



## Together With Refugees: Parliamentary Group

Briefing on Nationality and Borders Bill – House of Lords second reading  
15.12.21

### Overview of Nationality and Borders Bill

The Nationality and Borders Bill (NBB) will deny many refugees the chance to seek sanctuary in the UK, criminalise those who try, isolate refugees in harmful out-of-town institutions, and undermine 70 years of international co-operation under the UN refugee convention. Combined with the government's refusal to set a clear target on new safe routes, it would drastically cut the overall number we give safety to. As well as being inhumane, it will be expensive, unworkable and undermine our international standing. The Home Secretary has repeatedly promised the bill will 'fix the broken asylum system' and deliver the objectives of deterring irregular journeys and increasing the fairness of the system. The bill falls on both counts as it does not address the reasons why people seek safety in the UK or provide new safe routes. Instead, it will worsen problems such as the large, growing backlog of people awaiting a decision on being accepted as a refugee, and the poverty and insecurity they suffer in the meantime

Over 80 non-government amendments were tabled for the Nationality and Borders Bill in the House of Commons with Ministers offering almost no concessions. Drawing on the wide array of expertise and experience of our members which include the UK's leading refugee organisations, **Together With Refugees identify two priority areas of concerns. This briefing sets out our case against differentiated treatment of refugees and for the need for safe routes through an ambitious but deliverable global resettlement scheme.** It includes a series of suggested interventions and recommendations that we encourage you to take forward during the [bill's second reading on Wednesday 5<sup>th</sup> January](#).

### Together With Refugees and the Nationality and Borders Bill

[Together With Refugees \(TWR\)](#) is a coalition of over 300 national and local organisations, who believe in showing compassion to refugees. TWR is founded on a simple, but powerful, set of shared convictions: how we treat refugees is about who we are. Our organisations represent a diverse range of views united by a common call for a better approach to supporting refugees that is more effective, fair and humane.

The Nationality and Borders Bill (NBB) will deny refugees the chance to seek sanctuary in the UK, criminalise many of those who try, isolate refugees in harmful out-of-town institutions, and undermine 70 years of international co-operation under the UN refugee convention. Combined with the government's refusal to set a clear target on how many refugees the UK will resettle, it would drastically cut the overall number we give safety to. The bill is inhumane, expensive and unworkable.

### Clause 11 on differentiated treatment

#### Overview

[Clause 11](#) of the bill would allow the Home Office to treat refugees who have successful asylum applications differently on the basis of how they arrived in the UK rather than on their need for protection. It separates refugees into two groups:

- **Group 1:** Those who arrive directly from the country they are fleeing, or who were already in the UK on another visa and applied for asylum before it expired. These criteria will apply to very few refugees as there is no such visa that permits someone to travel to the UK for the purpose of claiming asylum.
- **Group 2:** All other refugees, including those who have travelled through other countries before taking irregular routes to arrive to the UK.

The [New Plan for Immigration](#) and examples set out in Clause 11 indicate refugees in Group 2 would be given "temporary protection status" and leave for only 30 months (as compared to five years currently),

have limited access to refugee family reunion and no access to public funds except in cases of destitution. In addition, Clause 11 does not restrict or specify in what ways or under what conditions the Home Office can treat refugees differently providing sweeping discretionary powers to the Home Secretary. These restrictions and potentially further conditions will be included in changes to the UK's immigration rules with minimal opportunity for MPs, or parliamentarians in the [devolved](#) legislatures, to scrutinise the plans.

## Our concerns

It is hard to overstate the negative consequences Clause 11 will have as the majority of people who make an asylum claim in the UK have entered irregularly and will fall into Group 2. Home Office ministers have portrayed differentiated treatment as a means to disrupt the criminal people-smuggling trade while the NBB's [explanatory notes](#) claim the objective of Clause 11 is "*to discourage asylum seekers from travelling to the UK other than via safe and legal routes*". Clause 11 will achieve neither of these objectives because it does not reflect the underlying reasons why people seek safety in the UK and because the bill fails to provide alternative safe routes for people.

In seeking to penalise those who arrive in the UK by irregular means, Clause 11 contravenes the letter and spirit of the 1951 Refugee Convention and contrary to the government's claims, it will be the most vulnerable who will bear the brunt. For instance, [Home Office data](#) confirms that the top five nationalities arriving by small boat are people fleeing conflict and persecution from Iran, Iraq, Sudan, Syria and Afghanistan. Clause 11 could mean an estimated 9,000 to 21,600 people a year that the UK currently accepts as refugees would be denied the rights and protections owed under the Convention in the future.

Restricting the rights of refugees and removing their support is profoundly unfair and has little to no bearing on the reasons why people may end up seeking protection in the UK, for instance family or community links, language skills or a sense that the UK will be safe. Clause 11 will make the asylum system more complicated and cumbersome, and result in even more refugees and people seeking asylum facing destitution in the UK as well as the connected risks of exploitation and abuse. As such, it should have no place in reforms to our asylum system.

## Our asks

- **Tabling and/or co-sponsoring amendments:** Clause 11 cannot be amended such to improve or soften its impact. We urge Peers on all sides to press for its removal from the bill altogether through your contributions to the debate and by adding your name to and/or supporting subsequent amendments. **Please get in touch if you would like to know more about leading an amendment.**
- **Seek responses from the Minister:** The Government has provided little information about how Clause 11 will be implemented, the evidence behind it, or what it believes the impact will be. Would you consider raising our concerns at second reading through the suggested interventions below:
  1. What estimate has the Home Office made of the proportion of refugees that are likely to be categorised as Group 1 or Group 2 refugees?
  2. What estimate has the Home Office made of the cost of needing to reassess a refugee's protection needs every two and a half years? And what impact will that have on existing delays in making asylum decisions?
  3. Can the Minister tell us what assessment she has made of the impact the changes may have on the prospects for Group 2 refugees to successfully integrate?
  4. The rationale behind this clause is that by reducing the rights and entitlements of refugees it will deter them from taking dangerous journeys. Can the Minister set out the evidence that shows how these changes will have that intended impact?
  5. Can the Minister confirm that the approach mandated under Clause 11 is designed to and will in practice punish those arriving in the UK irregularly regardless of whether they have good cause for doing so, and explain how this is consistent with our obligations under Article 31 of the Refugee Convention, which was drafted to protect refugees from precisely this form of punishment?
  6. Can the Minister describe what success looks like under the policy approach of differentiated treatment? Is it:
    - a) No asylum seekers ever arriving in the UK?
    - b) Asylum seekers continue to arrive but they must pay/risk more in order to evade immigration control once in the UK?
    - c) Asylum seekers who make it to the UK irregularly are imprisoned?

## Global resettlement

### Overview

The [explanatory notes](#) to the NBB state that two of the main objectives of the legislation are:

- To increase the fairness of the asylum system to better protect and support people
- To deter illegal entry into the UK, and by doing so break the business model of people smuggling networks and protect the lives of people they endanger.

It also highlights that “*the Government intends to enhance resettlement routes to continue to provide pathways for refugees to be granted protection in the UK.*” Resettlement is one of the few existing safe routes that refugees can access to come to the UK. Nowhere in the bill however does the government set out details for the provision of new, safe routes.

Following the completion of the Vulnerable Persons Resettlement Scheme in early 2021 and the Government’s reluctance to publish a target for the subsequent global UK Resettlement Scheme, the numbers of people resettled in the UK have remained unfeasibly low. For instance only [345 people](#) were brought to the UK through all resettlement routes in the first half of 2021. The fact that there is no way to apply for asylum in the UK without already being physically present in the country has forced people to risk their lives in search of safety on our shores with over [25,000 people](#) arriving across the channel in 2021 to date. According to the Home Office, 98% of people who have made channel crossings have gone on to apply for asylum in the UK.

### Rationale for a global resettlement target

We urgently want to see an end to the deaths in the Channel. Addressing the problem of people being forced to take dangerous journeys is a complex issue for which there are no silver bullet solutions. In contrast to the proposals put forward in the NBB, a global resettlement programme with an ambitious but deliverable target of 10,000 places per year would contribute to meeting the Home Office’s objective to provide safe routes for some of the most vulnerable people seeking protection in the UK.

This should be inclusive of places made available through the much-delayed Afghan Citizens Resettlement Scheme (ACRS) but cannot come at the expense of access to protection for those who do arrive in the UK irregularly. The government have pledged new safe routes at the despatch box previously but to date have failed to provide any new details on how it will deliver that commitment. While a resettlement target would not require legislation, it is critical to ensure a specific commitment is included in legislation or elsewhere on Parliamentary record. Introducing a target number for places is a critical part of our ask without which it would be open to the Government to resettle any number of people from zero to infinity with minimal accountability.

Resettlement also carries public support, for instance [YouGov polling](#) has found that 52% of Britons supported a resettlement scheme for Afghan refugees versus 29% who would be opposed. A more [recent survey](#) shows that 51% support the resettlement of at least ‘a few thousand’ Afghan refugees and 32% believe at least ‘a few tens of thousands’ should be allowed to come to the UK.

### Our asks

- **Include resettlement in your speech:** To date, MPs on all sides of the House have shared our calls in Parliamentary debate that the Government should consider a generous commitment on global resettlement. We urge Peers to echo the arguments we set out above for resettlement during your remarks at second reading and are working on a cross-party basis to see an amendment passed by the House of Lords. **Please get in touch if you would like to know more about leading an amendment.**

- **Seek responses from Ministers:** During your remarks at report stage, we would encourage you to set out the case for resettlement and seek clarity on Home Office plans through the below suggested interventions:
  1. The government claim that this bill will make new safe routes available for people to claim asylum but to date we have yet to see any new detail in this bill or elsewhere on how it intends to deliver that commitment. Can the Minister set out a timeframe for plans to introduce new, safe routes?
  2. Given there is no way to apply for asylum in the UK without being physically present in the country, can the Minister tell us what assessment she has made on the relationship between a lack of safe routes and the rise in people arriving via irregular routes?
  3. Resettlement is one of the few existing safe routes that refugees can access to come to the UK. The introduction of a new global resettlement scheme of 10,000 people including Afghan refugee numbers would amount to just 15 people per parliamentary constituency. Does the Minister agree with me that providing safe routes to resettle 10,000 of some of the most vulnerable refugees is well within our capacity?

### **Further information and resources**

If you would like further guidance on any of the information in this briefing or on the bill more widely, please contact Thomas Nguyen, Public Affairs Manager at Asylum Reform Initiative:

[thomasnguyen@asylum-reform-initiative.org.uk](mailto:thomasnguyen@asylum-reform-initiative.org.uk)