated by the Nationality and Borders Act, because refugees who are categorised as group 2 refugees in the discriminatory two-tier system have no entitlement to family reunion unless it would breach their Article 8 rights.



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I practised as a barrister before these changes, and I represented many people in these types of appeals. Children had been stranded on their own for years on end because of Home Office decision-making and delays in the judicial process, when they already had a recognised refugee family member living in the UK. Further, the Government closed the Syrian resettlement scheme in 2020, having welcomed only 20,000 people out of a conflict that displaced 13 million. They then slashed the Afghan resettlement scheme by 3,000 places from 5,000. The scheme has been stalled so much that it has only recently, over a year on, started accepting a handful of people. That is why it is no surprise that earlier this year one in four people crossing the channel were Afghan.

In the year ending March 2022, just 1,651 people were able to reach the UK via a resettlement pathway. The Government also closed down the Dubs amendment, which was a lifeline for unaccompanied children who had reached refugee camps in Europe to join family in the UK. Even the Homes for Ukraine scheme has not stopped 600 Ukrainian families having to seek homelessness assistance from local councils. That scheme has also been hampered by slow administration and has created opportunities for abusive and exploitative individuals to take advantage of people.

Despite the importance of having resettlement schemes, they are no substitute for a fair and compassionate system. These see the Government reinventing the wheel with a scheme for each crisis, such as announcing bespoke visa routes when bombs landed on Aleppo, when Kabul fell to the Taliban, when Putin's forces are destroying cities across Ukraine. This approach risks turning refugee safety into a divisive, racist, popularity contest: simultaneously offering a warm welcome to Ukrainians, while threatening those who cross the channel, who are mostly black and brown, with deportation to a country they have no connection to. Resettlement schemes are not sufficient, because they do not work for all people seeking refuge. Some people need to pack a bag and run for safety, and no one should be punished for doing that.

New routes are definitely needed, and I shall briefly summarise these. Resettlement schemes are important; we need them, but they have to be delivered, they have to be functioning, they have to be accessible, and they have to be provided equally to all people from any country afflicted by war and conflict. We need family reunion routes to be widened to ensure that families are not torn apart first by war, conflict and persecution, and then kept apart by hostile, cruel and restrictive immigration controls.

We need travel documents. One policy recommendation by JCWI and others in the sector is for there to be a travel document from northern France to the UK. It would allow people to be granted entry clearance to come to the UK, enabling them to claim asylum here. During that process, people should be guaranteed access to secure accommodation and legal advice under legal aid. The process should be free, and it should be subject to a right of appeal to the First-tier Tribunal against the refusal of a visa. That should not then determine the outcome of an



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asylum claim. This travel document would clearly reduce the risks that people are forced to face by having to cross the channel. With that holistic approach to the system, we believe that we can have a much safer system for refugees.

Chair: Do you envisage a British presence in northern France where asylum seekers could go to a hub, or a point where there was a British presence, get their travel documentation, perhaps start the asylum process, and then travel safely to the UK?

Zehrah Hasan: The logistics of how that would work still need a lot of working out. The idea would be for someone to say that they have good reason to come to the UK, they show that they have a claim for asylum, and they apply for a visa. Accordingly, they would be granted a travel document and then be able to come and claim asylum here. It is important that we take that responsibility and obligation to process people's claims in the UK rather than offshoring it.

Chair: I have raised that on a couple of occasions with the Ministers here and in the Chamber, and they seemed unenthusiastic about it and suggested that the French were unenthusiastic about it. Do you have any feel for the French Government's attitude towards allowing Britain to have a presence to issue travel documentations?

Zehrah Hasan: I cannot speak to the French Government context, as we are very much a UK-based charity. What I can say is that there are lots of civil society groups in France working on this shared border who agree with these types of proposals and are working to ensure that people can come to the UK safely. It is the only option we currently have. What else can be done to ensure that people are not forced to make these dangerous journeys? The clear answer is that safe routes are needed, and they are needed quite urgently.

Chair: Jonathan, Zehrah has given a list of what safe and legal routes currently exist and some suggestions about new routes. Is there anything you would like to add to that?

Jonathan Ellis: Ostensibly, the language of safe and legal routes is attractive, but what are those routes? At the Refugee Council, we are very involved in resettlement. Resettlement is important. We are concerned about this bespoke model and would like to see a national resettlement scheme, but resettlement cannot be the only answer. Documentation is a really important issue. Successive Governments have made it increasingly difficult and have tightened the law for people travelling without the correct documents. If you are fleeing your home, with no notice, you will not have time to get travel documentation. If you are suffering persecution, you probably will not have a passport so will not be able to get a visa. We have seen a series of measures from successive Governments, like the airline carrier charge, which prevent that kind of direct access. What is someone meant to do when they need to flee and there are no safe and legal routes?



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We have seen this dramatically in the case of people in Afghanistan who have worked for our Government and were made promises. We were able to evacuate many people, but many were still left there. What are those people meant to do? What are the safe and legal routes? I discussed this with parliamentarians during the passage of the Nationality and Borders Act. There was all that effort on the Bill. Could we not think constructively about solutions that would give people safe and legal routes? None of this is easy. I would not say for a second that these are easy options, but allowing people to travel safely and to make their claim in a country where they feel safe would be such a constructive thing. It would be great to see collaboration on exploring viable, safe and legal routes that give people direct access.

James Fookes: You talked about there being a bit of discomfort among Ministers about safe and legal routes. We hear a lot of rhetoric about the really strong commitment to ending small-boat crossings and dismantling the business models of people smugglers and traffickers. Increased securitisation is not going to fix that, and it has certainly not made the situation better on the French border. It is quite clear, and it is the opinion of many people in the trafficking sector, that if you want to stop small-boat crossings, stop people smugglers, and dismantle those models, safe and legal routes will be the most effective way to do that. If they can get a piece of paper and get on a ferry, they will not get on a small boat and try to cross the channel. Having safe and legal routes may be uncomfortable for some Ministers, but if they want to put their money where their mouth is and stop this practice and dismantle these business models, this is a good way of doing that.

Chair: A moment ago, we heard mention of the Dubs amendment. We are fortunate to have Lord Dubs as a member of our committee, and I will hand over to him to ask the next question.

Lord Dubs: I am very sympathetic to what you are saying about doing things in France, but some people are worried about that, because they wonder how, once you start doing something offshore, you stop more of this business happening offshore. Is there not a danger in that? I am sympathetic to the argument, but I just feel that there is a danger there.

Zehrah Hasan: I completely agree. The really important point here is that this is about issuing travel documents so that people have a safe way to travel to the UK and then claim asylum here, rather than it being any sort of asylum process that is offshored. With the Ukrainian scheme, we have seen over 100,000 people being issued visas to safely travel here and being able to rebuild their lives here. That is what we want to see replicated for everyone who needs safety.

Q4 **Lord Dubs:** Is it compatible with our national and international human rights obligations to deny asylum to those who do not use safe and legal routes? Would you agree that there is a conflict of interpretation between the British Government and the UNHCR? How can one resolve such a conflict? I used to argue that the UNHCR was a guardian of the 1951 Geneva convention—bearing in mind that somebody must be the



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guardian of it, and I have always felt that it should be UNHCR rather than the Home Office.

Jonathan Ellis: I would certainly concur with that view. Throughout the passage of the Bill, the Refugee Council was incredibly concerned about what it was saying in the context of the convention. This kind of discrimination—that the mode of travel will be counted against you in assessing your asylum claim—is hugely significant. That should not count. There are precious few safe and legal routes, and this is cutting off the route to safety for so many people. In preparation for this session, I looked at this committee's previous recommendation that arriving with no entry clearance should not be an offence. We should not be criminalising people. We should not be making this count against them when they are seeking asylum. It is one of the most worrying developments in the change of legislation. The mode of travel should not be used against people when it is so difficult to find a way to come here legally.

Zehrah Hasan: I agree. Under the refugee convention, everyone has the right to claim asylum in any country they feel able to find safety in, and to get a fair hearing, regardless of how someone travels to that country. The Nationality and Borders Act completely undermines that principle of refugee protection in the UK, because it grants protection based on someone's mode of travel instead of their need. The UNHCR has robustly opposed this Government's approach. It made clear that it undermines established international refugee protection law and regulates refugees to a lesser status, with fewer rights and the constant threat of removal.

This is difficult when it is also manufactured by the Government by not creating safe routes. To not enable people to travel to the UK safely and then essentially to deprive them of rights and to criminalise them for travelling by alternative means is an egregious situation. I agree with Jonathan that it is of major concern. Beyond our legal obligations, we have a moral obligation to ensure that people who seek safety in the UK can do so, and can thrive in our communities, regardless of how they travelled here. That is also really important. It is appalling to see people being punished for taking the only route that is currently open to them.

Lord Dubs: James, do you want to add anything?

James Fookes: The Nationality and Borders Act allows for the criminalisation of asylum seekers based on the way they enter the country, allowing for quite a draconian sentence. One of the risks in passing the Nationality and Borders Act is that the sentence is so bad; if a person is trafficked into the UK and claims asylum, they say, "You've come the wrong way" and criminalise the asylum seeker. Under other aspects of Nationality and Borders Act, that can preclude them from accessing trafficking support under the national referral mechanism. You have almost made a situation whereby if an asylum seeker is trafficked to the UK, taking the wrong route, this criminalisation of asylum seekers can block them from being able to access support under the national referral mechanism, even though they should qualify for support under it. That is a very worrying precedent to set.



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Q5 **Baroness Ludford:** Thank you very much. I will come back to that point in a later question, which will be directed specifically to you, James.

In the meantime, this question is to Zehrah and Jonathan. My brief says, "the former Home Secretary", but it was obviously written before yesterday afternoon. The former and current Home Secretary, Suella Braverman, has said, "It is an established principle in admissibility procedures that individuals should claim asylum in the first safe country they reach".

Jonathan, do you agree? Should individuals only be able to claim asylum in the first safe country reached?

Jonathan Ellis: I certainly do not agree. Going back to the earlier question, the United Nations High Commissioner for Refugees has been quite clear that this requirement is not to be found in the refugee convention. In fact, it undermines that convention. As we know, the UK was an early signatory to the refugee convention, and indeed to the Global Compact on Refugees. It is really important that this issue be challenged, for a number of reasons—Zehrah and I have talked about some of them—such as going to a country where you feel safe, where you have those connections. It is clearly unsustainable. If we look at a map of where refugees are coming from, be it Asia or north Africa, by definition people will be on the southern and eastern fringe. It is easy rhetoric, but it is not in the convention. It is not sustainable, and we should be challenging it. The point about people going where they feel safe is really important, but they will need safe and legal routes to be able to do that.

Zehrah Hasan: I would add to what I said in answer to the first question about the global context. The majority of people seeking refuge are in the global south or in neighbouring countries, and more travel on to Europe and other European countries than come to the UK. If we said that everyone should seek protection in a neighbouring country, the whole system would crumble, because it would mean that no one can seek safety in the UK.

Building on that point about inadmissibility, the refugee convention does not require people to claim asylum in the first safe country. The UNHCR has noted that there are very clear reasons why someone might seek protection in a specific country, including family or community ties, but also because they did not have a reasonable opportunity to claim asylum somewhere else. Countries that may at first glance appear to be safe are actually not. To highlight this, let me give a brief example of an asylum case I worked on when I was a practising barrister. My client had to flee France because the people who persecuted him in his country of origin had networks in France and were threatening him, forcing him to flee onwards to the UK. What the Home Secretary might perceive to be safe might not in reality be safe for someone.

Baroness Ludford: I worked on the Nationality and Borders Bill, and I know where I stand on it, but the Government's view is strongly contested by the UNHCR. Can you identify a strand of legal opinion that



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supports the Government's view regarding first safe country?

Zehrah Hasan: It is not entirely clear, which is the issue with a lot of government decision-making. It has been based on headline-grabbing cruelty and rhetoric rather than actual evidence and humanity. It is very clear from the refugee convention that claiming asylum in the first safe country is not a requirement; the UNHCR has made that clear too. It is not clear why the Government suggest that this is not their interpretation. Perhaps others on the panel might have a sense of this.

James Fookes: Ironically, I think it is a hangover from our relationship with the European Union.

Baroness Ludford: The Dublin regulation?

James Fookes: I was involved with work on maintaining migrant rights as part of the European Union. Regarding resettlement programmes and arrangements for taking in asylum seekers and refugees in the European Union, one idea was that it should be the first safe country they enter. It almost seems that we took away all the other arrangements that allowed people to access the UK safely and just kept the specific clause that said, "first safe country". As far as I can tell, that is the only place it could have come from.

Baroness Ludford: Interesting. Of course, I should have thought of that.

Chair: Very interesting. We may explore that further at a later stage.

Q6 **Lord Singh of Wimbledon:** I am a Cross-Bench Member of the House of Lords. We have heard quite a few views on this question, but I would like you to focus on it again. To what extent has the Nationality and Borders Act had an impact on the human rights of asylum seekers?

Zehrah Hasan: The Nationality and Borders Act has entirely changed the legal landscape and the material reality for refugees in the UK. As I said earlier, it is one of the most draconian pieces of immigration legislation that we have seen in decades, and it results in widespread restrictions on people's rights. The key thing is that it sets the stage for even more cruel and brutal attacks on migrants' lives. It has paved the way for a string of further announcements from the former and current Home Secretary: plans to ban people crossing the channel from claiming asylum and to further deny rights and freedoms to people who have experienced modern slavery.

In summary, it expands the criminalisation, detention and deportation of refugees seeking safety, in six main ways. First, it creates a discriminatory two-tier system whereby refugees can access protection only on the basis of way they entered the UK and on the timing of their claim. This harms everyone fleeing danger, because there are no safe ways to come to the UK. People who come to the UK through routes the Government have criminalised have their rights further limited, because



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they are prevented from being reunited with their family, denied access to public funds, and given a shorter leave to remain.

The Act also means that many asylum claims will be considered inadmissible purely based on whether someone can be deported to what the Home Office deems a safe third country. There is the split standard of proof whereby a person's reason and fear of persecution is to be determined to a higher civil standard. Refugees will have to face even more barriers in an already pervasive culture of disbelief in order to be believed by the Home Office and by the courts, which I saw first-hand when practising as a barrister. This new law essentially heightens the evidential threshold and redefines key tenets of the refugee convention.

There is the accelerated detained appeals process, which expedites the removal process for people claiming asylum in detention. The Act criminalises people on arrival. It is targeted at people arriving by boat, with increased prison sentences for people who are so-called "facilitating entry", from 14 years to life imprisonment. It is a clearly authoritarian piece of legislation, given all those changes. It is the JCWI's view, and our experience and evidence, that it will impact racialised refugees most sharply through increased policing, detention and immigration enforcement.

It is important to say that this Act does not stand in isolation. It is an intensified continuation of a long history of hostility and brutality towards people who move to the UK. That is why, for over 55 years, we have been calling for a system that is rooted in compassion and humanity. This piece of legislation is particularly appalling, and it has and will have a major impact.

Lord Singh of Wimbledon: Thank you. You mentioned that this Act does not stand by itself; that there are other impediments to refugees. Would you agree that it makes it much more difficult for a refugee to join a family member in this country?

Zehrah Hasan: Yes, absolutely. There are specific provisions in this Act which narrow the ability for people to join family in this country based on their categorisation. It has narrowed those routes, and it has a much wider impact in its criminalisation and in people's ability to seek safety. It has had wide-ranging effects.

Lord Singh of Wimbledon: Thank you. James, would you like to add anything to that?

James Fookes: Will we come to the Nationality and Borders Act in the context of slavery later in the session?

Chair: We will.

James Fookes: I will save my answers for then, because, likewise, there is a lot to get into.

Lord Singh of Wimbledon: Jonathan, would you like to add anything?



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Jonathan Ellis: Thank you for the question. We have a proud tradition in this country of providing sanctuary to people. At the Refugee Council, we feel that this Act has changed the framework in a number of ways that we remain very concerned about.

We have already talked about the differential treatment of people coming to this country seeking asylum. Fundamentally, we think that, with the absence of safe and legal routes, your mode of transport should not be used against you.

We also have real concerns about asylum accommodation. We have seen what has happened at the former Napier army barracks. We are interested in the All-Party Parliamentary Group on Immigration Detention's report and what it calls quasi-detention. I spoke to people in Napier who say that it feels like a prison, like a detention centre. In this country, we have always had a rich tradition of accommodating people in our communities. Maybe integration should start on day one. We should not be hiding people. We should not be isolating people in remote communities.

We also think that the offshore processing proposal—you might say offshore detention—is really worrying. We already have detention in this country. One of the saving graces that we are really proud about are the volunteer groups, the visitor groups, that go into detention centres to establish relationships with people. If we were to start doing this in other countries, it would be out of sight and out of mind. We already see the British Government's short-term holding facilities in northern France, and we are really nervous about abdicating responsibility for the asylum process to places outside of the UK.

My final point is about the focus on age assessments. Defining who is a child is really important, and we have yet to see all the guidance come out about that. It is very important for child protection and safeguarding to be fundamental to any approach to age assessment.

The landscape has changed, but there are still real concerns that we need to address.

Lord Singh of Wimbledon: On the processing of immigrant acceptance, is any weightage given to the language spoken, the family ties, or anything like that? Is there anything clear, or is it just vague questioning?

Zehrah Hasan: When someone claims asylum in the UK, their case should be considered in the round. Whether they have family ties in the UK is more relevant to the human rights arguments they might make as part of a claim. The question for refugees is about the persecution they have faced and the risks on return. Those arguments are also made with regard to human rights protection. Their connections to the country, community, family ties and language are all really important.



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Unfortunately, time and time again we see a culture of disbelief, which is pervasive throughout the Home Office decision-making and in the courts. I have seen it with judges time and time again. The core aspect of someone's case is whether they are deemed credible. When there is a culture of disbelief, people seeking asylum are fighting a losing battle. Being forced to have to recount this trauma and the things they have experienced, things they have fled from, in a system that is stacked against them, is a dehumanising process.

Lord Singh of Wimbledon: Thank you. I asked simply because I have come across people who are being denied or hindered in their applications where those questions have not even been asked.

Q7 **David Simmonds:** There was a proposal at one stage to introduce tagging for asylum seekers. I can imagine what your view on that might be, but I would like to ask you to share it.

Jonathan Ellis: At the Refugee Council, we were really concerned about this proposal. We face many challenges and we have to come up with creative solutions, but the tagging of people seeking safety is really not the answer. People who have fled persecution should not be treated like criminals. Seeking safety is not a crime, and all the evidence I have seen suggests that the most effective thing in an asylum system is to engage with and listen to people to make sure that they understand the process. We should not be criminalising them. There should not be this culture of disbelief.

I sometimes find it quite difficult to get my head around some of the rhetoric from the Home Office, and we have expressed real concerns about the Nationality and Borders Act. However, under this Government, the Home Office previously invested in some very innovative pilot projects on alternatives to detention. It is great to see the Home Office looking at other ways of processing people at the appeal rights exhausted end-process stage of the asylum system. We have, for example, seen innovative projects in the north-east of England with Action Foundation and the King's Arms Project in Bedfordshire.

In terms of constructive collaboration on safe and legal routes, I would love to see less focus on headline-grabbing things like tagging and more on the alternatives to detention projects which the Home Office has already funded and supported. Let us not criminalise people, but instead look at these innovative solutions and international practice. Let us work with the UNHCR. That could be a much more constructive way of making sure that people are engaged with the process and understand it.

Zehrah Hasan: I would add that these forms of surveillance are deeply harmful and invasive and breach people's privacy rights. Our clients at JCWI have found tagging extremely degrading and dehumanising. It has a severe impact on their mental health, and it is a huge infringement on their basic liberty. This is just another means of criminalising and dehumanising migrants in the same way that has happened to other migrant communities—for instance, those who are tagged and facing



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deportation. A few months ago, we heard of egregious plans to roll out facial recognition smart watches to monitor people. This technology has been proven to be discriminatory by design. It facilitates human rights abuses, and there is no accountability.

It is really important to say when we are looking at privacy rights that this is happening while the Government want to scrap the Human Rights Act, which is a crucial tool for holding the Government and institutions to account amidst increasing state surveillance impacting every one of us. Not only does Electronic tagging infringe on refugees' rights to privacy, but we are seeing an infringement on people's ability to challenge this invasion. On principle and on legal grounds, it is wrong.

Taking the Government's case at its highest, they say that they are worried about the absconding risk. They have put out no evidence that refugees are absconding. There is no data to support this suggestion. One of our lawyers at JCWI said that in her 12 years of practice she has never had a client abscond, whether they have been tagged or not.

On the question of its interference with people's Article 8 rights and the wider context of there being no evidence for why the Home Office is trialling this, it is clearly not necessary or proportionate. It is just another example of this Government trying to expand state surveillance and make policy based on headline chasing and rhetoric, rather than being grounded in reality, evidence, and, most importantly, humanity.

James Fookes: It is also important to note that we are already seeing the use of GPS tagging as a condition of bail from immigration detention. There are people who have been trafficked into the UK and tagged by their traffickers, only to be tagged by the Government in immigration detention. The trauma of that is difficult to get your head around. The fact that the Government will be using the same practices as the traffickers or abusers is deeply worrying. The word is the same: traffickers call it tagging as well. In my opinion, it is a bizarre policy.

Chair: How do traffickers tag?

James Fookes: It might be a tattoo on a wrist. Sometimes it is much darker than that.

Chair: It will not be an electronic tag.

James Fookes: They may often be given a phone that is used to track and locate them. It would not surprise me if some sectors of trafficking had more advanced technologies of physical GPS tracking, although I cannot recall such a case right now.

Q8 **Lord Henley:** Currently, most asylum seekers do not have a right to work while their claim is being processed. I would be interested to know what the human rights implications are for asylum seekers.

Zehrah Hasan: It has a huge impact on their rights and their ability to rebuild their lives in the UK, and to recover from trauma. Many of our



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clients are forced to rely on the state or their relatives. They feel ashamed, because they want to support themselves and they are not given the opportunity to develop and to contribute. They are forced to live on subsistence level income for years. Asylum support is just over £40 a week, which is impossible to live on, especially now during the cost of living crisis. Anyone in this room would struggle to feed, clothe and take care of themselves on £40 a week. At the moment, asylum seekers are able to apply only for the right to work if they have been waiting for an asylum decision for over a year. Even then, the people who are given permission are rarely able to work, because their employment is restricted to a narrow list of professions on the government shortage occupation list.

Allow me to give some context regarding the massive delays in the asylum system. As of March this year, over 89,000 people are awaiting an initial decision on asylum claims that have been made since 2006. Appeals in the courts then take about 48 weeks on average. For months and years, people are waiting and living on subsistence level, relying on the state and their relatives for support.

We have joined the calls of other groups, including the Lift the Ban coalition, to ensure that asylum seekers are given the right to work. That would ensure that people's rights are protected and that they can live dignified, safe and fulfilling lives. This would improve their mental health, help them to thrive in our communities, and ensure that they are less vulnerable to forced labour, exploitation and modern slavery. It really is a senseless policy, putting people at risk because they do not have the right to work. It affects their Article 8, Article 3 and Article 4 rights.

The issue is mirrored more widely in the immigration system. Migrant workers are not able to access their rights because of hostile environment policies such as the illegal working offence. At JCWI, we believe that we have to ensure that everyone who has moved to the UK has the right to work so that they can support themselves and have rights protection. This includes giving asylum seekers the right to work, repealing the illegal working offence and right to work checks, and enforcing a firewall between labour inspectors and immigration enforcement, at a minimum, so that people can report abuse without fear of detention and deportation.

Lord Henley: Thank you. Jonathan, do you want to add anything from the Refugee Council's point view?

Jonathan Ellis: Thank you. I have met a number of asylum seekers who have come to this country with a huge expectation of being able to work and who are incredibly frustrated that they cannot. They had no expectation of benefits, no knowledge of a welfare state. With the horrendously large asylum backlog, we are seeing sheer wasted talent in the services. People are festering, unable to make a meaningful contribution.



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There has been a lot of talk in the media about why we need to focus on integration. Encouraging people to work and talk to people around them using the English language is such a powerful way to integrate. Asylum seekers are often attacked in the media for not working, for “sponging off the state”, yet they are prevented from working. It would be such a positive move towards restoring some of the rights of asylum seekers.

Successive Governments have been obsessed by the pull factor, and reluctant to respond in a compassionate way. There is no evidence for the pull factor. I remember when the last Labour Government introduced asylum vouchers that were not exchangeable for cash. Later, the Government agreed to reintroduce cash and the sky did not fall in. The change in the system did not cause huge numbers of people to come into the UK across the channel.

The right to work would be such a humane and compassionate thing to do. What would we want in a similar position? The right to work could help people to make a more immediate contribution to our society and really help us with effective integration.

Chair: Thank you. The next few questions focus on modern slavery, and we will direct them specifically at James.

Q9 Florence Eshalomi: Thank you, Chair. My apologies for joining late and I hope you can all hear me. I have been having some IT issues.

Regarding the anti-slavery legislation, what does modern slavery look like in the UK? Who is affected, and what types of exploitation are still occurring?

James Fookes: Thank you. Modern slavery in the UK looks like many different things. Statistically, we know that the largest form of exploitation is criminal exploitation. The largest single demographic is also children who are criminally exploited. We have all heard the conversations about county lines, which is the process where—

Chair: I am terribly sorry. We have a vote in the Commons, which means that I will have to suspend the session to allow our MP members to vote, and I am afraid we will not resume after 4.15 pm. I will ask you, James, to write on these questions. I am terribly sorry. I was particularly looking forward to this part of the session, given what has been said about the Home Secretary, the modern slavery laws and the allegations of people abusing and gaming the system.

James Fookes: If I can get one message across in the last few minutes, it is that there is no evidence of people abusing or gaming the system. The Home Office has repeatedly claimed this and we have repeatedly asked for evidence, which they failed to provide. The data says the complete opposite: that the vast majority are confirmed as victims. There is no evidence whatever that people are abusing or gaming system, and to build policy off that is reckless and dangerous.

Chair: I thank all our witnesses today. The clerks will firm up with you



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the questions we want you to write on. I am terribly sorry that we are not able to take your oral evidence on this. It is a source of great disappointment to all of us, as it is such an important issue.