

Written evidence submitted by Dr Saphia Fleury (Research Fellow at University of Hull)

1. About the author

Dr Saphia Fleury holds a PhD in human migration and is a Research Fellow at the University of Hull's Wilberforce Institute, with expertise in climate change, migration, and international human rights law. She has also worked for 16 years for the human rights organisation Amnesty International.

2. Introduction

This paper considers the human rights consequences of two aspects of asylum accommodation: the types of accommodation used for temporary housing, and the choice to disperse people to such accommodation. It includes a focus on child migrants. Asylum seekers and other migrants, like all citizens and non-citizens of the United Kingdom, are entitled to the full range of human rights as protected under international and UK law during their time in the UK. Their means of entry to the UK does not preclude them from accessing any of these inalienable rights. This paper considers some of the human rights affected by decisions around accommodation and dispersal.

3. Human rights of asylum seekers

3.1 Basis in law

The UK is a state party to the 1951 Refugee Convention and its 1967 Protocol. It is required by law to offer protection to those seeking asylum under the Convention during the application process, and in the event of a successful claim. Unaccompanied child migrants are entitled to additional protections even if they do not meet the Refugee Convention definition of persecution (see below).

The UK is also required to provide human rights guarantees to asylum seekers and other migrants in the UK under the several other international treaties to which it is a state party (see Table 1 below, which is non-exhaustive).

Table 1

Instrument (and year adopted)	Provisions relevant to people on the move
<i>Convention on the Elimination of All Forms of Racial Discrimination</i> (1965)	Prohibits discrimination or segregation on the basis of race. Does not allow states parties to discriminate against any particular nationality in matters of citizenship or naturalisation (although states may treat citizens and non-citizens differently).
<i>International Covenant on Civil and Political Rights</i> (ICCPR) (1966)	Includes, among others, the rights to life, liberty and security of person; freedom of movement; legal equality and recognition; fair trials; privacy and family life; freedom from arbitrary arrest and detention; freedom from slavery and forced labour; freedom from torture; right not to be expelled arbitrarily from a state; freedom of thought, conscience, religion, peaceful assembly and association; children’s rights; and freedom of minorities to practice their religion and culture and speak their language.
<i>International Covenant on Economic, Social and Cultural Rights</i> (ICESCR) (1966)	Includes, among others, the rights to self-determination; employment; protection for the family, particularly maternity and childhood; an adequate standard of living (including adequate food, clothing and housing); health; education; and cultural life. Fulfilment is based on “progressive realization”, in accordance with available resources.
<i>Convention on the Elimination of All Forms of Discrimination against Women</i> (CEDAW) (1979)	Prohibits gender-based discrimination. Prohibits trafficking and the exploitation of women’s sex-work.
<i>Convention on the Rights of the Child</i> (CRC) (1989) and its two optional protocols (2000)	Protects children against a range of violations. Includes consideration for the child’s best interests and protection against discrimination, within or outside of their country of origin. Protects children seeking refugee status. Prohibits the criminal exploitation, abduction, sale or trafficking of children. Two optional protocols cover forms of child exploitation.

(Source: Fleury, 2023).

In relation to child asylum seekers, in its *General Comment No. 6*, the UN Committee on the Rights of the Child (2005) recognises the increased risks faced by unaccompanied and separated children, and clarifies that the rights contained in the Convention on the Rights of the Child (CRC) applies to all children in a state’s jurisdiction, “irrespective of their nationality, immigration status or statelessness” (§IV(12)). It calls on governments to proactively identify children at risk and reunite them with their families (§IV(a)(13)), and entreaties states to provide “complementary protection” to lone children who do not meet the Refugee Convention definition of persecution (§VI(f)(77)).

3.2 Obligations on the UK government vis-à-vis accommodation

The Refugee Convention provides that: “As regards housing, the Contracting States... shall accord to refugees lawfully staying in their territory treatment as favourable as possible” (Article 21). Taken together with the International Covenant on Economic, Social and Cultural Rights (ICESCR), this can be interpreted to mean that refugees and asylum seekers should have access to accommodation that is of similar quality to that of others living under its jurisdiction, and which in any case meets the definition of “adequate” (see section 4 below).

The Refugee Convention also provides that refugees have “the right to choose their place of residence” (Article 26). This precludes the forced dispersal of refugees and asylum seekers to parts of the country where they would not choose to live.

Taken together, Articles 21 and 26 can be interpreted to mean that asylum seekers and refugees can turn down offers of housing that are not adequate for the protection of their human rights, and should be offered alternative housing.

4. Right to an adequate standard of living

4.1 Basis in law

Under the ICESCR, the UK is bound to provide all people in its jurisdiction, including asylum seekers, with “an adequate standard of living”, which includes “adequate food, clothing and housing” (Article 11), as well as the right to health (Article 12) and the right to social security (Article 9).

The latter is essential in meeting the requirements of an adequate standard of living, particularly for those unable to work. Similarly, the Refugee Convention also provides that refugees shall have access to “public relief and assistance” (Article 23).

4.2 Right to decent housing

The right to an adequate standard of living includes the right to decent housing. *General Comment No. 4* of the Committee on Economic, Social and Cultural Rights (1991) notes that this provision “applies to everyone” without any form of discrimination (para.6) and includes “the right to live somewhere in security, peace and dignity” (para.7). “Adequate” in this context means accommodation with “adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities” (para.7).

4.3 Right to health, education and social security

The rights to health, education and social security are contingent on adequate housing (Committee on Economic, Social and Cultural Rights, 1991: para.7). They are also contingent on physical access to healthcare and education centres, as well as access to premises where social security payments can be applied for and collected from (para.8(f)). Dispersal of asylum seekers and refugees to remote areas or areas with limited access to such centres violate the rights to health, education and social security. This is compounded when asylum seekers are denied funds to travel to such centres. Moreover, poor quality and overcrowded accommodation prevents people being able to meet their health and education needs, for example in the case of damp or infested accommodation, housing that is located in polluted areas, or overcrowded housing that lacks private study space (Fleury, 2023; Committee on Economic, Social and Cultural Rights, 1991: para.8).

5. Case studies

Case study 1: Vietnamese refugees in the UK

Between 1978 and 1992, some 24,000 Vietnamese refugees were resettled in the UK. Upon arrival in the UK, Vietnamese asylum seekers and refugees were initially placed in reception centres, which tended to be large houses run by charitable organisations with Home Office contracts to provide accommodation, cultural orientation, clothing, meals and other essential services. Lengthy stays in such accommodation were caused by the failure of governmental and local authorities to provide timely accommodation.

Running these reception centres accounted for £21 million out of the £23 million spent in the first 10 years of the UK's the Vietnamese resettlement programme and assumed that rehousing "would either take care of itself or be managed through existing and non-specialised policy instruments" (Robinson & Hale, 1989:5). This attitude, coupled with a dispersal policy primarily designed to avoid "draw[ing] fire from the racist lobbies" (Edholm et al., 1983:15), created serious, ongoing social issues for refugees.

According to the JCRV, a government committee set up to oversee the resettlement, "[w]hen refugee families left the reception centres they had virtually nothing, and there was a clear need for urgent relief" (JCRV, 1980a). During dispersal around the country, support was once again largely

provided by local volunteers, who furnished homes, raised money to cover refugees' everyday needs, and registered them with local service-providers. Volunteers were nonetheless overwhelmed by the disorganised resettlement system and untenable workload (Jones, 1982).

Some refugees found themselves dispersed to poor quality, poorly-furnished housing, foregoing heat or light for fear of expensive bills. Edholm et al. (1983) reported significant disparities in clothing and furnishing allowances, depending on the area of resettlement. Long delays in accessing benefit payments were also reported.

Delays in administering Exceptional Needs Grants left some families with no furniture or other household items for more than six weeks. Charitable donations were "often in poor condition and badly soiled. The possession of these items, however, precludes them from their [grant] entitlement, regardless of their condition" (JCRV, 1980b). In some areas, charities stepped in to fill gaps, but their support was ad hoc.

Edholm et al. (1983) found that volunteers were untrained and unprepared to meet the complex needs of refugees, despite their best efforts. Ultimately, compassion fatigue set in and support waned. Yet the Home Office (1982) insisted that voluntary agencies were best-placed to assist. This decentralised approach ignored the fact that most support came from untrained individual volunteers rather than "suitable welfare services" provided by "properly qualified organisations", as recommended by the UN.¹

Moreover, the Home Office's dispersal policy contravened the Refugee Convention provision that refugees have "the right to choose their place of residence" (Article 26). A "hard line" was taken against families who refused to move into allocated housing, with the threat of being forcibly evicted from reception centres by the police (JCRV, 1980c).

The dispersal policy left people isolated and in unfamiliar surroundings. As a result of the dispersal policy, secondary migration became common. Racism was further symptom of the dispersal policy, and became another push-factor for secondary relocation.

¹ This guidance on treatment of refugees during resettlement comes from §IV(c) of the Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons (1951). This document guides state interpretation and implementation of the 1951 Refugee Convention.

Edholm et al. (1983) perceived that “the quiet of the countryside was frightening and oppressive” to refugees (p.16). Yet urban resettlement could be just as problematic: “Since many of the [existing] tenants were themselves confronted with severe problems, neighbourhood support of the kind that was needed for the refugees had not been available.” (p. 13).

The dispersal policy created a mass secondary movement of Vietnamese refugees who sought communities where they would feel at home. This added to the uprootedness they had already experienced in Vietnam, in transit camps and during resettlement. It also deprived the refugees of ways to practice their culture alongside people from their own ethnic background. The dispersal policy was abandoned in 1984 “when the reality of secondary migration became impossible to ignore” (Tomlins et al., 1999:4). However, dispersal has been reintroduced in government resettlement policies since then, demonstrating that lessons were not learned.

The experiences of unaccompanied Vietnamese refugee children in the UK were somewhat different, however. In addition to the children who were resettled with their families, by 1984 there were an estimated 300 unaccompanied Vietnamese boat children in the UK. The Mougne (1985) report – *Vietnamese Children’s Home* – was an internal study commissioned by Save the Children (StC) on unaccompanied minors and their experiences of care in a StC-run facility in Richmond, London. StC established the Richmond facility to house unaccompanied children together, after failures with fostering and adoption arrangements. According to Mougne, housing the children together appeared to have been psychologically beneficial, and some unaccompanied children were helped to apply for family reunification during their stay with StC.

Case study 2: Montserratian evacuees in the UK

Between 1995 and 1998, a series of volcanic eruptions on the British Overseas Territory of Montserrat led to the partial evacuation of the island and some 5,000 people being resettled in the UK. Most archival accounts of Montserratian evacuees in Britain centre around poor housing.

Each local authority home attracted a £1,500 “Special Grant”, payable to the council, ostensibly for renovating and furnishing the property (DETR, 1998). One report noted: “Montserratian groups have argued that the introduction of the Special Grant has often encouraged local authorities to provide evacuees with hard-to-let housing which is in a poor and dilapidated state.... Evacuees arriving in the UK with few possessions other than clothing would... often find themselves allocated a house

without even the most basic items of furniture.” (Clay et al., 1999b:147). In November 1997, Bernie Grant MP wrote to the FCO on behalf of his newly arrived Montserratian constituents who were being moved into “properties without any furniture, carpets or other essentials” (Grant, 1997).

A letter from one Montserratian evacuee to her MP explains the situation in which she and her school-age daughter found themselves: “I was shown to a really rundown, horribly dirty flat... I have had to borrow certain basic items to survive. As a result my daughter is suffering from bronchitis after sleeping without warm bedding and walking on cold floorboards.” (Anonymous, 1997)

The Montserrat Project (1998) reported numerous other housing issues, including a lack of larger homes for big families (causing families to be split up, and then making themselves “intentionally homeless” when they moved to be closer together), children being housed in different boroughs to their school, and properties “filled” with asbestos. There are numerous reports of people sleeping in the homes of friends, family and acquaintances while waiting to be housed. While some could participate in choosing their accommodation, others appear to have had no such choice.

When one evacuee and her daughter arrived in London, the local benefits office knew nothing of the special arrangements in place for evacuees. Other Montserratians informed her that Diane Abbott MP was helping evacuees to apply in her Hackney constituency. So she and her daughter made a three-hour bus journey to apply at Hackney benefits office. This patchy support system was replicated elsewhere (International Development Committee, 1997: para.576).

6. Recommendations

6.1 Dispersal

Under Article 26 of the Refugee Convention, asylum seekers and refugees should be given the right to choose the location of their accommodation. The case studies above show that dispersal causes alienation and poor outcomes, particularly when they are dispersed to rural areas or do not have the support of others from their linguistic/cultural community. Where dispersal is essential, therefore, asylum seekers should be given a choice of suitable locations and rehoused in larger groups so that they have access to support from within their own community. Dispersal should also take into consideration the availability of existing local community, diaspora and voluntary groups who can assist asylum seekers to adapt while awaiting the outcome of their claims (which can take years). Nevertheless, the provision of an adequate standard of living is the responsibility of the state and should not be dependent on the existence of voluntary or charitable support.

6.2 Accommodation in general

Accommodation should meet the requirements of an adequate standard of living under Article 11 of the ICESCR and *General Comment No. 4* of the UN Committee on Economic, Social and Cultural Rights. Asylum seekers and refugees should be given a choice of suitable accommodation, and accommodation options should vary to meet the needs of individuals, families and other groupings. Wherever possible, families and other self-identified groups should be rehoused together, except where this is not in the best interests of the individuals (for example, in the case of domestic abuse).

Accommodation should be in the locality of services required for the realisation of an adequate standard of living and other human rights. This includes access to healthcare services, education, work, community/voluntary support organisations, legal services, and premises for the application and receipt of social security benefits.

Accommodation should not identify individuals as being from minority or asylum-seeking populations. This is to avoid racism and other forms of discrimination being directed at asylum seekers and refugees. An example would be the painting of doors of asylum housing a particular colour, as has been seen in some areas.

6.3 Accommodation for unaccompanied children

Fostering arrangements are already in place for most unaccompanied minors to the UK. However, the case study of Vietnamese unaccompanied minors provides a possible alternative whereby groups of asylum-seeking children from the same linguistic/cultural background can be housed together with appropriate support in order to avoid alienation.

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