

Briefing for Second Reading of the Immigration Bill in House of Commons on 13 October 2015

A humanitarian and refugee crisis is not the time for more restrictive asylum and immigration legislation

1. Scottish Refugee Council is dismayed at yet another piece of legislation on asylum and immigration. The Immigration Act 2014 was rushed through Parliament at breakneck speed. All indications are that the UK Government plans to do the same with this Bill. The UK Government should instead adopt a calm, rational, and evidenced approach to asylum and immigration. This is never more needed than today when the world is in the midst of an unprecedented global humanitarian crisis.
2. The largest movement of displaced children, women, and men since records began is impacting most on affected regions, notably the Middle East, Sub-Saharan and North Africa. A minority of those displaced are seeking refuge in Europe, arriving in frontier states such as Greece, Italy, and Hungary. Only a fraction of these people seek protection in the UK. Now is not the time for more legislation but rather for the UK to take stock and see how it can best make its contribution to global solidarity and responsibility-sharing with its European neighbours. The UK's financial aid to affected regions - notably around Syria - is of course welcome, but, as an eminent group of former law lords, counsel and lawyers said recently, a country with the population, resources, and history of the UK must live up to its history of humanitarianism.¹
3. This means not yet more ideological and ineffective legislation, but practical action that is effective and guarantees respect for people's rights and dignity. The UK must open more safe and legal routes to protection, which go beyond the commitment of 20,000 Syrian refugees over five years through the Vulnerable Persons Relocation Scheme. Practical solutions such as humanitarian admission or visas, resettlement, a review of family reunion policies, and participation in the EU-wide scheme to relocate people in need of protection already in Europe, should be the priorities in the current context.
4. Parliament should therefore take the initiative at this Bill's Second Reading and seriously consider sanctioning its postponement. This step would enable the UK Government to concentrate all of its energies on developing an effective response to the global humanitarian crisis.

This Bill is less about immigration and more about the extension of the UK's Immigration State

5. In addition to further interference with access to a fair trial stemming from the proposed extension of the scandalous '*deport now; appeal later*' policy; this Bill proposes to remove the right of appeal to the Asylum Support Tribunal against a Home Office decision to stop support for those refused asylum. These proposals are an extension of the UK Government's inhumane approach set out in previous asylum and immigration legislation, curtailing access to and enjoyment of individuals' appeal rights and driving already desperate people further towards potential exploitation from organised crime here or *refoulement* to serious harm elsewhere. We invite Parliament in its Second Reading, in scrutiny by the Public Bill Committee, and in analysis by the Joint Committee on Human Rights, to have particular regard to such intrusions into individuals' rights.

6. Another strain of the Bill's intrusion into civil liberties is found in Part 2 on *Access to Services*. One of the most [serious concerns amongst refugee, housing, and health bodies in Scotland with the Immigration Act 2014](#) and by extension with this Bill too are these provisions on *Access to Services*.² These extend, displace and deepen responsibility for immigration functions further into the non-immigration sectors of housing, healthcare, banking services, and even driving schools. It is important to be crystal clear about what is happening: this is an immigration state within a state, entangling in a web of controls and criminal sanctions, not only the purported target group of 'irregular migrants', but also those with citizenship or settlement in the UK.

7. These provisions will impact not just on irregular migrants but, upon millions of people in the UK who have rights of residence: individuals and families trying to get or rent out accommodation; to open, change, or service bank accounts; or even give or take driving lessons. Scottish Refugee Council fears that far more than making the UK more hostile to irregular migrants, these proposals will actually make the UK more hostile full stop. The extension of such powers to private actors, effectively turning citizens and agencies into immigration officers, will breed suspicion on an industrial scale, hitting people living in poverty and ethnic minorities the hardest, including those who the Prime Minister said last week in his speech to the Conservative Party conference have suffered persistent labour-market discrimination because they have "*ethnic ... not white-sounding names*".

8. The Home Office has still not published its evaluation of the existing right to rent scheme provided for in the Immigration Act 2014. Furthermore, despite Ministerial assurances that this scheme would not be rolled out beyond the West Midlands pilot area without further Parliamentary scrutiny, the Prime Minister announced on 21 May 2015 that the new UK Government would ignore this commitment and proceed to roll out the scheme across the UK.

9. The extensions of the right to rent scheme that this Bill proposes are significant and move beyond civil penalties for breaches, to a criminalisation approach. The lack of any publicly available evidence or evaluation of the West Midlands right to rent scheme pilot are particularly worrying in light of a shadow report - [No Passport Equals No Home](#) - of the pilot, conducted by the Joint Council for the Welfare of Immigrants (JCWI).³ This report found that landlords were confused by and made errors in the required documentation checks and that discrimination was both contemplated and occurred against those who could not - or were perceived to be unlikely to be able to - provide the requisite documents in the requisite time.

This Bill ignores the Scottish Parliament, forthcoming Scotland Act, and the Sewel Convention

10. Scottish Refugee Council is disappointed that the UK Government has decided that there is no need to engage with Scottish Ministers for the purpose of obtaining the legislative consent of the Scottish Parliament for certain provisions in this Bill. During the passage of the now Immigration Act 2014, Scottish Ministers were clear that any attempt to extend and implement provisions on the landlord checking scheme and certain charging measures for health services in Scotland would need to be subject to appropriate Scottish Parliamentary procedure.

http://www.scottishrefugeecouncil.org.uk/news_and_events/latest_news/2259_serious_concern_raised_over_immigration_bill_proposals

http://www.jcwi.org.uk/sites/default/files/document/No_Passport_Equals_No_Home_Right_to_Rent_Independent_Evaluation_0.pdf

11. Furthermore, the Cabinet Secretary for Social Justice, Alex Neil MSP, reiterated and developed this position in a statement on 17 September 2015, critiquing this Bill's provision on the extended right-to-rent scheme, associated eviction powers, and proposals to change the support available for those refused asylum.⁴ The Cabinet Secretary was also clear that it was Scottish Ministers' position that certain proposals in this Bill impact upon matters devolved to the legislative competence of the Scottish Parliament, including criminal justice and housing. Scottish Refugee Council would add that the provision altering the scope and nature of support for those refused asylum, similarly may require legislative consent, impacting as it does on the ability of Scottish Local Authorities to safeguard and promote the wellbeing of children and vulnerable adults.

12. In respect of the right-to-rent and eviction provisions, the intention in the Bill appears to be to grant delegated authority to the Home Secretary to enable equivalent provision in Scotland to that specified in Part 2 of the Bill. The granting of such a broad power is concerning when considered against the UK Government's position that no such legislative consent is required for any of Part 2 of the Bill. Scottish Refugee Council recommends that the UK Government change this position and start formal discussions with Scottish Ministers in accordance with the Sewel Convention - which is anticipated to have a statutory basis in the forthcoming Scotland Act - towards respecting not only the competence of the Scottish Parliament but the wider evolving constitutional architecture of the UK.

This Bill mandates the state-sanctioned destitution of refugee children and families

13. Scottish Refugee Council rejects in their entirety the UK Government's proposals to reform support for women, men, and children refused asylum. In our response to the Home Office consultation on these provisions⁵, we specifically condemned the language of the consultation implying that those who have exercised their human right to claim asylum are 'illegal migrants' simply because the UK Government has decided not to recognise them as refugees.

14. In terms of the proposals for a new single asylum support regime we regard them as:

- Ideologically driven, based on supposition, and lacking any credible evidence base;
- Self-defeating as they won't lead to more returns or removals but more disappearances;
- Drastically increasing the vulnerability of women, children, and men refused asylum;
- Completely contrary to UK policy against slavery, violence against women, and organised crime;
- Possibly unlawful in terms of child welfare and appeal rights for asylum support;
- Constituting irresponsible displacement of responsibility from national to local services; and
- Potentially requiring in some cases the legislative consent of the Scottish Parliament.

15. Furthermore, we note with serious concern that the UK Government has simply lifted these proposals into Clause 34 and Schedule 6 of the Bill, a mere six working days after the consultation closed, implying a cursory disregard for the more than 850 responses received. In particular, we are concerned as to the potential unlawfulness of this process in that there seems to be very little evidence forthcoming from the UK Government as to how it has fulfilled its duties under the Public

<http://news.scotland.gov.uk/News/Proposals-will-discriminate-against-migrants-1d3d.aspx>

http://www.scottishrefugeecouncil.org.uk/assets/0001/0206/Scottish_Refugee_Council_response_to_the_Home_Office_s_consultation_on_reforming_support_for_women_men_and_children_refused_asylum_-_9th_September_2015_1_.pdf

Sector Equality Duty, Human Rights Act 1998, or the Section 55 duty to safeguard and promote the wellbeing of children. We are particularly concerned about the potential impact on pregnant women refused asylum who will be disproportionately impacted on by proposals put forward in the consultation document to close down routes back in to support for those made destitute following a negative decision on their claim.

16. Rather than increasing the risk of exploitation and destitution on our shores as this Bill will do, the UK Government should be committing to ending the needless destitution of the most marginalised in our communities by either integrating the support of asylum seekers into mainstream social security and housing policy or at the very least ensuring those not recognised by the UK Government as refugees or qualifying for other protection, are supported until they leave, are granted a form of legal status, or are removed safely and with dignity from the UK.

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