

## Written evidence from Médecins Sans Frontières (NBB0061)

Médecins Sans Frontières (MSF) is an international, independent medical humanitarian organisation. We provide medical and humanitarian assistance to people affected by conflict, violence, epidemics, disasters, or excluded from healthcare. At times, MSF may speak out publicly to bring a forgotten crisis into view, or to denounce abuses, or challenge the diversion of assistance, or to call out policies that cause harm, restrict access to medical care or essential medicines. Our teams are made up of tens of thousands of health professionals, logistic and administrative staff - bound together by our Charter. Our actions are guided by medical ethics and the principles of impartiality, independence and neutrality. We are a non-profit, self-governed, member-based organisation.

### Introduction

MSF's teams have been responding to humanitarian needs and severe physical and mental damage inflicted on people seeking safety caused by harsh migration policies focused on deterrence, externalisation and containment. We have extensive experience of providing medical care to asylum seekers, refugees and other migrants in Greece, Italy, France, Belgium, the Balkans, Nauru Island, Libya and on our Search and Rescue (SAR) missions in the Central Mediterranean.

Based on MSF's experience, the organisation is inclined to address some of the questions raised by the Joint Committee on Human Rights:

- ❖ Does introducing a two-tier system of rights for refugees meet the UK's obligations under refugee law and human rights law?
- ❖ Do proposed new powers for UK Border Force to direct vessels out of UK territorial waters, and for the Home Office to return people to "safe countries" risk undermining refugees' human rights as well as the principle that refugees should not be expelled or returned to the frontiers of territories in any manner whatsoever where they risk persecution (the principle of *non-refoulement*)?
- ❖ Do the changes proposed by the Bill adequately protect the right to life for those at sea?
- ❖ Do the proposed powers to remove asylum seekers to "safe countries" while their asylum claims are pending, with a view to supporting the processing of asylum claims outside the UK in future, comply with the UK's obligations under refugee law and human rights law?

### 1. Two-tier system of rights for refugees:

- MSF is concerned that the Nationality and Borders Bill introduces a discriminatory two-tier system, which treats asylum seekers differently based on their method of entry into the UK, rather than their need for protection. This is at odds with the Refugee Convention and the UK's international legal obligations. This two-tier system criminalises men, women and children fleeing violence and persecution, who

have no choice other than to risk their lives to come to the UK using irregular routes and through other 'safe' countries.

- This current Government's premature ending of the Dubs Scheme and the suspension of family reunification procedures following the UK's departure from the European Union in January 2020 has removed all safe and legal routes to reach safety on UK shores from within Europe. No details of any alternative pathways from within Europe are outlined in the Bill. The main alternative safe and legal pathway from outside of Europe is resettlement, yet this route is slow and does not provide safety for people in immediate danger. Furthermore, less than one percent of all refugees are resettled through the UNHCR route each year<sup>1</sup>.
- Therefore, rather than 'break the business model of the smugglers', plans laid out in the Nationality and Borders Bill will further push people into the hands of smugglers and make dangerous journeys, because there are insufficient alternative safe and legal routes to the UK.

## 2. Powers to remove asylum seekers to 'safe countries'

- MSF is alarmed by the proposed new powers for the UK Border Force to direct vessels out of UK territorial waters. Pursuing a policy of forced returns and engaging in pushback tactics is dangerous, inhumane and is in breach of international law<sup>2</sup>. It puts lives at risk at sea.
- It is estimated that over 1,000 people have already drowned in the Central Mediterranean between January and July 2021. MSF teams on the Greek islands and on our Search and Rescue (SAR) work in the Central Mediterranean have seen first-hand the often deadly consequences of choosing not to rescue people in boats in distress as well as pushbacks at sea. One 33-year-old Afghan woman called Fatima described the impact of being pushed back from Greece to Turkey: ***"I was pregnant, but I had a miscarriage because it was very hard... Every time we attempted to cross the sea border to come to Samos the [Greek] coastguard boats made high waves and tried to pull us back to Turkey... It was hard for children; hard for us and harder for my children."***
- For most, crossing the sea is a last resort in a desperate attempt to reach safety. In August 2021, our SAR boat 'Geo Barents' rescued 25 people, including 12 unaccompanied children who had fled Libya and been floating in the Central Mediterranean for 48 hours in an overcrowded unseaworthy boat where the engines had failed. One survivor told our teams: ***"The sea was very bad when we crossed, but we felt it was better even to capsize than to go back to Libya. They had given someone the engine and said 'you drive'. That person had no choice, they did not even know how to drive a boat! But when you are running for your life, you'll do anything to survive."***

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<sup>1</sup> <https://www.unhcr.org/uk/resettlement.html>

<sup>2</sup> UNCHR Observations on the New Plan for Immigration policy statement of the Government of the United Kingdom, May 2021;

UNHCR Observations on the Nationality and Borders Bill, Bill 141, 2021-22, September 2021;

<https://www.unhcr.org/uk/news/press/2021/1/601121344/unhcr-warns-asylum-under-attack-europes-borders-urges-end-pushbacks-violence.html>

- The men, women and children who arrive on the UK shores are ordinary people who have been forced to leave their homes, family, friends and culture and make treacherous journeys in search of safety. They should not be pushed back or criminalised for coming to the UK, or to deter others from making similar journeys. The UK must respect its legal responsibility to uphold the principle of *non-refoulement*<sup>3</sup>.
- MSF staff have seen first-hand the unsanitary, dangerous conditions that vulnerable refugees and asylum seekers, including unaccompanied children, are forced to live in in other 'safe' European countries because of the absence of safe, legal routes to sanctuary in the UK and elsewhere.
- MSF runs healthcare projects for asylum seekers in Greece, Italy, Belgium, France and the Balkans, responding to State gaps in the provision of healthcare and even the most basic protection, including shelter, water and sanitation services. Our patients, many of whom are unaccompanied children, have endured long, perilous journeys, during which violence, kidnapping, torture, arbitrary detention and kidnapping – including in Europe - is commonplace. Yet people seeking safety are often perversely victims of State violence, marginalisation, and neglect, as our medical teams have witnessed. For instance;
- The unaccompanied children who arrive in France have undergone long, arduous, often traumatising journeys, during which violence is routine. Eighty-seven per cent of the children that MSF cared for at our centre in Paris in 2018 told us that they had been beaten, tortured or abused during their journeys<sup>4</sup>. Once in France they are left to fend for themselves in unfamiliar territory and with no money. They are forced to live in makeshift shelters, in camps that are regularly evicted by the police, or on the streets. These children have extremely limited access to healthcare and other support. If they don't want to sleep rough, they must quickly get to grips with the complexities of France's administrative procedures to be able to negotiate their way through a system that is wholly inadequate for the task.
- On 17 November 2020, our teams witnessed a violent evacuation of an informal settlement in Saint-Denis city, north of Paris. Three thousand refugees, asylum seekers and migrants were taken to temporary emergency shelters while around one thousand others, mainly Afghan asylum seekers, were left on the streets with nowhere to stay. This was the 66<sup>th</sup> evacuation of a migrant camp in Paris and its surroundings in the last five years.
- In the Balkans, MSF teams have heard reports of Croatian police on the Croatia/Bosnia and Herzegovina border violently and illegally pushing back people trying to reach Europe.<sup>5</sup> In 2017 our teams in Serbia heard reports of asylum seekers and migrants attempting to cross the borders into European Union countries being robbed, beaten by the police, humiliated, attacked by dogs, or sent to closed camps. During our psychological consultations with them, the most frequent alleged perpetrators of physical injuries were Bulgaria, Hungary, Croatia and Romania, responsible for 92% of such violence<sup>6</sup>.

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<sup>3</sup> <https://www.unhcr.org/4d9486929.pdf>

<sup>4</sup> <https://www.msf.org/rejected-and-traumatised-unaccompanied-minors-france>

<sup>5</sup> <https://www.msf.org/beaten-cold-sick-and-stranded-migrants-bosnia>

<sup>6</sup> <https://msf.lu/en/news/testimonies/the-game-comes-at-a-high-price>

- In addition, MSF teams have seen the severe harm policies that seek to speed up returns to 'safe' countries have on those seeking safety. For instance, the 2016 EU-Turkey Statement – supported by the UK<sup>7</sup> – aims to return anyone arriving on the Greek islands 'irregularly' to Turkey. However, this policy has failed due to bureaucratic and political delays as well as a flawed logic underpinning the policy itself. It has instead resulted in thousands of men, women and children being trapped in appalling conditions in camps on five Greek islands, triggering a permanent mental health emergency amongst adults and children alike. For instance, between April and August 2021, a shocking 64% of new MSF mental health patients on Samos Island had thoughts of suicide or death and 14% were at active risk of suicide.<sup>8</sup>

### 3. Processing claims outside the UK

- The Nationality and Borders Bill grants this Government the power to enable asylum claims to be processed offshore. This policy approach of externalisation and indefinite detention - as we witnessed in Australia – inflicts severe harm to people's physical and mental health and dignity and violates fundamental human rights. MSF is resolutely opposed to the policy and practice of offshore processing.
- Data from MSF's mental healthcare project for people detained on Nauru Island whilst their claims were being processed demonstrated some of the worst mental health suffering we have ever encountered<sup>9</sup>, including in projects working with survivors of torture. Our mental health teams there witnessed the horrific - sometimes fatal – impacts of offshoring, where almost one-third of the 208 refugee and asylum seeker MSF patients attempted suicide and where 12 patients were diagnosed with a rare psychiatric condition called 'Resignation Syndrome'<sup>10</sup>. Children, as young as nine, trapped on the island were found to have suicidal thoughts, committed acts of self-harm and attempted suicide<sup>11</sup>. The high prevalence and severe mental health morbidities among our refugee and asylum seeker patients was evident. As observed by MSF staff, the high rate of depression among our patients was likely due to the traumatising conditions experienced on Nauru.
- A former MSF patient held on Nauru Island told us: ***“If I was in my home country, the government wants to kill me straight away. I tried to come to Australia and the government kills me a little by little, step by step. They tormented me a lot over five years on Nauru because I have no future in my life.”***
- Processing asylum claims offshore is prohibitively expensive. In 2021, according to an analysis<sup>12</sup> by the Refugee Council of Australia, the Australian Government has allocated \$811.8 million<sup>13</sup> to offshore management, bringing the total budget

<sup>7</sup> <https://www.theyworkforyou.com/wrans/?id=2020-03-02.HL2069.h&s=turkey+migration#gHL2069.r0>

<sup>8</sup> Between April – August 2021 MSF's project in Samos accepted 84 new patients, of which 54 had thoughts of suicide and 12 were at active risk of suicide. MSF Briefing Note: Greece Migration Update, 'Opening of new prison-like centre on Samos', September 2021. <https://www.msf.org/we-can-only-help-refugees-survive-new-camp-greek-island>

<sup>9</sup> <https://www.msf.org/indefinite-despair-report-and-executive-summary-nauru>

<sup>10</sup> Resignation Syndrome is a rare psychiatric condition where patients enter a comatose state and require medical care to keep them alive.

<sup>11</sup> <https://www.msf.org/indefinite-despair-report-and-executive-summary-nauru>

<sup>12</sup> <https://www.refugeecouncil.org.au/federal-budget-what-it-means-for-refugees-and-people-seeking-humanitarian-protection/>

<sup>13</sup> All figures are in Australian dollars

allocation to \$8.3 billion for offshore processing between 2014 and 2020. Meaning that (as of May 2021) Australia will pay contractors almost \$3.4m for each person<sup>14</sup> held in offshore detention. The daily cost to taxpayers is \$9,305 for each of the 239 people still held on Nauru or in Papua New Guinea.

- Beyond being cruel, astronomically expensive and an ineffective deterrent, UN experts found Australia's offshore processing regime to be in breach of international human rights standards<sup>15</sup>. Under international law, Australia is still responsible for upholding the human rights of asylum seekers it sends offshore.<sup>16</sup>
- The UK Government has a responsibility to process asylum claims of those arriving on our shores and must not transfer this to another country, where the human suffering can be concealed out of public view. This cruel, dangerous and expensive policy fails to work as an effective deterrent and should not be replicated in the UK.

#### **4. Detention and Creation of Accommodation Centres**

- The Nationality and Borders Bill outlines plans to expand the use of large-scale accommodation for asylum seekers, which would effectively be used to confine people in detention-like settings and threaten their access to quality and timely healthcare, especially mental healthcare, as well as other basic services. This is particularly concerning as people seeking safety often report they have already been exposed to traumatic events, including torture and sexual violence in their home country and on their journeys.
- The Nationality and Borders Bill proposes to criminalise and contain people in a prison-like environment, segregated from broader society, which is dangerous, re-traumatising, deprives people of their liberty and agency, makes their suffering invisible and crushes hopes they had of building bright and stable futures.
- MSF teams in Greece, Italy, Libya and Nauru have seen how detaining and containing refugees and asylum seekers in accommodation and reception centres, harms people's dignity, health and well-being. Many of our asylum seeking and refugee patients have a high prevalence of serious mental health conditions, including post-traumatic stress disorder (PTSD), moderate to severe depression and psychosis, requiring specialised and long-term care.
- MSF teams working on the Greek islands of Chios, Samos and Lesbos, where, since 2016 thousands of people have been trapped in large reception centres in appalling conditions, have responded to acute levels of mental health suffering. For instance, between 2019-20 in MSF's paediatric clinic on Lesbos we treated 456 children - the youngest only one-year-old - with mental health problems, displaying trauma and fear induced symptoms often triggered by living in containment, which resulted in children having nightmares, stopping talking for periods of time, bed-wetting and completely withdrawing into themselves. In addition, out of the 180 MSF patients who had experienced self-harm, suicidal ideation or attempted suicide, more than two

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<sup>14</sup> <https://www.theguardian.com/australia-news/2021/may/12/australia-will-spend-almost-34m-for-each-person-in-offshore-detention-budget-shows>

<sup>15</sup> <https://reliefweb.int/sites/reliefweb.int/files/resources/G1709891.pdf>

<sup>16</sup> <https://www.kaldorcentre.unsw.edu.au/publication/offshore-processing-australia%E2%80%99s-responsibility-asylum-seekers-and-refugees-nauru-and>

thirds were children: the youngest was a six-year-old child.<sup>17</sup> This suffering has been compounded by the containment and the everyday structural violence within the centres. A recurrent theme that emerged from mental health consultations was the sense of hopelessness that people felt as a result of having no control over their lives or futures. As people's sense of hopelessness increases, their mental health worsens; MSF projects in detention and containment settings, such as on Nauru Island, have found similarly high rates of suicide.

- It is important that the UK Government does not replicate any element of this harmful approach in the UK.

*22/09/2021*

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<sup>17</sup> <https://www.msf.org/constructing-crisis-europe-border-migration-report>