



Submission to
International Development Committee
Aid spending in the UK
November 2022

Introduction:

1. Amnesty International UK welcomes this inquiry. As the Committee will know, we are not an aid agency. However, we are profoundly concerned with the fulfilment of States' shared obligations under the 1951 UN Convention relating to the Status of Refugees ("the Refugee Convention") and the human rights implications of the delivery, diversion or curtailment of overseas aid. Accordingly, we provide evidence on two of the Committee's specified subject areas under distinct subheading below.

How the use of the aid budget to support refugees in the UK relates to OECD guidance on development spending:

2. The short answer is that expenditure by the UK Government to support refugees in the UK does not relate to development spending as understood by the OECD. Such expenditure does not, therefore, relate to the UK's commitment to meeting the international target of 0.7% in such spending.

3. The OECD defines official development assistance (ODA) as:

*"...government aid that promotes and specifically targets the economic development and welfare of developing countries."*¹

4. The OECD measures such assistance in terms of "*resource flows*" that are "*to countries or territories on the DAC list*" (i.e. to the countries or territories on the list maintained by the Development Assistance Committee) and which has "*the promotion of the economic development and welfare of developing countries as its main objective*".²

5. The 0.7% target is a domestic legal obligation to meet an international target. The International Development (Official Development Assistance Target) Act 2015 ("the 2015 Act") imposes a statutory duty upon the Secretary of State. Section 1 of the Act is entitled "*Duty to meet the United Nations 0.7% target from 2015*". The section provides:

"(1) It is the duty of the Secretary of State to ensure that the target for official development assistance (referred to in this Act as "ODA") to amount to 0.7% of gross

¹ See <https://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/official-development-assistance.htm>

² See <https://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/officialdevelopmentassistancedefinitionandcoverage.htm>

national income (in this Act referred to as “the 0.7% target”) is met by the United Kingdom in the year 2015 and each subsequent calendar year.”

6. Section 2 of the Act imposes a further statutory duty upon the Secretary of State to lay a statement before Parliament if the target is not met, which statement “*must explain why the 0.7% target has not been met*” and “*must also describe any steps that the Secretary of State has taken to ensure that the 0.7% target will be met*”. Section 3(1) of the Act makes express that the section 2 duty (that of laying a statement providing explanation of any failure to meet the target) is the “*only means of securing accountability*”; and section 3(2) provides that failure to meet the duty in section 1 (i.e. to meet the 0.7% target) is not itself unlawful. However, section 3(2) only applies to the section 1 duty. Accordingly, a failure to meet the section 2 duty is unlawful.

7. The target itself derives from UN Resolution No. 2626 (XXV) on *International Development Strategy for the Second United Nations Development Decade*,³ paragraph 43 of which states:

“In recognition of the special importance of the role which can be fulfilled only by official development assistance, a major part of financial resource transfers to the developing countries should be provided in the form of official development assistance. Each economically advanced country will progressively increase its official development assistance to the developing countries and will exert its best efforts to reach a minimum net amount of 0.7 per cent of its gross national product at market prices by the middle of the Decade.”

8. Having regard to the foregoing, it is manifestly clear that:

- a. Expenditure in the UK on refugees in the UK is not a transfer of financial resource to any other country or territory.
- b. Such expenditure is not promoting or specifically targeted at economic development and welfare of developing countries.
- c. Accordingly, such expenditure is not official development assistance, makes no contribution towards the international target of 0.7% for such assistance and equally makes no contribution to meeting the 0.7% target as required by the statutory duty upon the Secretary of State.
- d. For the avoidance of any doubt, expenditure to support refugees transferred from the UK to another country or money spent or given to another country for the purpose of such transfer arrangements is also not official development assistance. If it is for supporting refugees transferred from the UK, it is not properly a transfer of financial resource (since it is merely meeting the cost of the transfer of responsibility, a transfer which is or is likely to be unlawful).⁴ Even if it is more generally to be spent on other economic development or welfare matters, it is not promoting and/or specifically targeted at such development or welfare (still less is it mainly for such purpose).

9. This has implications for the matter of transparency and parliamentary scrutiny, which the Committee raises in its call for evidence and which we do not separately address. The 2015 Act imposes a statutory duty of laying before Parliament a specific statement concerning any failure to meet the 0.7% target in any calendar year, with explanation for that failure. Treating

³ See <https://digitallibrary.un.org/record/201726?ln=en>

⁴ As regards the unlawfulness of such transfers, please see our submission to the International Agreements Committee concerning the Memorandum of Understanding between the UK and Rwanda: <https://committees.parliament.uk/writtenevidence/109753/pdf/>

the target as met (in whole or in part) by expenditure that cannot properly be counted towards that target fatally undermines that statutory duty. It would enable the Secretary of State to avoid laying the required statement and explanation in circumstances in which the target was not met but was wrongly treated as met. It would also enable the Secretary of State to avoid providing a full or proper explanation of any failure to meet the target where any shortfall was wrongly treated as reduced by expenditure that cannot properly be counted towards the target. Either situation would be unlawful as well as undermining a specific mechanism created by Parliament by primary legislation for ensuring transparency and enabling parliamentary scrutiny.

Whether spending from the aid budget to support refugees in the UK is an (a) efficient, (b) effective and (c) ethical use of public money:

10. As we acknowledge the Committee will well understand, spending public money on supporting refugees in the UK is in principle both ethical and necessary. Whether any particular expenditure is efficient or effective is another matter. It is an important backdrop to the subject of the Committee's inquiry that the significantly increased public expenditure on the UK's asylum system is, for the most part, a direct consequence of badly ill-judged policy about which ministers were warned and which has had a catastrophic impact on the functioning and, therefore, capacity of that system. This now requires substantial expenditure merely to try to repair the damage that has been done so far, let alone the further latent damage to any prospect of a fair and efficient asylum system in the future. We return to the above evaluation below because, in our view, it significantly exacerbates the impropriety of treating expenditure to support refugees in the UK as aid expenditure.
11. However, we first address the Committee's request for an assessment of whether spending from the aid budget is efficient, effective or ethical if spent on support to refugees in the UK. The short answer to that question is, emphatically, 'no'. We would add that, for reasons explained under the previous subheading, insofar as this is intended or will be treated as official development assistance for the purpose of meeting the 0.7% target, it is wrong and its consequences will be unlawful.
12. We leave to others such questions as the wider impact of reducing official development assistance in this way. However, the extent of the ethical impropriety requires further consideration. All countries are obligated under the Refugee Convention to share responsibility for providing asylum to refugees.⁵ The cost of fulfilling obligations under the Refugee Convention is in no sense – not even some wider sense beyond the particular definition of 'official development assistance' – a cost of anything but the cost to the host country of its obligations under international law. It is manifestly not an expenditure towards some other country's needs or obligations relating to economic development, welfare or anything else.
13. We return to the causes of significantly increased costs of the UK's asylum system. While this is intimately linked to matters raised by the Committee's inquiry, we recognise that this is not the primary concern or responsibility of the Committee. Accordingly, we deal with this matter in relatively summary form:
 - a. The UK asylum system is in critical condition. There are many manifestations of this, which are primarily and causally linked to the expansion of large-scale backlogs in the asylum system.⁶ These backlogs – particularly of people seeking asylum awaiting a decision on their asylum claims – have developed rapidly since 2018.⁷ During this

⁵ This is generally recognised and made apparent in the Preamble to the Refugee Convention.

⁶ See immigration statistics quarterly release. At end 30 June 2022, there were 122,213 claims awaiting a decision, 89,231 of which had been awaiting a decision for more than 6 months.

period, ministers have adopted policy and practice to delay consideration of thousands of asylum claims by design.

- b. Amnesty UK warned specifically about the most forceful implementation of such a design immediately before its introduction on 31 December 2020.⁸ Amnesty UK has also warned about other policies that will significantly slow, obstruct and increase workload of the asylum system, among provisions of the Nationality and Borders Act 2022 which have been commenced but remain of largely latent effect because only applying to claims made on or after 28 June 2022.⁹
- c. Delaying claims and increasing workload causes human suffering in the asylum system. It is also expensive. It costs money to accommodate people, who are not permitted to become self-supporting, for increased periods of time. It costs money to meet additional workload. It costs money to develop and manage emergency provision (such as for accommodation) that is needed when delays and backlogs have over-extended normal provision. The wider impact of this is dysfunctional and costly. The human suffering that results also increases costs for it makes people less able to engage effectively in the asylum process and can increase their welfare needs.
- d. UN Resolution 2626 (XXV) on *International Development Strategy for the Second United Nations Development Decade* enjoins developing countries to not only take primary responsibility for their own economic development but to ensure that they raise, allocate and use public funds efficiently and effectively.¹⁰ In the circumstances, it is especially unethical for ministers to seek to reduce official development assistance and disguise that reduction for the purpose of meeting the consequences of their own manifestly inefficient and ineffective use of public funds. That is all the more so, given (i) the underlying intention of policy that has led to increased public expenditure on the asylum system has been and continues to be an attempt by the UK to reduce and avoid its Refugee Convention responsibilities while expecting others to meet theirs;¹¹ and (ii) the relatively modest contribution the UK makes by comparison to many other countries, including many developing countries, to meeting its shared international responsibility to provide sanctuary to refugees.¹²

Conclusion:

⁷ See immigration statistic quarterly release. At end 30 June 2018, there were 29,984 claims awaiting a decision, 14,528 of which had been awaiting a decision for more than 6 months.

⁸ See <https://www.amnesty.org.uk/resources/amnesty-uk-letter-immigration-minister-ministers-reply-regarding-immigration-rules>

⁹ See <https://www.amnesty.org.uk/resources/amnesty-uk-letter-minister-concerning-impact-asylum-policy-asylum-system-0>

¹⁰ See paragraph 41 of the resolution.

¹¹ It is ministers' express intention that the policy they pursue is to deter people seeking asylum in the UK by, or on, their arrival to the UK without prior permission. That aim is not permitted by the Refugee Convention, which is purposefully designed to enable people to seek and receive asylum without having prior permission to arrive at or enter the country in which asylum is to be provided. Moreover, it is an aim pursued despite the fact that UK immigration rules make no provision for anyone to be able to apply for, secure or retain a visa for the purpose of seeking asylum in the UK. UK policy (and section 14 of the Nationality and Borders Act 2022) requires that any asylum claim must nonetheless be made from within the UK. Ministers sometimes seek to assert an obligation upon refugees to claim asylum in what are said to be 'first safe countries'. There is no such obligation. Indeed, the notion of such an obligation is anathema to the Refugee Convention's general principle that States are to share responsibility (as expressly identified in the Convention's Preamble). Amnesty UK would be very pleased to address the Committee further on these matters if that would assist.

¹² See fn. 14 (below)

14. There are at least two profound improprieties in all of this:

- a. Treating expenditure to support refugees in the UK as aid expenditure is contrary to international obligations and the Secretary of State's related statutory duties. It is, therefore, unlawful (specifically in relation to the duty of laying a statement and explaining any failure to meet the 0.7% target). Its apparent intention and inevitable consequence would be to deprive Parliament of the statement and/or explanation that the Secretary of State is statutorily required to provide concerning any failure to meet the 0.7% target.
- b. Treating this expenditure in this way compounds other efforts by the UK Government to avoid or reduce the responsibilities it shares to provide asylum to refugees. Given the UK already receives and takes a significantly lesser share of such responsibility than many other countries,¹³ including many developing countries,¹⁴ doing this is liable to further contribute to undermining international asylum commitment. This is because the UK's actions are liable to encourage other countries to renege upon their own obligations. This is so by reason either of the manifest unfairness of what is currently, and has long been, expected of them; or the licence, offered by the UK's lead, to choose perceived individual advantage over partaking in shared responsibilities that are required by international law. The ultimate impact can only be less safe space for refugees, increased movement of people in search of safety and increased exploitation of the insecurity of the people affected.

¹³ Even by comparison to its EU neighbours, the UK hosts significantly fewer people seeking asylum and people granted asylum either per head of population or per capita income. Comparisons with EU (and other countries) can be made here: <https://www.unhcr.org/refugee-statistics/download/?url=uN2hL2>

¹⁴ At end 2021, 72% of the world's refugees were hosted in low and middle income countries. The least developed countries hosted more than a fifth of the global refugee population. These figures do not include the many internally displaced people hosted by low and middle income countries (including in some instances countries host to especially large refugee populations too); and they do not include the large Palestinian refugee populations of Jordan and Lebanon. See <https://www.unhcr.org/refugee-statistics/>