

Women and Equalities Committee

Oral evidence: Equality and the UK asylum process, HC 726

Wednesday 26 January 2022

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[Watch the meeting](#)

Members present: Caroline Nokes (Chair); Dame Carol Dinenage; Jackie Doyle-Price; Anum Qaisar and Bell Ribeiro-Addy.

Questions 1 - 72

Witnesses

I: David Goodhart, Head of Demography, Immigration, and Integration Unit at Policy Exchange; Dr Rosella Pulvirenti, Senior Lecturer in Human Rights Law, Manchester Law School at Manchester Metropolitan University; Jonathan Thomas, Senior Fellow at Social Market Foundation and Zoe Gardner, Policy Advocacy Manager at Joint Council on the Welfare of Immigrants.

Written evidence from witnesses:

[Joint Council on the Welfare of Immigrants](#)



Examination of witnesses

Witnesses: David Goodhart, Rosella Pulvirenti, Jonathan Thomas, and Zoe Gardner.

Q1 **Chair:** Good afternoon and welcome to this afternoon's committee meeting of the Women and Equalities Select Committee, and our first evidence session on equality and the UK asylum process. Can I thank all of our witnesses for being here this afternoon? We have David Goodhart, Zoe Gardner, Dr Rosella Pulvirenti and Jonathan Thomas. I will start off with the questions this afternoon. My first questions are for Zoe and then Rosella. It will be really helpful Zoe, if you could indicate some of the key equality issues faced by people claiming asylum at the determination stage.

Zoe Gardner: There are a really wide range of equalities issues impacting people in the asylum system. Any area of particular vulnerability impacting individuals who are seeking asylum tends to make their experience of the process much more difficult. Obviously, vulnerability is often linked to the protected characteristics of concern to this Committee. I believe that you will hear more detail at a later stage about women and LGBT applicants in particular. I will touch on their experiences but I would like to focus the evidence I will provide today on people who experience mental health difficulties to the extent that it represents a disability, and their experiences in the asylum system, which are often very severe.

The asylum system as we currently have it is formulated with an imagined applicant in mind who is confident, not traumatised, able to clearly and consistently present a well-evidenced case as to how they have been persecuted and why they fulfil the grounds of the Refugee Convention. Actually, refugees who fit that criteria are the exception and not the rule. Unfortunately the system treats as the exception people who are severely traumatised, who have experienced things that have caused them post-traumatic stress disorder that therefore can very often have an impact on their ability to provide a clear, consistent and timely chronological narrative of their experiences. The shame that is associated with many of the things that refugees in these situations have experienced makes it difficult for them to disclose everything they have experienced at an early stage in proceedings. For example, particular issues face women and sexual minorities in disclosing violence that they may have suffered, including sexual violence, with no sort of structural safeguards within the system to assist them. Women being able to give evidence to female caseworkers as a default would be an obvious safeguard that is not available.

In JCWI's experience, when people present with trauma symptoms in the asylum system, instead of reinforcing the case for them to need a careful and trauma-informed response to their application, this usually works against them and makes their experience of the system harder. The



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system is plagued with huge delays, and this means that they tend to escalate to a very severe degree of mental health trauma before ever obtaining protection.

Q2 **Chair:** Can I ask you a specific question on PTSD and mental health impacts of it? From JCWIs considerable experience, and you referred to people who were not experiencing trauma as being the exception not the rule, what percentage of asylum seekers?

Zoe Gardner: By definition, a refugee is somebody who is fleeing a well-founded fear of persecution, so I would say that the significant majority of people who are refugees have experienced some form of trauma. Now, diagnosed with PTSD, that is a smaller proportion. I would not claim to know what proportion that would be, but there are obviously difficulties in obtaining diagnosis; access to healthcare; access to competent legal representation within the asylum system in order to bring those issues to light.

Q3 **Chair:** You are unable to put a figure on it?

Zoe Gardner: We do not know. The Home Office does not collect data on how many applicants present with different mental health needs.

Q4 **Chair:** Turning to Rosella, could you add something to that?

Dr Pulvirenti: Yes, I would like to pick up on Zoe's last point. The most important step first of all would be to collect some data, in the sense that the Home Office does not have consistent data for each category of vulnerable asylum seekers. There are some statistics for women, some statistics for children, but it is not consistently monitored, so I think that this is the first challenge. Data that could be analysed would help us to understand how we need to tackle the problem.

The second point, one of the key elements is the stage where we understand when the individual is vulnerable. Clearly for children it is easier, but for some of the categories it might not be so easy to spot their vulnerability. The key element is training the civil servants who are talking to the asylum seekers first, in order to understand whether they belong to a protected category.

Finally, when they are included in the system, while they are waiting for the decision, the type of support that is provided to those individuals. For example, if the individuals were victims of modern slavery, then there is a period of 90 days during which they can be protected, there is assistance. Other than that, the more vulnerable individuals, children, women and so on, are more open to exploitation because they cannot work so they are limited in what they can do.

Q5 **Chair:** Can you give us any details of how much training is given to Home Office decision makers as to how to identify protected characteristics?



Dr Pulvirenti: The problem is quite challenging. If you look at the statistics, most of the asylum requests are overturned. The majority are overturned by judges which means that the legal framework is there but unfortunately, whether it is for lack of training or because the system is stretched, but clearly we have a lot of requests and the civil servants might be stretched in time or personnel. I am not fully aware of the type of training provided, but it should definitely include knowledge of the vulnerable categories of applicants, and then how to tackle the problem. Clearly, as was mentioned, some of the people who have experienced trauma might not be so forthcoming straight away in telling us about it.

Q6 Chair: We know that equality law applies equally to everyone in the UK, but there are some instances in which the equality legislation does not apply to asylum seekers; specifically those who have had their claims refused. Do you think that the State has a legitimate interest in restricting those rights?

Zoe Gardner: That is an interesting question. In JCWI's experience, I believe that 100% of the asylum seekers that we represent are people who have initially had their claim rejected, and we have an extremely high rate of success in obtaining refugee protection for them. The reason is that the initial rejection is often a bad decision. There are huge problems with the decision making in the asylum system. Along with a few other specific law firms, JCWI is able to use our charitable funding to ensure that our lawyers are able to spend a significant amount of time breaking down those issues that I mentioned about trauma, gaining the trust of our clients, understanding the full story of what they have gone through, getting medical legal reports, getting the relevant evidence together and presenting a full case. We have an extremely high rate of finding that our clients are then recognised as refugees. Under the current system—which so clearly rejects people as a matter of routine who are entitled to protection when over half of asylum appeals at the current time are allowed—I do not think that there is that justification.

Dr Pulvirenti: I think that the system should not be discriminatory. Yes, the State has a legitimate interest in understanding that the process for asylum seekers is different for different categories of people. This is something that is protected both at the national level with the Equalities Act, but also the international level with the European Convention on Human Rights, and some of the United Nations Conventions, for example, protection of the rights of a child and so on.

Q7 Chair: There are a lot of restrictions on people who are in the UK claiming asylum: where they can live; their right to work; their access to healthcare, for example. Do you think that some of those restrictions could be eased without undermining the asylum system?

Zoe Gardner: Definitely. The asylum system we have at the moment treats people with unjustified brutality. The reality is that asylum seekers are people who are traumatised, but they are also people who have no understanding of the asylum procedure, how it works and what the



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requirements are. They very often come to this country under traumatising circumstances as well, and they enter a system that is deeply dehumanising. One of the key ways in which it is so dehumanising is that it is plagued by these extremely long delays and we see how this grinds people down. If accommodation for asylum seekers were to be basic—not infested with rats and falling down with damp as it currently tends to be, but basic—it would be perfectly acceptable for people to be kept in basic accommodation for three to six months while their asylum claim was being heard.

Under the circumstances of an average asylum claim taking one to three years just for an initial decision, conditions that people are subjected to in the asylum system are brutal. That is the word for it. Because living in substandard conditions for that long is incredibly damaging to people's health. Not being able to work and being forced into inactivity hugely exacerbates existing mental health issues. Fundamentally, it is the fear. Until you have gone through your claim and gained recognition as a refugee or otherwise, you do not know at any time whether you might be detained, whether you might be deported, whether you might then be returned to that danger that you are fleeing. That exacerbates people's mental health struggles to an enormous degree and in the long term obviously makes it much more difficult for them to integrate.

Q8 Chair: Can I take you back to the specific question? We will use right to work as an example, if you are suggesting that asylum seekers should be granted the right to work, at what point should that happen?

Zoe Gardner: In other European countries, asylum seekers are granted the right to work in the ordinary labour market after six months.

Q9 Chair: Would your view be that it should be six months?

Zoe Gardner: Six months would be a reasonable timeframe, or at least a more reasonable timeframe, given how long people tend to be waiting at the current time.

Q10 Chair: How do you envisage the interplay between the benefits system, supported accommodation and the right to work, if initial decisions are taking longer than six months?

Zoe Gardner: Currently most migrants in the UK, not just asylum seekers, are not entitled to access mainstream benefits at all. If they are working in low paid jobs, for example, they cannot access support on top of that. That is a difficult situation. It drives many people into poverty. If people were supported better, they would be able to integrate better and to work better.

Q11 Chair: Can you define "better"? What I would really like is to get an idea from the JCWI as to whether somebody in supported accommodation should be allowed to work, and how you see that working. Sorry, but "better" is not a great descriptor.



Zoe Gardner: I think that if people were entitled to work sooner in the process of their asylum claim, many of them would find jobs and be able to move out of supported accommodation, be able to rent in the private rented sector, for example. In that case, there would need to be protections for people to ensure that there was not discrimination occurring in the private rented sector, but that is a wider issue impacting all migrants seeking to rent. The right to work is very important in terms of letting people have a bit more autonomy over their lives to start to integrate. But I would caution that it is important that we do not frame the right to work as just a cost-saving mechanism, that asylum seekers can then get into jobs and support themselves. Many could, but many are too traumatised for that to happen, and it is appropriate for the State to support them while their application is ongoing. It needs to be done on a case-by-case basis.

Q12 **Chair:** Is the answer to process the claims faster, to hit the six-month target?

Zoe Gardner: If all or almost all asylum claims were being processed in six months, we would not be against people having the right to work, but it would just simply not be such an issue.

Dr Pulvirenti: It is a very difficult question and I do not think there is an easy answer to that. I believe that there is a possibility to ease some of the restrictions for asylum seekers in the sense that the UK could review the problem of time and decide that if the request has not been processed after six months, asylum seekers could be given the right to work. There is also the necessity to address the type of job. Clearly with Brexit there was the impact of some European workers leaving the market in the UK. Having someone else that could fill that gap—limited to what would be deemed appropriate for asylum seekers—could help in the short term to ease some of the problems that were highlighted by Zoe, but could also help the productivity of the country. On top of that, further down the line those people would be more integrated; they would feel more part of a community; they would learn the language and the skills, and so on. In terms of their relationship with the benefits system, there could be an entirely different system. If people could contribute by working, there would be less pressure on the benefits system.

Q13 **Chair:** Just to pick up your comment about Brexit shortage occupations, should employment therefore be restricted to the shortage occupation list or should we look wider to things like those areas where we know there are significant pressures, such as the care sector or agriculture? Would you envisage—I can see Zoe is shaking her head, but you are the one that raised Brexit—a scenario where we could say that there should be some occupations where asylum seekers should have the right to work?

Dr Pulvirenti: As long as it is not discriminatory.

Q14 **Dame Caroline Dinenage:** What do you mean by as long as it is not discriminatory?



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Dr Pulvirenti: If you narrow down to a certain category of work that was available for asylum seekers only and people with different citizenship would not be inclined to do that, then that is discriminatory. Any work opportunity should be open to both asylum seekers and people with British citizenship equally, otherwise it would be discriminatory on the grounds of nationality.

Jonathan Thomas: I have two specific points. One is a very basic point around the asylum process. I do not disagree with anything that has been said, but I think it is easy to think that the decision and the appeal process is like a legal case. It looks like a legal case, it is very confrontational and adversarial, but it is a very different type of case. It is the story of a person: none of their witnesses are there; there is not much evidence; and the Home Office are trying to pick that apart. Then, when it gets appealed, the lawyers are trying to pick through the story and consider whether it meets very specific threshold standards of a very specific part of international law. That can explain sometimes why the whole story does not come out or it comes out in a different way or it takes a very long time to decide what the story is. That is not a defence of the Home Office, but it is a very basic explanation.

On the asylum seeker right to work, there are a lot of angles of that and there are a lot of angles which are very rarely discussed from a moral, ethical, economic point of view. It seems to make a lot of sense that asylum seekers should be given a more liberalised right to work. I would put two main caveats; there are others. I think one is the whole public perception problem—public perception of what happens with failed asylum seekers. Are asylum seekers economic migrants? If asylum seekers were given the right to work before their claim was determined, Government would be opened up to having to defend that even more, and a lot of defence has to be done on that at the moment, so that would be another aspect of the issue.

Another very little discussed issue is, what is employer appetite for employing somebody whose claim might be determined negatively next week or next month or next year, when we are trying to get employers to invest in people, to invest in training? Are they going to do that if they think somebody might be subject to a negative decision? Certainly in Germany—where they have a more flexible approach to this—the government had to give employers comfort that the person was not going to be removed. Effectively they brought in this three for two rule where, if the asylum seeker got a job then they could stay for longer and they were guaranteed to be able to stay for a particular period of time. You can immediately see that that then slips back into my first point again of, what are the public going to think about that—if any asylum seeker who gets a job effectively has a greater right to stay in the country, even if the claim fails?

There is a lot of aspects to asylum seeker right to work, and the non-rights aspects—and I know that is not what we are here to talk about



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today—need to be investigated a lot more. It is a real risk that asylum seekers could be given the right to work and not many people will employ them.

Q15 Chair: Do you think that it has the potential to undermine what I am going to refer to as the ‘tier two visa system applicants’, people from overseas wishing to come here and work, that they might look at the asylum system and think, “Well actually, that is an easier route in, to be able to work in the UK without having to pay the visa application fees”?

Jonathan Thomas: Yes, there are people who want to get to this country quite desperately for various reasons. You see migrant flows will move between different routes. My concern is that this is undermining the country's willingness to accept refugees, because they are seeing refugees mingled with these other people, there is a lot of rhetoric around pull factors and whatever. I do think asylum seeker right to work needs to be viewed in that context.

To your point, the ‘tier two’, and we can talk about this a bit more, the extent of once you are in the country, a lot of people see that as nine tenths of the game won for them. If they are in the country and they get a quick right to work, that may well become even more attractive.

Q16 Chair: The next question is to both Jonathan—who I think has covered some of it—and David. Do you consider that a more supportive, individual rights-based process might increase numbers of people claiming asylum or seeking to come here to claim asylum?

David Goodhart: Yes, I think it would act as a kind of magnet. The basic problem here is we tend to think of the asylum story as a sort of morality tale with hard-hearted and soft-hearted people taking different positions. It is actually an insoluble problem given the legal framework that we are working within. We have a legal framework which offers an absolute entitlement, with no reference at all to the numbers involved. Because of the way that the concept of persecution has been expanded in recent decades, that means that potentially hundreds of millions, if not billions, of people could legitimately claim asylum here. In a sense this means the only defence of the national border then becomes, unfortunately, first making it as difficult as possible to get in, and then making the experience relatively uncomfortable. We play this sort of cat and mouse game with asylum seekers.

We also end up creating a Darwinian system and I think this should be of particular relevance to your Committee, Chair, because all of the focus is on illegal immigration at the moment, obviously, and it is about 75%. Almost 30,000 people came in on boats, and another few thousand on lorries, which means that the illegal proportion of people coming to claim asylum will be 75% or something like that, and the vast majority of them are young men. I think something like 87% of people who come over on boats are men, and they are between the ages of 18 and 35, about 80% of them. They are middle class people from low income countries in most



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cases. You have to have \$10,000 at least in order to take these journeys that most people have taken. These are not the wretched of the earth: the wretched of the earth are the people in the camps, the 40 million people in the UNHRC camps.

Why do we not focus far more on the people that we take in under the resettlement schemes? This is one area that functions well, that we can be quite proud of. Perhaps we should take in more women and children from the resettlement schemes, that seems to me the answer. The Red Cross are asking for 10,000 a year. At the moment it is probably running at about 2,000 or 3,000. I believe that is the approach that we should take, but we need to do something about the illegal flow because it undermines the system. People are essentially queue jumping and once they get here we have to make it a relatively uncomfortable system. Having said that, I do not think the current system is particularly draconian. We are currently allowing almost two thirds of applications through on the first hearing. Pretty well nobody is deported at the moment.

Q17 **Chair:** I want to ask you some specific questions. Are you saying that we should discriminate against men and in favour of women and children from refugee camps as part of resettlement programmes?

David Goodhart: We should discriminate against the illegal entry system, because —

Q18 **Chair:** No, you were talking about we should prioritise women and children from camps, is that what you are saying, no men from camps?

David Goodhart: Absolutely, yes.

Q19 **Chair:** You described our current system, apologies if I have misinterpreted your phrase, as “not uncomfortable enough”. What would you suggest to make it more uncomfortable?

David Goodhart: We are stuck in this situation because of the legal framework which has no sensitivity to numbers at all and which hundreds of millions of people could legitimately claim. We have to—

Q20 **Chair:** Can I just pick you up on that? If they could get here, hundreds of millions of people could legitimately claim? They are not able to claim from overseas?

David Goodhart: Exactly, and that introduces the Darwinian element, that is why it is overwhelmingly fit young men who are taking the risk of getting on lorries or getting into boats. You could say there is a massive bias against the people who really need our support, who are the women and children in the UNHRC camps. There is a much higher proportion of women and children who we accept under the resettlement schemes, and that is where our focus should be.

Chair: Zoe, you wanted to come in on that?



Zoe Gardner: I wanted to say, on some of those figures that David has been suggesting, it may be that he knows that it is 87% of the people arriving on boats are men, the majority is certainly men. Overall in the asylum system, it is roughly about two thirds men to one third women and children, over time. But people benefiting from family reunion are 90% women and children, and those are people who are coming after the men who have been sent to make that dangerous journey.

I just wanted to refer to a client that we are representing currently. He is an Arab Darfuri, he has ID to demonstrate that, his identity is not in question. He is definitely a refugee and he should be automatically granted status. His claim was initially delayed for six months during the inadmissibility process because he arrived on a boat. So far, he has been waiting a further six months in the ordinary asylum process. Meanwhile, his wife is waiting in a UNHCR refugee camp, in extremely dangerous circumstances. For now, he can hope that when he is recognised as a refugee which, given his identity he almost certainly will be eventually, his wife will be able to join him through family reunion. Under the Nationality and Borders Bill currently before Parliament there is a proposal to limit or remove the rights to family reunion from people who have made it to the UK under these circumstances, in which case she would no longer have a pathway to join him safely, and obviously would be incentivised to make that dangerous journey which, in his experience travelling through Libya, was unspeakably horrendous. In hers, I do not think any of us want to think about it.

Chair: There will be a lot of questions on the Nationality and Borders Bill in a moment, but I will turn to Jackie Doyle-Price for the next set of questions.

Q21 **Jackie Doyle-Price:** Following up on what David Goodhart has just said, of course yes, you could actually tackle the illegal immigration by adopting policies which favoured women from the camps and so on, but actually the real way of making it fairer would be speeding it up. Is that not where our resource should be, if we are a humane country? The questions earlier from the Chair about the restriction of rights are completely understandable where things are going to be turned around in six months. I think all of us, as Members of Parliament, have handled caseloads which have taken considerably longer than that, so is it not about speed? What is actually holding up doing things quicker and what proportion do not make that six months threshold?

Zoe Gardner: I do not know what proportion make six months any more, it must be extremely small. The average is between one and three years for an initial decision at the current time, and that does not include possible appeals. We are talking about an extremely long system at the moment, and it is clearly the key issue in terms of people's mental health and well-being, and also the interests of the country as a whole in terms of having a system we can have faith in to stop building up backlogs of people. It was reported just this week that 17,000 people in the asylum



system have been waiting for an initial decision for 10 years or more. It is absolutely incredible; the lack of resourcing and prioritisation that has been given to high quality, efficient decision making in the Home Office.

Time and time again what we find at JCWI is that we do not actually get anywhere with an asylum claim until we threaten litigation, and then all of a sudden we get a response. As happened in a recent case, it has been an absolutely routine situation for us that somebody who has waited for several years for their appeal against their initial negative decision in the asylum system, when their day in court finally arrived, the Home Office representative said that they were withdrawing the case and within a week the person was granted refugee status. This is not a system that is working adequately for anybody involved; not the asylum seekers and not the country. Our resources, in terms of reforming it, should absolutely be in making the decision-making faster, better.

Q22 Jackie Doyle-Price: Following on from that, I visited a centre for unaccompanied children fleeing Afghanistan in Qatar and I was struck. I got a very clear message from the Qataris that in terms of the countries that were taking in these refugees, this country was slower than any other countries by a country mile. I just wonder if that is consistent and how we do compare with other countries?

Zoe Gardner: I am afraid I do not have that data: there are not many examples of extremely high-functioning asylum systems. Where one is better than the UK, it often falls down in other places. This is an issue that has been so greatly politicised over several years in all the countries which are receiving asylum seekers, and the response in all cases has been similar—investment in building up barriers to movement, and no investment in a humane and efficient asylum system that aims to give people the protection they need as fast as possible.

Q23 Jackie Doyle-Price: Can I perhaps ask Rosella, the tabloid popular—and probably most of our constituents—view of our asylum system is rather the same way that David Goodhart outlined, it is something very generous and we never deport anyone, and it is actually just being massively abused by young men who are wanting to come and work here. But I was very struck by the fact that actually quite often it is about men making the dangerous journey first. Perhaps you could share your observations about the speed with which we process claims, how humane they are and whether you have any international comparisons?

Dr Pulvirenti: The Refugee Council just published some data on the asylum applications in the UK in the last 12 months and I was looking at the data. It seems that the UK received 37,000 applications. Unfortunately these, as Zoe was mentioning, take more than 18 months to be decided. The problem with that is that once there is a rejection, asylum seekers have the right to appeal. These go to the judges and create a backlog in the justice system. The further problem with that is that the majority of the decisions are overturned. I cannot find the data now but if you give me a couple of minutes I will find it. So those asylum



seekers are granted the status of refugee on appeal, which means that something goes wrong at the moment when the asylum application is first processed. Therefore, as I was saying before, the solution would be to look at the civil service system and check that they are readily equipped for their task.

David Goodhart: Can I just say, I do not think it is fair to say the majority of decisions are overturned. I think the pattern over the last 10 or 15 years has been roughly a third of people have been accepted on initial application, that rises to about half on appeal, and that is often because new information is provided and so on. I think everybody involved in this argument agrees that we are taking too long, and that is a part of the problem. It leaves people in limbo and in the difficult situation that Zoe has described.

We used to do it a lot better. I think as recently as 2014, about 80% of applications were dealt with in six months. The reasons we have slipped back are a bit of a mystery. It is partly to do with, you might say, the good consequence of a post-Windrush anxiety not to make a wrong decision. The Home Office is still somewhat traumatised by the Windrush scandal. It probably also contributes to the reason why first time acceptances have shot up to nearly two thirds in the last few months. The anxiety about making a mistake is intense, and that means that decisions are delayed. I do think that decisions are also being made at too junior a level; this is a point that has often been made. It is essentially executive officers—there are about 350 or 400 people making these decisions. These jobs should be much higher status, much better paid. Somebody was telling me that in Switzerland these jobs are really sought after. You have to have a law degree in order to be an asylum case worker, and it is considered part of the fast stream to promotion in the civil service if you have one of those jobs. But I think there is a serious post-Windrush problem that has made this situation a lot worse.

Q24 **Jackie Doyle-Price:** Could I just ask Jonathan, because you have been waiting patiently?

Jonathan Thomas: I have quick points on four of those things. On legal representation there is quite a lot of evidence that Switzerland and the Netherlands seem to be able to process things faster, and they do that by keeping the legal process quite close to them rather than pushing it away. What happens here is it is pushed away, and then some of it goes to people like JCWI, who can fight it. When they fight it, they fight it phenomenally well by the way. I have been in immigration tribunals, and the Home Office versus a barrister who has been hired by JCWI or one of those other organisations, is often only going to go one way, and the migrant who is being represented is amazed. There are not many countries that would give the government the worse lawyer so that, I suppose, comes back to it, that there is an ethos of staying alive. If you get into the tribunal as a Home Office presenting officer—and this is not about them, this is about the system that they are trying to manage—if



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you know what day it is and what case it is and what country it is, you are doing a good job, versus the opposition.

On decisions and appeals, there is a lot of debate around how many people get accepted and how many do not. Asylum is very specific. Sometimes there is a load of people from the former Yugoslav Republic, sometimes there are lots of people from Afghanistan, sometimes from Eritrea. It cannot be said, "Oh, the majority don't get accepted", or, "the majority do", it completely changes from time to time. If we were having this conversation in the 2000s, the statistics would be different. There might be process changes, as David said, but actually there are a lot of factual changes.

On women versus men, I would say that one of the advantages we have seen in the resettlement scheme is that whole families can come together and they have done. A lot of medium to large size families have come together. You do not often get a name behind the statistic, the only time you do for people trying to get here is when they die. But when you look at those, the lorry or the boats, there are very rarely whole families in those situations, because they have had to split up to get here. Resettlement does try to deal with that.

On your point, everybody here accepts it should be done quicker, but I would come back to David's point that that still means that the majority of people cannot access the system in the first place, and I question the fairness of that. In comparing countries, people often make the point that Turkey or Lebanon house the most refugees, which they do. But this is not because they are more open about the Refugee Convention—Turkey has not signed up to all of the Refugee Convention—and in fact it is partly because actually those countries do not really give those people many rights. They take in all of these people, but in Turkey they do not have a right to work, which is why a lot of them have moved on. One of the ironies of the Refugee Convention is the states that really think that they have signed up to it and give people good rights if they get that magic refugee status, are the ones that people do find attractive to try and get to. Also that they are the countries where the state really tries to keep those people away because they think if they get here and they get refugee status, then they get access to this package of rights, which we are going to give them. If you do not give those people many rights, like Turkey, you are less worried about them coming in.

Q25 **Chair:** Can I interrupt? Jonathan, you have given us some real insight into how well JCWI does in cases. Zoe, can you tell us how you choose which cases you will fight?

Zoe Gardner: On the basis of need.

Q26 **Chair:** Okay, so what criteria?

Zoe Gardner: We have various helplines. The first thing to say is that the need vastly outstrips the capacity of not just JCWI, but the sector as



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a whole, to provide. There is a seemingly unending amount of cases, sadly, that are truly deserving. People who have clearly fled serious harm, torture, violence, and so on, who are trapped within or without the system. If they are lucky, they may hear of our helpline and they may contact us, and then our lawyers will make a decision based on their existing and extremely high caseload. If there is a truly compelling case, whether they can possibly —

Q27 Chair: What is a compelling case? Do you look at the characteristics of the case? Do you look at where they have come from? Do you prioritise women over men? People who are LGBT? What are the criteria the JCWI uses?

Zoe Gardner: We do not have strict criteria as in we do not discriminate on any particular grounds. However, we have some lawyers who may have expertise in dealing with cases of LGBT applicants. We have one lawyer who has done some amazing work on the country guidance related to Sri Lanka. If a Sri Lankan case comes to her, that might be one reason among many why she might choose to take it on. We are motivated absolutely by the need to protect people from the danger that they are faced with being sent back to and that is the basis on which we choose cases, and actually all organisations, as far as I am concerned—

Q28 Chair: I am sorry, I really want to drill down. You have much more demand than you have capacity?

Zoe Gardner: Far more.

Q29 Chair: How are you choosing them? So, is it luck that the—

Zoe Gardner: Yes. Across the asylum system, it is dumb luck if you manage to get a decent lawyer, and most do not.

Q30 Jackie Doyle-Price: Back to your original point that probably those at most risk of harm are least equipped to advocate for themselves in the process, so legal representation seems to be key. I just want to ask you and Rosella some high level observations on the experience of people with protected characteristics in the system, and to what extent the Home Office is collecting data. Is the data they have useful? Does it actually tell the story in the data? For example, one can imagine that there are many people fleeing their country of origin because of LGBT. Are we really picking up their stories in the data?

Zoe Gardner: The Home Office does not record how many asylum claims are made, on the basis of fear of persecution because of sexuality, for example, or for any other reason, so it is very hard to know.

Q31 Jackie Doyle-Price: Would you say that they collect sufficient data on things like disability?

Zoe Gardner: Race, disability.

Q32 Jackie Doyle-Price: The data beyond age and sex?



Zoe Gardner: Beyond age and sex we do not have any.

David Goodhart: I think it does actually. Sorry, I think the Home Office does actually collect —

Jackie Doyle-Price: Could I just let Zoe please answer first? My question was directed at her.

Zoe Gardner: They do not publish data on what grounds people have sought asylum.

Q33 **Jackie Doyle-Price:** For us to take a view from an inequalities perspective, that data would be really useful. Would it be useful to you in your work?

Zoe Gardner: Extremely useful to have data on the basis of all different activities of the Home Office aggregated by race, by disability, by sexuality; those protected characteristics. It would be extremely useful for us to know.

Dr Pulvirenti: I agree with Zoe. Clearly, if we do not have data we do not know whether the legal system in place is working. Therefore, if we need to introduce some element to reduce the discrimination of the protected categories we do not know how much input, economic resources and so on that we need to give to the system because we do not have any data.

The first step, whatever we are going to agree today, is just to collect the data for the different categories. After that, we can discuss whether the legal system is fair to those people or not.

Q34 **Jackie Doyle-Price:** David Goodhart, you are challenging the evidence given, that there is data?

David Goodhart: I think there is LGBT data collected by the Home Office in relation to asylum. I was talking to Jon Simmons—the Head of Research—the other day who told me that.

Zoe Gardner: If they collect it, they have refused to share it in freedom of information requests.

Jackie Doyle-Price: No, it is more about publication of data really.

Zoe Gardner: They say they do not collect it.

Dr Pulvirenti: Even if they are available, they are not easily accessible.

Q35 **Jackie Doyle-Price:** In the interests of transparency, we ought to have greater sight of the data that the Home Office collects. I think we could all agree on that, could we not?

David Goodhart: Yes, definitely. We are worrying here about inequality and lack of rights. The group that is most vulnerable to inequalities and lack of rights is the hundreds of thousands of people in this country who



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live in the twilight zone of illegal immigration. We are adding to that stock of people every year to the tune of probably 20,000 or 30,000 because we do not deport people.

Q36 **Jackie Doyle-Price:** Or because we have an inefficiently functioning immigration system in general.

David Goodhart: Inefficiency counts for a bit of it. Lack of international agreements counts for a lot of it as well. Deportation seems like a very harsh thing, but anything we can do to reduce that stock of people living in the twilight world where they really are exposed and vulnerable would be a good thing. A lot of the people that drowned in the tragedy in November were coming from Kurdistan, Kurdish Iraq. We do not even have an agreement with Kurdistan to send people back. This is one of the relatively thriving parts of the Middle East that people are coming from. We have to get agreements with countries.

Jackie Doyle-Price: I think we are going to come to those issues later with questions on the legislation going forward. Ultimately what you are talking about is modern slavery. It is also the point that we need to go after the organised criminal gangs that profit from this. We could all do some more to call it out. One of the things I often say to my constituents when they raise issues like this is, "Do you take your car to a hand car wash?" We have all got a role to play in things like that, but I will leave it there.

Q37 **Dame Caroline Dinenage:** On this data issue, I just wondered how much of an outlier we are internationally on this. Are there other countries that collect this data better and publish it better? Who should we be looking to as a shining example of how to do this better? Is there anybody?

Zoe Gardner: I am not aware of any country that is a shining example. Again, as I say, often some areas where some countries do better, they do worse in other parts. In terms of the data, I have a feeling that there are countries that release this data. I could very easily find it and send that information to the Committee later.

Chair: That would be very useful, thank you.

Q38 **Bell Ribeiro-Addy:** I am going to be asking some questions about the Immigration and Nationality Bill and how all of you believe that it has helped or hindered the process. I am going to start with Jonathan. Have the Government advocates for refugee rights and the immigration law sector missed an opportunity to find common ground on addressing some of the problems in the asylum process, including abuse of the system and the challenges of removing people who have been refused asylum?

Jonathan Thomas: The short answer is yes. It sounds slightly strange being in front of this Committee with a former Immigration Minister who could probably answer these questions better than me but, anyway, she is not in that position today.



Chair: Any more. Ever.

Jonathan Thomas: Pieces of immigration legislation are generally doing two things. They are obviously bringing in law, but they are performative in how they are being supported by the messaging from the Government and how they are trying to be received by the public. If you were going to look at the highlights of what is happening here, the initial messaging around the new plan was very bullet pointy; here are four or five things that are going to play well in certain core markets that we need to play well with. They are obviously trying to address issues in the system around how you make asylum determinations, how you deal with people smuggling. They are addressing how you deal with modern slavery and they are trying to address various moving parts of this system.

Ultimately, they do not really address some of the key problems, which in one sense they cannot address because, as we have just said, removal is, to me, a key part of the issue. If you could remove more people who had gone through the system and had had legal representation and it was agreed that they did not meet the standards required to stay here, then I think there would be more support that the system was a real system with real consequences for people who failed it and, therefore, real benefits for people who did not. In order to do removals, you need to come to actual agreements with actual countries, and you need to co-operate.

The flipside of the system, of course, is if you are trying to disincentivise people arriving in certain ways, you need to incentivise other ways of people arriving. This comes back to this queue-jumping thing, which David mentioned, and has obviously been a big part of the messaging here. The problem is, of course, there just is no discernible queue. We like queuing in this country because when you queue in this country you know what you are queuing for. You can see that the queue is moving; you can see that it is administered fairly and it is progressing somewhere, which is what you expected when you joined the end of it. That is not really how resettlement works. It could work like that, but it is not how resettlement works. At the moment it is not clear how you get into that system. Also, the numbers being resettled through it are far too low for somebody to really choose that as an option.

In order to really manage the process—the Nationality and Borders Bill might be part of it—ultimately you have probably got two options. One, which I do not think the UK can philosophically go down and I really hope it cannot, is you have to be super nasty, way beyond what people think at the moment is nasty and you also need to be in a geographical position where you can pull that off. The UK maybe is, but Australia was in that situation and went down that route and was able to shut off direct asylum seekers coming there. Or you need to be able to return people and take other people in. In order to return people you need to co-operate with other countries, so you need to be super nasty or super co-operative. I feel like the UK is not really either of those things and,



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therefore, as a result the Nationality and Borders Bill will do some things, and things may change and we might say, “Oh look, the Bill did that”, but things change for lots of reasons. I do not think of itself it is really going to address this issue.

Q39 Bell Ribeiro-Addy: Thank you. Zoe, we know that legal aid was removed from various different mechanisms for people applying in terms of immigration back in 2012, I believe. What is the impact that that has had on cases and the whole sector since then?

Zoe Gardner: The cuts to legal aid have been absolutely devastating. Legal aid is still available for people making human rights-based claims to remain in the country, but the rates are extremely low. This feeds into the issue that I was describing earlier about the capacity in the sector being completely overwhelmed. There has been ongoing crisis mode for decades now, but it was made much, much worse by those cuts in 2012. Obviously, we are here talking about the asylum system, but it is inevitably linked with wider immigration questions. The fact that legal aid is not available at all in immigration applications that fall outside of our human rights framework also increases that difficulty and means that more people have to rely on asylum and human rights-based routes.

Q40 Bell Ribeiro-Addy: Do you have any figures on how successful they are in the use of the human rights route?

Zoe Gardner: I do not know what the proportion of people who are successful in making a human rights claim to stay in the UK is; I imagine that it is data that I would be able to find. In many cases—because of the long times that people spend in the asylum system and then again out of the asylum system if they are initially rejected—people do develop legitimate family and human rights-based claims to remain in the UK even beyond their initial asylum claims. That is, obviously, another feature of this lengthy process that complicates matters.

Dr Pulvirenti: The framework provided by the European Convention on Human Rights gives more rights to asylum seekers for a family reunion. Clearly, Article 8 has been used a lot in that, and also Article 8 has been used against the decision of sending back some of the asylum seekers. Also, there is the provision not to torture people, so non-refoulement, and Article 3 of the European Convention of Human Rights has been used. Actually, the human rights framework has been used as an umbrella for the shortcomings of the asylum system in the UK so far.

Bell Ribeiro-Addy: David, you wanted to come in?

David Goodhart: I was just going to say the Head of UKVI told me a couple of years ago that more than half of successful claims by asylum seekers are now made under human rights law rather than asylum. As Zoe says that will be partly because people are here for such a long time that they start making claims under the right to family life. Can I just make a brief comment about the Bill?



Bell Ribeiro-Addy: I have some more questions for you.

David Goodhart: Sorry, okay.

Q41 **Bell Ribeiro-Addy:** You have touched on the numbers of people that have been deported. The Migration Observatory say that approximately 17,081 people were deported in 2018; in 2019, approximately 12,841; in 2020, approximately 5,842. The UK has also rejected over 32,000 Afghan asylum claims since 2001, which means that more Afghans have been denied asylum or deported than actually offered safety under the Government's resettlement schemes. You had previously cited a slow appeals process as a possible reason for delays and backlog in the asylum process and the use of judicial review. Do you have any suggestions about how the appeals process can be made more effective, quicker and potentially more accessible to claimants?

David Goodhart: The Migration Observatory is almost always right, so I assume those figures are correct, but about four fifths of the deportations last year would have been foreign national offenders.

Q42 **Chair:** Can I just interrupt here? The sentiments of a former Immigration Minister are going to come out. Deportation is only for foreign national offenders. Removals are for failed asylum seekers. I think it is really important that we use the correct terminology or we will get in a terrible mess mistaking refugees and asylum seekers for foreign national offenders.

David Goodhart: Okay. I think the removals figure was something like 1,000 or 1,500. It has absolutely plummeted in the last few years. One of the problems that the Bill is trying to address is the gaming of the legal system. What very senior judges have complained about is the whole business of last-minute injunctions that mean that very, very few people end up on planes going home or back to where they came. As Jonathan pointed out, Zoe's barristers are very good. They run rings around the system. As Jonathan also said, we simply do not have enough agreements with the relevant countries, such as Iran, Iraq and Eritrea.

Iran is a tricky one but, like I said, Iraqi Kurdistan is somewhere that is flourishing, and Britain—through its armed forces and in other respects—has contributed enormously to the success of that part of the Middle East. We desperately need to do deals with more countries. I would be really interested to know whether any of the post-Brexit trade deals that we are doing include some sort of quid pro quo for taking back people who come here illegally.

We have recently finally struck a deal with India. India has been very reluctant to reach agreement. I think we do now have an agreement that they will accept people back so long as we can prove that they are indeed from India. I think that process is incredibly important. I do not know why we have not been putting more effort into getting these agreements with other countries.



Obviously, the stress of the Bill is on how to deal with illegal immigration. All of us are worried about the illegal aspect, but it does beg the question of legal routes. If we want to clamp down on illegal entry, how is it possible for people to make claims? I think Jonathan said there is no queue. Well, there is a queue, and I think it is the UNHRC camps, and I think we should accept 10,000 a year. That is the Red Cross demand, and I think it is not an unreasonable one. We should take 10,000 a year, but in return—and this could be part of clamping down on illegal entry—the UNHRC should take back people who have come illegally rather than talking about Ascension Island or Rwanda or whatever. If people are genuinely in danger I think they will probably get accepted here, but if for some reason they are not they will be safe under protection of the UNHRC. I do think we should also, and Jonathan's written about this—

Q43 **Chair:** I am sorry, David. I am going to have to interrupt you. I am going to have to suspend the meeting because there is a division in the House.

Sitting suspended for Divisions in the House.

Chair: Bell, I hope you can find where you were, and we will get David, who I think was giving evidence, back on track.

Q44 **Bell Ribeiro-Addy:** David, I think you just had your last word to say, or was it a sentence?

David Goodhart: I was just going to say the word sponsorship, which I know Jonathan has written about. The challenge to people like me—who think that it is really important to clamp down on illegal entry—is how people are going to get here. I think resettlement is a huge part of it, but I think sponsorship can also play an important role. Jonathan has written interestingly about that.

Chair: Thank you very much for that.

Q45 **Bell Ribeiro-Addy:** Thinking of the idea of removing people because they have arrived so-called illegally, from looking at the Immigration and Nationality Bill it seems that people are set to be criminalised because of how they arrived. Given that these people are fleeing certain circumstances, do you think it is appropriate for them to be removed based on a situation they could not possibly control?

David Goodhart: They are coming from France. Almost all illegal entrants are coming from safe countries. Some of the legal entrants who are visa overstayers or people who managed to get on a scheduled flight or journey of some kind could be fleeing directly from oppression or danger but, by definition, those people who are coming from France or Belgium or the Netherlands are not.

Q46 **Bell Ribeiro-Addy:** There is no obligation to claim asylum in the first country you arrive in. Obviously to get from one of those countries to another country—if there is a particular situation and you could not necessarily fly, or you may be travelling through another route—is it



reasonable, based on how they arrived, to make a judgment as to whether or not they are worthy of asylum?

David Goodhart: I think it is. We have a huge problem with illegal entry with this queue-jumping Darwinian system. It seems harsh, but treating people differently depending on how they have arrived is not unreasonable. We are also proposing, I think, to rewrite Article 31 to mean that people coming here who are not in immediate danger should not automatically be treated as asylum seekers. I think the Bill is also trying to close down some of this legal gaming—these last-minute injunctions that we have talked about—and I think it is talking about whether we should have visa sanctions against countries that do not agree to take back their citizens who have arrived here illegally. I think all of that is reasonable.

The big question is will this make any difference? I am a bit more sceptical about that. What will really make a difference on the illegal entry is some sort of agreement with France, and that is obviously not going to happen at least until after the French election. It is either an agreement with France or, as Jonathan said, something much more dramatic and kind of Australian—that you keep people in protected accommodation of some kind if they have come illegally, and they have to stay there until their case is heard. That would obviously only work if you had a much more efficient system than we currently do. You cannot let people sit in protected accommodation for a year and a half.

Q47 **Bell Ribeiro-Addy:** Can I ask you the same question, Rosella?

Dr Pulvirenti: I think there are a few things that we need to discuss. First of all, the two-tiered system. It is quite problematic because it is against the international framework in Article 31 of the Refugee Convention. Therefore, the UK will fall short of what is asked under international co-operation. This is the first point.

Second point, it defeats the purpose of seeking asylum because if you already establish that some people are not worthy to enter the country it means that you have already decided that they are not worthy of receiving asylum. By definition, those individuals who seek asylum in the UK, or in any other country, are legally able to enter the country because they are protected by the Refugee Convention. It is true that to a certain extent they are illegal, but at the moment when they reclaim asylum they become legal in the country until a decision is taken on whether they are granted refugee status or not. We need to be very careful about that.

Then the point is, how do we draw the line? How can the system be proportionate? If we introduce some limitation at the entrance, the system is not proportionate because we do not look at the individual. We do not look at the specific situation and we do not assess whether the individuals have committed crimes and so on. Also, it is quite dangerous because what about, for example, a vulnerable category like children? What if they have committed crimes and they were a child soldier? They



have committed crimes, but clearly that might fall short of the threshold that has been set by the UK. If we want to look at the problem in a balanced way, it is important to look at the individual situation and we cannot make categories that are too broad.

And final point on the agreement with France—I do not know if there is going to be a discussion later—unfortunately, it is not possible to have an agreement just with France. France is part of the European Union. Asylum seekers or people that are in Europe, once they reach the shore in Europe, are free to travel to all the other European countries. When France has an agreement with the UK it means the entire European Union also needs to have an agreement with the UK. For this reason, it is necessary that the UK has a dialogue with the entire European Union because it is very difficult that just France has the power to decide who can stay or not.

Q48 Bell Ribeiro-Addy: We are running behind on time, so I am going to ask singular questions. Unless anybody has a really burning desire I am just going to move onto the next one if that is okay otherwise we are not going to be able to get through. Zoe, given that people seeking asylum account for a very small proportion of the total migration to the UK, are these fundamental reforms set out in the Nationality and Borders Bill proportionate?

Zoe Gardner: Not at all. The attention in general paid to a population of roughly 30,000-40,000—if we are going to the high end—people per year coming to the UK seeking protection do not warrant the disproportionate amount of attention we pay them in the press or in Parliament at all; certainly not a huge and draconian and wide-ranging Bill such as this. I am sure that the Committee will be aware that JCWI objects to a lot of different parts of the Bill so I will try to stick to just parts that I think will specifically impact people with protected characteristics.

Chair: That would be very helpful.

Zoe Gardner: This Bill, interestingly, could well have been designed by somebody who had had this conversation that we have been having today, who understood the issues very well and sought to exacerbate every single one of them. It introduces automatic delays of six months for almost all asylum applicants and then it does nothing at all to address the long-term delays that we have discussed. It just adds on an additional six months to the process of most cases, as has been mentioned, unless they were to find the means and the leverage to obtain some kind of agreement with another country to send our unwanted foreign nationals to be their unwanted foreign nationals.

It does not seem likely but I would like to just clarify—because I think it is very important for the record in terms of what we have heard today—the agreements that have been made with India, for example, on migration management have nothing to do with the asylum system and should not be lumped in with it. A readmission agreement with Eritrea



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would be, by definition, extremely unthinkable because almost 90% of people who seek asylum from Eritrea are recognised as refugees. When we are talking about migration management agreements with other countries, I think we need to be very clear that we are not talking about sending refugees back to persecution—that refoulement would be a very bad thing.

As for asking the UN-run camps to then take people back from the UK, that also seems—whether or not it is morally desirable—absolutely just fantasy land. That would be resettlement in reverse. It is the exact opposite of the UN Refugee Agency's mandate in terms of finding durable solutions for refugees. It is important that we talk about that; it is important that we say the UK does not propose to rewrite Article 31 of the Refugee Convention; the Refugee Convention stands as it is. The interpretation of that Convention is what is under consideration in the Bill. The ways in which the Bill guides decision-makers will exacerbate the issues facing people with mental health issues because it advises decision-makers and judges to give minimal weight to evidence that is produced at a later date.

I have already discussed why trauma can impact on people's ability to disclose at an early stage within this asylum process. It would be absolutely unthinkable for a judge in the UK to give minimal weight to evidence that somebody would face death or torture on return, regardless of when that evidence was provided. The Bill seeks to interfere with the constitutional duty on judges to make decisions based on the evidence provided to them and according to the law.

I will not go into the various ways that the UNHCR has already said that the Bill would breach the Refugee Convention. You have already articulated how the first safe country concept is not helpful to us. I must come back to this issue of mental health. The Bill seeks to increase the number of people who would be detained and decrease access to appeals processes.

In the system currently, detention is a huge issue for people with mental health disabilities. The Bill seeks to basically reintroduce a process called the Detained Fast Track that existed until 2015. Under that system, people were automatically detained if their claims were deemed manifestly unfounded. We have just gained refugee status for a client of ours whose claim was initially deemed manifestly unfounded. He is blind and he is from Nigeria. He was escaping violence connected to suspicions around witchcraft because he was blind. He was denied the right to an in-country appeal because when he was initially rejected his claim was deemed manifestly unfounded. This Bill would mean he would be denied right to any appeal whatsoever. We have fought for his right to have an appeal, and we have had him recognised as a refugee who would suffer inhuman treatment and persecution if returned to Nigeria. This happens all the time.



There are also ways in which the conditions of people with mental health, PTSD, psychosis, are actively exacerbated by processes within detention and within the asylum system. Colleagues from Bail for Immigration Detainees shared a case with me just this week where they had submitted an application for bail for a man who was being held in detention. Their application for bail had medical evidence saying that detention was exacerbating his psychosis—PTSD—and he had attempted suicide already once while in detention. His bail refusal was based on the fact that he has mental health stress and we will not be able to monitor him if he is no longer in detention. The circularity of the logic that is being applied is absolutely—well, it is not logic, whatever else it is.

Bell Ribeiro-Addy: Not proportionate?

Zoe Gardner: It is certainly not proportionate in terms of his particular vulnerabilities and his protected characteristics for somebody who is disabled by mental health difficulties.

Q49 **Bell Ribeiro-Addy:** Sorry to rush everybody along, but as I said we do have very little time. Jonathan, next question. There is a lot of discussion around the Bill generally, publicly. What does polling suggest about public opinion on the specific asylum measures in this Bill?

Jonathan Thomas: There are lots of different ways of looking at public attitudes on asylum and refugees. If you take a historical view, it just looks like back to the future. In the noughties all the media was about asylum. In the 2010s it was all about economic migration. Now it has come back to asylum and it looks like we are just repeating the same thing over and over again.

There is an alternative view, though—which I am sure Zoe would agree with different parts of but which I am going to set out—which is that maybe the last 10 years has been a golden age for how we view asylum seekers in the UK. If you look at the media around asylum seeking in this country and compare it with the media in the noughties it is quite different. In the noughties you got the most unbelievable headlines and stories about asylum seekers, probably some of the most spectacular headlines we have ever seen in the British press. Now, in publications like the *Daily Mail* they will write about the channel and the concerns in the channel, but then they will have an article in their *Femail* section around women who have taken in asylum seekers in their spare room. That might not seem like much of a step forward, but it is a huge step change since what we had in the noughties when you have incidents such as the one we had in Liverpool with the failed asylum seeker. I would say the press reporting on that was very low key on all fronts. I will not go into why that might be, but I do not think that would have happened in the noughties.

As David said, we have community sponsorship; we have 300 local authorities involved. It feels like there is a lot more acceptance of the reality of asylum and refugees.



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When you look at the polling, though, I think two things have not happened. This country is one of the most pro-refugee countries in the world if you look at Ipsos MORI. It is all relative, but that does not come at the cost of control. Secondly, are asylum seekers actually refugees? This country, again, is one of the most positive on the fact that most asylum seekers are refugees, but still the majority do not think they are. The majority of people in this country still think that most asylum seekers are economic migrants.

What you see, I think, and what the Government's Bill really plays on is a positive story about refugees but, "Oh, you need to be suspicious about these asylum seekers". Unfortunately for everybody—but particularly the refugee sector—the whole channel/France thing does not play great; it is a very conflicted story. As David said, people see people coming from France who are coming from a country which pretty much everybody accepts is safe, unlike people who are coming from Turkey.

You can debate what the rule is about where you must claim, but people see people coming from a safe country who have got a certain amount of resources to get there, some of whom are refugees and some of whom are not refugees. The Government is seeking to exploit that divide, and this divide is one of the reasons why you see polling which people who are deep in the sector feel is pretty alarming.

For instance, a polling on putting people on Ascension Island and deciding who is a refugee is generally quite positive because if you are positive to refugees but you are not sure that all asylum seekers are refugees, obviously a system that magically separates them 5,000 miles away would seem like a pretty positive thing to do. A lot of the polling at the moment suggests that people are, in general, relatively supportive of not accepting asylum claims from people who enter illegally or for taking action in the channel to push people back. It is a very conflicted story. I think the British public are positive on refugees, but the reality of the situation complicates that enormously.

Q50 Bell Ribeiro-Addy: Rosella, a lot of the measures in the Bill are geared towards—or were explained that they are—stopping criminal networks and people smugglers behind the dangerous channel crossings. Do you think there are any alternatives that could be used to the measures in the Bill?

Dr Pulvirenti: I do not think that the Bill really reached this point of stopping the smugglers, and I can tell you simply why. There is, I think, a problem in understanding who the smugglers are because those individuals who are reaching the shores of the UK and are driving the boat and so on, they might not be the mastermind of what is happening. They might be people who do not have the economic resources to pay for the trip, so rather than paying the smugglers they just arrive driving the boat. This is the first problem.



The second problem is are we sure that individual asylum seekers know exactly what is the legal system of the UK when they arrive? Here I am looking at some research done by the United Nations, and they conducted empirical research about the variety of factors that influence the asylum seeker in arriving. The answer is the presence of family members, peers, experiences along the legal route, pressure from smugglers. There is no evidence through empirical research that a system that is more stringent at the beginning is going to allow less asylum seekers to come forward.

I think the balanced approach is to look at the cases one by one and checking those who are genuinely asking for asylum and those who have committed crimes and should not be granted asylum. In fact, the international system, the Refugee Convention, established that there is a clause in Article 1 that states that the status of a refugee should not be granted to those who have committed serious crime. However, I think the Bill lowers the threshold to crimes that have sentences for, say, 12 months.

The final point is quite broad. There is not a definite list that it can be modified, so it is not clear, it goes against the rule of law and against certainty of law and so on.

Q51 Bell Ribeiro-Addy: My final question is going to be on how the Bill is amending the Modern Slavery Act which is explaining that it is attempting to tackle perceived misuse of the system. Are you concerned about some of these measures in the Bill—particularly the threat to public order provision—are you fearful that it could unfairly penalise genuine victims, including children? If so, how could the Bill be amended to address this and, just generally, how do you agree with the actions to address the misuse of the system overall?

Zoe Gardner: I think this is a very interesting and extremely concerning point, but it actually links up to a wider issue that is seen within the Bill and within numerous other Government outputs. There is an idea that fundamental human rights should be stripped from people on the basis of certain behaviours. We already have a system, unfortunately, that too often people are forced into labour—for example in cannabis farms—to work illegally. People who are trafficked here are too often failed by our system and charged as the criminals themselves rather than as the victims. This Bill will exacerbate that issue significantly.

It very often happens that people are not in control of the entirety of their journey to the UK and what happens to them when they get here. There are real, despicable criminal gangs at play. They are internationally linked up, they bring people across borders in numerous different ways and when they bring people here, they exploit them terribly. The focus of the Government's approach thus far—which is reinforced in the Bill—has been to target its enforcement on the victims. This happens across the board, but certainly is at its most concerning when it concerns victims of modern slavery and the worry that people will not be able to come forward and speak about the abuses that they have suffered because



they will be criminalised and they will face deportation, detention and prison at a greater rate under the provisions in the Bill.

Q52 Chair: Can I just ask a quick question about offshoring? It is probably to Zoe or possibly Jonathan as I think he mentioned offshoring. The news that we heard over the weekend is that the Government intends to make sure that all male asylum seekers have their claims processed offshore. Are you concerned that that might miss men with protected characteristics, whether that be age, disability, sexuality?

Zoe Gardner: Very concerned; quite aside from the fact that that constitutes discrimination in the first place. You can be a man and a refugee. You can be a man and a victim of trauma, torture, sexual violence. You can be a man with disabilities. You can be a man who has lived closeted or been abused because of their sexuality. The narrative that men somehow are not vulnerable and are not in need of protection is completely false. Men are very often the ones targeted in the first place in refugee producing countries. It is a very dangerous proposal. It is a completely unworkable proposal. The size of the detention of state would have to exponentially balloon or we would have to find, again, somewhere willing to take in all the young men who cross the channel. That is not really the way countries tend to work in terms of just indefinitely taking in foreign nationals that somewhere else does not want.

I do see the problem; I am capable of seeing the problem of why people think that people crossing the channel from France should be able to apply elsewhere. There are reasons why people seek to make their way to the UK. All the research—including the Home Office's own research—tells us that those are based on connections to the country they are trying to reach.

The ways to solve that are to enter into good faith negotiations with our partners in Europe; to arrange for a system where people with those connections can travel safely and legally to the UK; or to simply provide a travel document that people can apply for like they apply for other visas in order to take the ferry like you or I would. Better still, rather than having to make a dangerous journey up until that point, to be able to apply to travel to the UK and then enter the UK asylum system. The UK is the appropriate place to hear people's asylum claims—all people, including men.

Q53 Jackie Doyle-Price: Jonathan, I just want to come back to evidence that you gave earlier. When you talked about, essentially, year by year the picture of asylum seekers changes because where we have issues in the world changes. Going back to the early 2000's where we had a lot of people coming from Kosovo—when those cases were analysed actually many of them were Albanian—but equally we are getting a lot of delays in the system now for people claiming to be Afghan, but actually you can pretty well verify whether someone is Afghan or not. Really, what it comes down to is, are we looking at this problem through the wrong



prism? We are effectively demonising people who are fleeing persecution and have hope about getting a better life, who are exploited by ruthless criminal gangs which, frankly, over the last two decades have just become more and more embedded because this trade is so profitable. It is actually more profitable than drugs now.

What we have seen in recent years is that Essex Police, one of our smaller police forces I might add, were given a lorry load of evidence because the victims of the smuggling operation that killed 39 Vietnamese left their phones behind with lots of material and data which allowed those people to be tracked down. I think we are now on 12 convictions for very many years. But does that not prove that you can actually go after these organised criminal gangs? Is that not what we should be doing rather than migrating our problem offshore?

Jonathan Thomas: I do not think anybody disputes that is what we would be doing. I would probably dispute whether that would solve a problem, because it is easy to think that everybody is coming here via a singular criminal gang with people who you can identify along the way.

Q54 **Jackie Doyle-Price:** We do know hot spots. We do know that the Irish haulage industry is associated with this. We do know that a lot of these networks are run through Albania. We know some of the routes. There is plenty of intelligence there.

Jonathan Thomas: That is certainly true.

Q55 **Jackie Doyle-Price:** Which comes back to Zoe's point as well that unless you actually incentivise victims to bring forward evidence, we are not actually going to build up a picture beyond what we know anecdotally.

Jonathan Thomas: It is certainly true. Rosella can probably speak to this a lot better than me, but there is a lot of different ways that people move across continents and stop and start again and move around. A lot of that is not with organised criminal gangs. There is always going to be people who are facilitated to move and are put up in houses and transported around and so on. It is true to say that criminal gangs generally find towards the end of the route—which is obviously hardest, getting across that final border—a way through the border rather than around it. They generally get people who work on the border and pay them money or pay the haulier. They have not got a massive tunnel that people come up in Essex. They have a way of subverting the system. There are actually a few really good research books on people smuggling where people who actually go deep into it do show that there is a lot of bribery and payments within the system that oil the wheels and that is close to home. You could certainly focus on that and that may make some difference. There are a lot of different ways that people move; a lot of people are being facilitated in other ways; a lot of people are now self-smuggling. It is a multifaceted picture, I do not deny that, but you could definitely at least focus on that specific of it.

Q56 **Jackie Doyle-Price:** There is an awful lot of intelligence there but it is a



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big job and in some respects it is easier. Restoring public confidence is actually at the heart of all of this because, as I say, the public understanding of what we are dealing with and the reality are two completely different things and we end up demonising vulnerable people. Seeing pictures of rubber dinghies arriving in Dover is undermining confidence in the system. It is proven it can be done, that more effort to go and break those networks would go a long way. Some of the intelligence that has come out of this investigation has brought home to me just how much intelligence there is in the system. Zoe, would you like to give some perspective?

Zoe Gardner: I just wanted to come in on the resourcing question that you are talking about. I think you make a really important point, and it would appear that we are going in the wrong direction. Under the Bill changes are being made to facilitate more prosecutions of asylum seekers themselves as smugglers. We have acted in the case of one such man. He is a young man from Iran. I know that asylum seekers travelling over land and sea have been described as middle class in this conversation, but I do not think that would apply to him. He made a very difficult, very long journey over many years, moving on when he could pay the next leg. When he reached Calais, he was forced onto a boat and told that if he did not steer they would all drown. He was prosecuted as a smuggler and he was then imprisoned for many months until we managed to appeal his case on the basis that the fact that he had every intention of seeking asylum—presenting himself to the authorities—he was not facilitating the illegal entry of anybody to the UK because they all were asylum seekers and relied on that same defence that Rosella has mentioned. That defence is being stripped away in this Bill so the intention is clearly to go after more asylum seekers as though they were smugglers, which is not going to solve the problem because the smugglers do not get onto the boats so we appear to be going in the wrong direction.

Dr Pulvirenti: Just a few points. As you said, what are the evidence that are used in court for bringing down those smugglers? Witnesses. If witnesses are the victims of the crime and we tell them that we are going to prosecute them for the petty crimes that they have committed which clearly, compared to the smuggling, is lower. What is the incentive for them to come forward? They will not. The entire evidentiary system is very likely to collapse because we will not find anyone who is available to testify that has been using that route because that is illegal. The option is that they are going to be deported so they would prefer to stay anonymous and continue using the criminal routes rather than coming forward if we create a more stringent system.

Two points on the offshoring. The idea that a safe country exists is an idea that came from the European Union because the European Union has a system where asylum seekers can move. In the international system, safe countries do not exist. Even if the UK wants to claim that France is a safe country, that is a European Union language legal framework so it



does not stand at the international level. Pragmatically, what happens? We have those individuals that were on the boat. They reach the shore of the UK. What does the UK do? Brings them back. What are the human rights obligations of the UK at national and international levels? Can we return them straightaway? What if there are pregnant women and children that are starving? We need to provide them with food and basic need. At that point, what is the incentive for France of getting them back? Even if we move them offshore, who assures us that those people are not going to be living in conditions that are not compliant with human rights?

In Europe there are a lot of camps in Greece and Turkey—although that is not exactly Europe—what is the problem? Asylum seekers arrive there, there is a bottleneck, and those camps are violating their human rights. If the UK were to put asylum seekers in some offshoring facilities, who would guarantee us that we are not going to face the same problem? Just because we are putting a part of the male population there, this can be reverse discrimination. There are a lot of problems entangled. I could speak for hours.

Chair: David, did you want to contribute to that?

David Goodhart: Just a very quick one. On this issue of should we not be going after people smugglers rather than illegal entrants, we obviously have to change the incentive for the illegal entrants not to want to come here. People smugglers are obviously quite good at avoiding our attentions but there are also—

Jackie Doyle-Price: I would suggest we are not going after them, David.

David Goodhart: Apparently a lot of the boats are actually made in China and there is a whole supply chain supplying people to get across the channel. I was told by somebody at the Home Office that there is an Amazon style warehouse in Germany which supplies a lot of the equipment that is required. We know about the existence of this place and apparently the German authorities are just not interested in doing anything about it, which reinforces this point about international co-operation being so central.

Q57 **Chair:** I am going to bring in Anum in a minute, there is just a couple of questions that I want to ask. I think it was Jonathan or David—apologies I do not remember who—that made the point that you could not have people sat in protected accommodation for a year and a half. What evidence is there of how long people are sat in the Australian system offshored for?

Jonathan Thomas: It was not me who said that but I suppose it comes to the key point on offshoring which is; what are you trying to achieve by offshoring? If you are trying to achieve the public thinking that that is good, then fine, but if you are actually processing people in offshore



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centres rather than just letting them fester then people are still going to go into that system. They are going to think, "Okay, I'm going to go to the UK. I get moved to Ascension Island. I get a chance".

Offshoring only really works to keep people away when it is the end result. People who Australia put on Nauru were never going to make it to Australia. That that was why Nauru worked. If that had just been a processing centre for people to go to Australia then people would have got their boat as close as they could, been taken to Nauru and then they get a chance. Although I use the Australian example—it is a very good one in terms of deterrence—it is not a very good one in terms of a realistic prospect for running a humane asylum system because the whole deal of Nauru was it was forever and if it was not forever, it was going to somewhere that was not Australia.

Q58 **Chair:** Thank you. Do we know at what cost?

Zoe Gardner: \$18.6 billion Australian to date.

Q59 **Chair:** Thank you. Zoe, a very quick question for you. I think you have spoken about something similar to a humanitarian visa as a visa route, is there any evidence, and if so, what, that that sort of humanitarian visa would actually reduce numbers of people coming through irregular routes?

Zoe Gardner: What we are proposing is a step that would make a difference, not one that I would confidently say would just solve the issue. There is a lot more to it. What we are proposing specifically in terms of this Bill and the potential positive amendment that could have been placed in it would be targeted at a particular group; the group which is currently taking boats across the channel.

Q60 **Chair:** It would be targeted at young men?

Zoe Gardner: It would be targeted at people who have a reasonable likelihood that their claim would be accepted as a refugee and who have a good reason—I use "a good reason" in terms of the legal language—for their claim to be heard in the UK. Those are people who are in northern France and are planning to seek asylum in the UK. That would provide them with a travel document to cross the channel, just as you or I would, and enter into the UK for the purpose of entering into the UK asylum system. That would not solve the problem of irregular migration globally at all, but it would target that one group that is currently taking boats because they are—

Q61 **Chair:** But it would not do anything specifically to help? The focus of our inquiry is very much about people with protected characteristics in the asylum system.

Zoe Gardner: If we take the Home Office's equality impact assessment of its new plan for immigration—which is what the Bill is based on—it is largely an inadequate document. One of the points it makes is that the



plans do create racial discrimination because the people who are unable to obtain visas of another kind and who make the journey and end up in northern France are largely Afghans, Sudanese and Syrians. On that basis, the rejection of those people constitutes a discriminatory outcome.

Q62 Ms Qaisar: I am going to continue looking at the Nationality and Borders Bill and examining it on an international stage. Earlier in this session, it was indicated that taking the asylum process for any country and comparatively examining it against the UK is somewhat difficult and a challenge. I want to just concentrate on the UNHCR. I am sure you will be aware that in October 2021 they stated that their opinion is that the Nationality and Borders Bill is: “fundamentally at odds” with the Refugee Convention and undermines global co-operation on refugee migration.” Jonathan, if I come to you first, does this concern you?

Jonathan Thomas: I have a bit of a different take on that question and on what the Bill does. You can see the Bill as very legalistic, adversarial, confrontational. Bell asked a question earlier on a missed opportunity for common ground which I did not really answer because there is actually common ground and we have not really got into that. That probably needs to be left for another year. I do think that when you look at what the Bill is doing on Article 31, you might say it is a democratic imperative that if a government feels that international law is hampering how it can achieve its aims, that it is legitimate to test where the boundaries of that international law lie.

I agree with Zoe and slightly disagree with David, we are not rewriting Article 31. The Government is still accepting that even the Group 2 people are still refugees. I do not think that we are necessarily breaching Article 31. We may well be, but I think it is reasonable for the Government to argue that because there are concepts in Article 31 around penalties— coming directly from a place where your life is threatened or good cause for illegal entry—to me it is fair and reasonable to have an argument around where those boundaries lie.

On the other side, the refugee advocates have consistently argued about where the boundaries of European Convention on Human Rights lie and have done a fantastic job, frankly, in expanding a lot of those concepts. The reason that people tend to use the ECHR rather than the Refugee Convention is the ECHR has been interpreted expansively by refugee advocates and gives them, as Rosella said, greater hooks to hang their case on. The Refugee Convention is balanced between individuals and states and that is why individuals do not have it all their own way. I suppose I would see the challenge which the Government is putting down in the Bill—I am not necessarily wholly supportive of it, but I can see the rationale for it—and I would defend their choice to say, “Okay, let’s look at what Article 31 means”.

Q63 Ms Qaisar: David, I can see you nodding in agreement, is there anything you want to add to that?



David Goodhart: Not really. We might discuss this later, but the alternative story—the humanitarian visas story—has been very underdeveloped. If the Government is going to take this much harder line, if it is going to distinguish between the people that come legally and people who come illegally and treat the people who come illegally more harshly, then, as I say, it is sort of incumbent upon them to say, “Well, how are they going to fulfil the obligation to accept refugees?” As I said earlier, my preference would be to take more people from resettlement camps. That means that we can have more women and children. We can make sure we are not getting people with dodgy political connections.

There is a problem; Jonathan alluded to it in relation to the Liverpool bombing. Something like 25% of all Islamist terrorist actions in the last 20 years have been carried out by people with some kind of asylum background. If you take people from resettlement camps or if you go for more sponsorship, whether it is communities or individuals or families sponsoring people that they know already and can trust, you get around that problem. All you are doing with the humanitarian visa is pushing the problem down the road. Somebody has to make a decision at some point in a British Embassy in a country whether somebody has a reasonable prospect of getting accepted under asylum law. People are not qualified to do that, and as soon as that happens British embassies will get overwhelmed—unless these are totalitarian countries that are watching people going into embassies—by applications and they are not in a position to make this judgment. Humanitarian visas sounds a nice idea but, like I say, it just kicks the selection problem down the road.

Q64 **Ms Qaisar:** Rosella, I can see you are taking notes, are you wanting to come in on this?

Dr Pulvirenti: Yes. I would like to go back to the Refugee Convention: “The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who...enter or are present in their territory without authorisation”. What the Bill is doing is basically imposing a penalty on individuals who are present in the territory without authorisation. I do not think that it is possible to interpret the law in a different way. Paradoxically, though, I agree with David when he says that someone has to make a decision. We need to get it right from the beginning and if we want to have a right and balanced approach we need to be able to process the request faster in order that it does not create the backlog and humanitarian and human rights problem we are discussing. It is always the same problem.

Ms Qaisar: Zoe, you looked like you want to come in as well.

Zoe Gardner: I just wanted to emphasise for clarity’s sake that JCWI does not advocate establishing the asylum system in any format overseas; so not in humanitarian visa applications in British embassies. In our opinion, the correct place for somebody’s asylum claim to be examined is in the UK in a well-functioning and well-resourced efficient asylum system.



Q65 **Ms Qaisar:** Thank you. Concerns have been raised around the Nationality and Borders Bill. For example, if a refugee does not arrive in the UK directly and they head across Europe then their claim may be treated as inadmissible. You will of course have heard of the threat of a four-year prison sentence. Does this Bill from the Government signal the end of the UK's role as a global champion for the refugee cause? David, I will come to you first.

David Goodhart: Well, no, I do not. I think all rich countries are struggling with the same problem. We have this commitment to an absolute entitlement, and the absolute entitlement is completely unconnected to numbers. As we all know, the Geneva Convention, the Refugee Convention of 1951, was originally just for Europe. It was essentially designed for Soviet dissidents and really small numbers of people, at a time when most people around the world did not have the resources to travel at all beyond their own country. Now the context is completely different and we are all struggling with the same issue. Germany and Sweden made this very generous gesture in 2015 towards Syria, but the reason why we are middle of the table in Europe is because we are a slightly harder country to get to. It is not because the Europeans are more generous about asylum. They are struggling the same as us about how not to be completely inhumane. There are a few outliers on that; Denmark has made life so uncomfortable for asylum seekers that virtually nobody wants to go there.

Jonathan was right about this; we either need much, much more international co-operation or a really, really brutally draconian approach. Where we do fly the flag is on the resettlement question. We are No. 1 in Europe on that and I think we are No. 3 amongst western countries as a whole; the US and Canada do more on resettlement. For fear of repeating myself again, the Red Cross is saying, "Let's do 10,000 a year." That would then give us the moral legitimacy to take a much harder line—whatever form it takes—on illegal entrants.

Q66 **Ms Qaisar:** On that resettlement point, I am actually going to come over to Zoe because it looked like you wanted to come in on that point and you may have more statistics than I do.

Zoe Gardner: Thank you very much. A system that welcomed 10,000 people a year under resettlement would be a great start. If that ended up being the entirety of what was considered legitimate refugee protection in the UK, then yes, absolutely we would be turning our back on several decades of being a country that welcomed refugees and protected them. We already take far fewer than most other comparable countries and that would be a massive reduction in the number of people we took so I do not support that as being the only route.

I do believe that resettlement is valuable, but it can only ever be part of a bigger picture. This is where the conversation drifts. We need to get back to the practicality; what will actually happen in the absence of any agreements to get other countries to just take on our unwanted asylum



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seekers. What these rules do is introduce a six month delay at the current time on every asylum claim in a system that we already know is overburdened. It then potentially raises the spectre of imprisonment over asylum applicants, almost all of them. Now, there is no way that that could ever be implemented in full—we are not going to send all of them to prison straight away—so how it would be implemented is almost by definition, going to be discriminatory. It is going to be people who are targeted because of considerations that will be connected to other vulnerabilities of theirs.

Then I want to also touch on the impact of this Group 2 status; if and when those people eventually were recognised as refugees and how they would be given only a temporary protection status, and how that connects again to mental health, disability and vulnerability. We have done significant research into the use of the 10-year route to permanent leave to remain for other migrants outside of the refugee system, and what we found is that having a system where you wait 10 years and you have to reapply again and again and again for your right to remain in the UK is the cause of basically most people who live undocumented in the UK. They are not asylum seekers, they are not people who come through these channel crossings. They are people who entered on a visa or on a 10-year pathway and at some point fall off it. That often happens because people have a mental health crisis around the time where they would otherwise have to submit all sorts of paperwork and fees to renew their status.

If we apply that within the context of people who have been recognised as refugees and thus a population that is vastly more vulnerable to mental health crisis, we are looking at a system that could be designed to vastly increase the number of people living in the country without an official immigration status. If they have to renew their status again and again—the target of six months for further leave to remain applications has been dropped by the Home Office too, just in ordinary immigration cases—those applications are taking longer and longer for our clients who are not in the asylum system.

This is a Home Office that is not coping with the numbers; has not invested adequately and has a backlog that is growing. It is giving itself 10, 15, 20 times more work in terms of the bureaucracy, of processing repeat applications to remain, from people who will be all the more traumatised by the fact that they do not have a stable place in the country and who, inevitably, at some point, may well fall off that rabbit run and become undocumented. Given that they will be talking about people who are recognised as refugees, they will not be able to return home and they will become undocumented.

David Goodhart: Sorry, could I just say one thing very quickly? I forgot to mention in terms of the international reputation question, a rather big issue is that we have agreed to take in potentially 5 million people from Hong Kong—I know they are not classified as asylum seekers or



refugees—and combined with the fact that we actually have a more liberal legal immigration framework than we have had for a very long time at the moment, gives the Government some sort of space to be as tough as it is trying to be on coming down on illegal immigration.

Q67 Ms Qaisar: My final question is just going to be posed to Jonathan and Rosella. I have listened with great interest throughout the session. As you can probably tell from my accent, I am from Scotland and immigration is not devolved in Scotland but we have Scotland's New Scot strategy 2018-2022. It had 700 refugees and asylum seekers involved in developing the approach. They had five main principles; integration from day one; a rights-based approach; refugee involvement; inclusive communities in partnership; and collaboration. A really general question is how does this differ from the UK's approach?

Jonathan Thomas: Probably, in what people say, not very much. People in this country tend to say the same things, certainly on integration. Nobody says integration is a bad thing, the question is, what does anybody do about it? The UK does not really have a consolidated approach. Taking that point but also your previous question—first of all on the regional question—it is true that we have a very centralised approach in this country and that gives positives and negatives. If you look at other countries, it is amazing to us looking from here how devolved some of them seem. For instance, under the Trump administration, but also, frankly, the Obama administration, the President could say, “We are going to do X about returning illegal immigrants”; a state would say, “We are not doing that”; and then a city within the state would say, “Yes, we are”. You would have these huge tensions within the system that would actually play out by people doing different things. You had the example in Germany, I do not think you will have now, but you had it certainly five years ago where the German central government were saying it is safe to send people back to Afghanistan and a number of states saying, “No, it is not”. The states controlled those removal flights and those people did not get removed. That would not happen in this country. The Government would not say, “Send these people back from Stanstead” and Essex would say, “Sorry, you are not doing that”, so it is a very centralised system.

To end on the point of are we a paragon or some evil actor with regard to upholding the global refugee rights system? I think there is a glass half full interpretation of this. I do think that the Bill clearly accepts that refugees have rights. There would not be all these clauses about Article 31 if we were just going to completely ignore it so you can have arguments about whether those amendments are justified, but those amendments are done in the context that we are accepting international law. States and the UK in particular do give refugees greater rights in certain aspects than the Refugee Convention requires. In the Bill we say that refugees are going to be given indefinite leave to remain immediately now; that is not a requirement of the Refugee Convention, it goes beyond it.



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In terms of our recognition rates—Albania was mentioned over here—our recognition rates of Albanian refugees are five times what they are recognised in the EU; Pakistani is three times what they are recognised in the EU. When people do go through the system and maybe they get the assistance of JCWI, quite a lot of people here are recognised as refugees who are being turned away by other countries. As we have heard today, we put a lot of time, way too much time, and cost into the system. I think if we really were not feeling part of and subscribing to international refugee law, we would not do that. You might say, “Well, some of that is just creating a smokescreen and a difficulty which is trying to keep people away”. I do feel that a lot of people in that system are generally trying to process what they have to process through the asylum regime to try and separate the refugees from people who do not meet that status. I do think amidst all the clouds there are rays of sunlight that show that we are still trying to deal with this.

Scotland certainly has, I would say, a more advanced and liberalised approach in some of these areas. Generally, as you would know, attitudes there tend to be more favourable and they certainly have areas of the country where—not so much with refugees and asylum seekers—they actively want to attract migrants in order to keep the economy going.

Q68 **Ms Qaisar:** Going back to America and this idea of devolved governments having less of a centralised approach, is there merit in that?

Jonathan Thomas: There can be. America is a very big country. We are not a very big country. I am quite a big fan of the way America debates immigration. The people who really do not like it try and build a wall and the people who really like it argue for open borders. That leads to very a tense situation, but I would say that it is a more honest situation sometimes than in this country where everyone says, “Yes, we’re open to refugees. We want them all to be integrated”. But people action that in completely different ways. I think regionality brings a lot of issues. If you are more liberal in one place, again, how is that going to affect things? You can have regional policies, London would certainly want one. Lots of different types of migrants, for various reasons, prefer London anyway. How does that play into all kinds of factors that are way beyond what this Committee is interested in?

Ms Qaisar: Rosella?

Q69 **Chair:** Not a chance, we have three minutes. Sorry. Can I just ask a couple of questions to sweep up? The first one being, we have had a lot of discussion about returns agreements. What evidence do any of you have that the Home Office is not actively pursuing returns agreements with a wide number of countries?

Zoe Gardner: They claim that they are.

Chair: Yes, precisely. Jonathan.

Jonathan Thomas: None, I would say.



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Q70 **Chair:** Thank you for that. There is no evidence that they are not pursuing returns agreements. Rosella, did you have anything you want to add on that? No. A final question to Rosella; when it comes to the human rights legislation and potential reforms, can you give us any evidence of what types of vulnerable people in the asylum system might be at risk if they can no longer rely on bringing cases under human rights legislation?

Dr Pulvirenti: For sure, women and children because, as we said since the beginning, they generally use the route of the family reunification because it is safer. The men generally arrive before through boats and then through the route of family reunification is a safer route. If we eliminate Article 8 of the European Convention on Human Rights, that would be more challenging for those categories of people.

Q71 **Chair:** We would specifically be disadvantaging women and children?

Dr Pulvirenti: Yes, because they will not have a legal route to come to the UK and then they will use smuggling.

Q72 **Chair:** In one minute, what additional data might we require from the Home Office in order to be able to evidence that?

Zoe Gardner: We have that evidence; that 90% of people benefiting from family reunion are women and children. I think we do have sex-aggregated data.

Dr Pulvirenti: Yes, data exists on the family reunification.

Chair: Thank you very much for that. I am really sorry, we are out of time. If there is anything that any of the witnesses would like to add in writing after this session, please do feel free to do so. It just falls upon me to thank you all for your contributions this afternoon. I am sorry that we were disturbed midway through with the Division, but I will draw the meeting to a close.