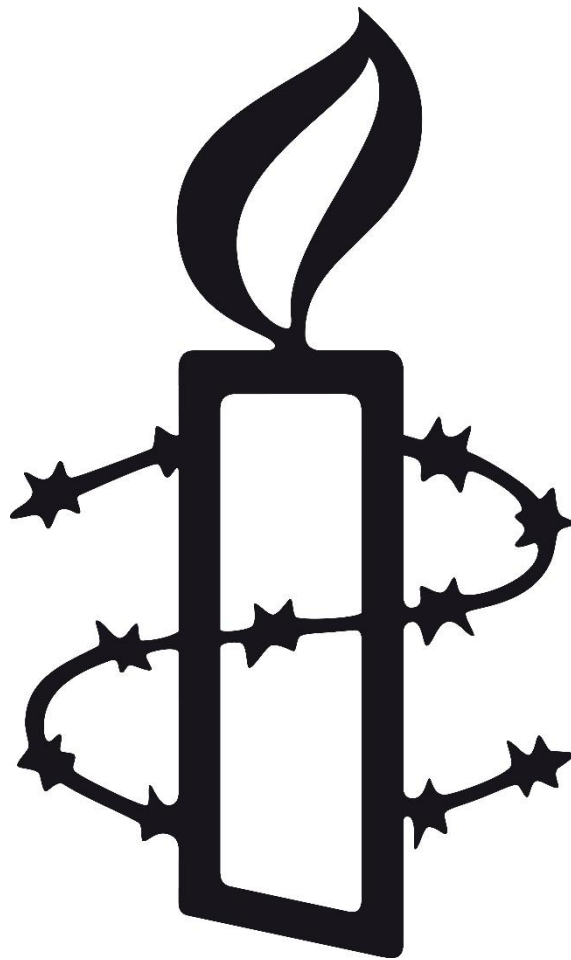


UNITED KINGDOM

SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE
140TH SESSION, 4-28 MARCH 2024



CONTENTS

1.	INTRODUCTION	3
2.	LEGAL FRAMEWORK (ARTS. 2.1, 2.3, 6, 7, 8, 9, 13, 14 AND 26)	3
3.	ACCOUNTABILITY FOR PAST HUMAN RIGHTS VIOLATIONS: NORTHERN IRELAND (ARTS. 2, 6, AND 7)	4
4.	LEGAL GENDER RECOGNITION (ARTS. 2, 16, 17 AND 26)	5
5.	SEXUAL AND REPRODUCTIVE RIGHTS: ACCESS TO ABORTION (ARTS. 2, 3, 7,17 AND 26)	6
6.	ACCESS TO JUSTICE AND FAIR TRIAL: LEGAL AID (ARTS. 13, 14, 23, 26)	7
7.	CITIZENSHIP (ARTS. 12, 13, 17, 24, 26)	8
8.	THE TREATMENT OF MIGRANTS, REFUGEES AND ASYLUM SEEKERS (ARTS. 7 AND 13)	11
9.	EQUAL PROTECTION FROM DOMESTIC ABUSE FOR MIGRANT WOMEN 2, 3, 17 AND 26	12
10.	PROFILING (ARTS. 18, 19, 21, 22, 26)	13
11.	THE USE OF CONDUCTIVE ENERGY DEVICES (TASERS) (ARTS. 6, 7, 24 AND 26)	14
12.	RESTRICTIONS OF RIGHTS RELATING TO PROTEST (ARTS. 21, 22)	15
13.	CASE OF JULIAN ASSANGE (ARTS. 7, 9, 19)	17

Amnesty International submits this information to the UN Human Rights Committee (the Committee) in advance of its consideration of the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland (UK) at the 140th session of the Committee to be held between 4 to 28 March 2024.

1. INTRODUCTION

Amnesty International submits this information to the UN Human Rights Committee (the Committee) in advance of its consideration of the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland (UK) at the 140th session of the Committee to be held between 4 to 28 March 2024.

2. LEGAL FRAMEWORK (ARTS. 2.1, 2.3, 6, 7, 8, 9, 13, 14 AND 26)

Threats to the UK's legal framework for human rights – currently largely contained in the Human Rights Act 1998 (HRA)¹ - have been on the political agenda for many years. Responses to human rights issues raised by contested policy areas including immigration, anti-terrorism, military operations, and criminal justice have often included influential calls to replace or remove the HRA and even to denounce (i.e., leave) the European Convention on Human Rights (ECHR)².

The current government was elected with a 2019 manifesto commitment to 'update' the HRA,³ and the issue came to a head in 2022 with the publication of a new 'Bill of Rights' Bill, which would have repealed the HRA and replaced it with a much more restrictive alternative⁴. The Bill was heavily criticized by human rights organizations,⁵ wider civil society,⁶ retired members of the judiciary,⁷ and even analysts who had favoured repeal of the HRA⁸. Following the resignation of the Minister responsible for the 'Bill of Rights' Bill's development and, lacking wider political support, the Bill was ultimately abandoned⁹.

However, many of the goals of the 'Bill of Rights' Bill have been pursued through other legislation, while leaving the HRA formally in place. The Overseas Operations (Service Personnel) Act 2021¹⁰, the Illegal Migration Act 2023¹¹, Northern Ireland Troubles (Legacy and Reconciliation) Act 2023¹², as well as the Victims and Prisoners Bill, and Safety of Rwanda (Asylum and Immigration) Bill currently going through

¹ Human Rights Act (1998) <https://www.legislation.gov.uk/ukpga/1998/42/contents> The Human Rights Act 1998 incorporates into domestic law rights set out in the European Convention on Human Rights giving them practical effect. Without it, under the UK's dualist system, human rights recognized under international law, such as those in the ECHR are not directly enforceable in domestic law.

² See for example UK Government, *Commission on a UK Bill of Rights launched*, 18 March 2011, <https://www.gov.uk/government/news/commission-on-a-uk-bill-of-rights-launched>; Judicial Power Project – posts: <https://judicialpowerproject.org.uk/category/posts/> ;

³ Get Brexit Done Unleash Britain's Potential, The Conservative and Unionist Party Manifesto 2019, <https://www.conservatives.com/our-plan/conservative-party-manifesto-2019>

⁴ See UK Ministry of Justice, *Human Rights Act Reform: A Modern Bill of Rights – consultation*, 12 July 2022, <https://www.gov.uk/government/consultations/human-rights-act-reform-a-modern-bill-of-rights/human-rights-act-reform-a-modern-bill-of-rights-consultation>. This follows earlier reduction in domestic rights protection following withdrawal from the European Union. The government chose to cut out the EU Charter on Fundamental Rights from its otherwise wholesale carry over of existing EU law into domestic legislation in 2018. (See in particular the exception for the Charter of Fundamental Rights in s.5(4) of the EU Withdrawal Act 2018 which otherwise retained EU law into domestic law.) In part, this was justified by reliance on the continuing effect of the ECHR domestic law through the HRA – ignoring the broader range of protections which the Charter provided.

⁵ E.g. Amnesty International UK, *The Bill of Rights - Rights Removal Bill Detailed Analysis*, 30 November 2022, <https://www.amnesty.org.uk/resources/bill-rights-rights-removal-bill-detailed-analysis>; Liberty's briefing on the Bill of Rights Bill for second reading (HoC) – July 2022, <https://www.libertyhumanrights.org.uk/wp-content/uploads/2019/12/Libertys-briefing-on-the-Bill-of-Rights-Bill-for-second-reading-HoC-July-2022.pdf>;

⁶ Between 80 and 90% of respondents to consultation on the Bill opposed its various proposals. See Ministry of Justice, *Human Rights Act Reform: A Modern Bill of Rights, Consultation Response*, 12 July 2022. <https://www.gov.uk/government/consultations/human-rights-act-reform-a-modern-bill-of-rights/outcome/human-rights-act-reform-a-modern-bill-of-rights-consultation-response>

⁷ Lord Carnwath lecture on Human Rights Act reform – *is it time for a new British Bill of Rights?*, 9 February 2022. https://constitutionallawmatters.org/2022/02/09/lord-carnwath-lecture-on-human-rights-act-reform-is-it-time-for-a-new-british-bill-of-rights/#_ftn1

⁸ Policy Exchange, *Thoughts on a Modern Bill of Rights*, 15 July 2022, <https://policyexchange.org.uk/publication/thoughts-on-a-modern-bill-of-rights/>

⁹ See eg *Law Gazette*, *Raab's Bill of Rights officially killed off*, 27 June 2023, <https://www.lawgazette.co.uk/news/raabs-bill-of-rights-officially-killed-off/5116465.article>

¹⁰ Overseas Operations (Service Personnel and Veterans) Act 2021, <https://www.legislation.gov.uk/ukpga/2021/23/contents/enacted>

¹¹ Illegal Migration Act 2023, <https://www.legislation.gov.uk/ukpga/2023/37/contents/enacted>

¹² Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, <https://www.legislation.gov.uk/ukpga/2023/41/enacted>

Parliament, all either explicitly state that key elements of the HRA do not apply, or otherwise prevent or weaken the judicial enforcement and protection of rights secured by the HRA and ECHR¹³.

Meanwhile, at the time of writing, the UK's continued membership of the ECHR is under the most serious political pressure it has ever faced, as it is caught up in a UK political debate about how to respond to asylum seekers arriving irregularly by 'small boats'¹⁴. Both the Illegal Migration Act and the Safety of Rwanda Bill would give legislative authority to UK Government ministers to decide to breach their obligations under the ECHR, by ignoring any 'interim measures' indicated by the European Court of Human Rights to stop expulsions of individuals. Significant factions of the governing Conservative Party now openly advocate the UK's full withdrawal from the ECHR¹⁵ and there is a small but realistic prospect of the Party going into the general election (due by 28 January 2025) with a manifesto commitment to withdraw.

Recommendation

Amnesty International recommends that the UK:

- Confirm it will remain state party to the ECHR.
- Refrain from taking steps that put the UK in breach of the ECHR and creating a political climate encouraging pressure to withdraw from the ECHR, particularly with regard to the implementation of 'interim measures' indicated by the European Court of Human Rights.
- Withdraw legislative proposals that disapply or otherwise interfere with the operation of sections of the Human Rights Act from the Victims and Prisoners Bill.
- Withdraw the Safety of Rwanda (Asylum and Immigration) Bill.
- Repeal the Illegal Migration Act.

3. ACCOUNTABILITY FOR PAST HUMAN RIGHTS VIOLATIONS: NORTHERN IRELAND¹⁶ (ARTS. 2, 6, AND 7)

Despite significant concern and repeated warnings about its lack of human rights compliance, the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023¹⁷, which facilitates *de facto* amnesties for conflict related violations, became law in September 2023. A victim-led legal challenge to this widely opposed "Troubles Act", supported by Amnesty International UK including as a third-party intervenor, was heard in the Belfast High Court in November 2023¹⁸ with a judgment expected in early 2024. The

¹³ Section 1(5) of the Illegal Migration Act expressly disapplies Section 3 of the Human Rights Act. Much of the rest of the Bill is also dedicated to the curtailing of judicial protection of rights, including in relation to immigration detention and expulsion from the country. Clauses in the Victims and Prisoners Bill, currently going through parliament, also expressly disapply s3 HRA and also interfere with proportionality decisions made by judges in cases raising qualified human rights to weight them against prisoners. Clauses in the Safety of Rwanda Bill, also currently going through Parliament, disapply almost all the operative provisions of the HRA and follow the Illegal Migration Act in taking other very draconian steps to curtail judicial protection of rights. The Northern Ireland Legacy Act curtails all legal investigations into alleged serious human rights violations during the Troubles, including by state forces, and replaces them with an inferior mechanism (see detailed discussion in this submission). The Overseas Operations Act imposed restrictions on criminal prosecutions of British service personnel for crimes alleged to have taken place over five years ago.

¹⁴ See for example, International Bar Association, Human rights: UK ministers continue to discuss drastic step of leaving ECHR, 22 October 2023, <https://www.ibanet.org/UK-ministers-continue-to-discuss-drastic-step-of-leaving-ECHR>; Independent, *Minister suggests Sunak could quit ECHR if government loses Rwanda court case*, 14 November 2023, <https://www.independent.co.uk/news/uk/politics/sunak-rwanda-supreme-court-decision-b2446841.html>;

¹⁵ See eg Express, *Robert Jenrick says UK can't stay in ECHR as he refuses to rule out Tory leadership bid*, 21 January 2024, <https://www.express.co.uk/news/politics/1858128/robert-jenrick-echr-tory-leadership>;

¹⁶ Human Rights Committee List of Issues CCPR/C/GBR/QPR/8, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FGBR%2FQPR%2F8&Lang=en

¹⁷ Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 <https://www.legislation.gov.uk/ukpga/2023/41/enacted>; UN High Commissioner for Human Rights, *UK: Rights of victims and survivors should be at the centre of legislative efforts to address legacy of Northern Ireland Troubles*, Volker Türk, Press Release, 19 January 2023, at <https://www.ohchr.org/en/pressreleases/2023/01/uk-rights-victims-and-survivors-should-be-centre-legislative-efforts-address>; See paras.126-131, The Commissioner for Human Rights of the Council of Europe Country Report, *Dunja Mijatović, Report following her visit to the UK from 27 June to 1 July 2022*, 18 November 2022, <https://rm.coe.int/report-on-the-visit-to-united-kingdom-from-27-june-to-1-july-2022-by-d/1680a952a5>; Amnesty International UK, Northern Ireland/ USA: Amnesty welcomes congressional call on UK legacy proposals, 15 November 2021, <https://www.amnesty.org.uk/press-releases/northern-ireland-usa-amnesty-welcomes-congressional-call-uk-legacy-proposals>

¹⁸ Amnesty International, Northern Ireland: Third-Party Intervention filed to Belfast High Court on Troubles Act Judicial Review.(Index EUR 45/7476/2023), 13 November 2023 <https://www.amnesty.org/en/documents/eur45/7476/2023/en/>

challenges relate to the human rights compliance of the Act including its denial of inquests, lack of adequate investigations and ban on civil claims, as well as the right to truth and redress in the context of Articles 2 and 3 of the ECHR, the importance of reparations for historical human rights abuses and the impact of the legislation on the wider victim community. In December 2023, the Irish government announced its decision to file an interstate case against the UK under the ECHR on the Troubles Act¹⁹. This challenge is vital for victims in Northern Ireland and around the world, who face the prospect of similar state-gifted impunity²⁰.

Recommendation

Amnesty International recommends that the UK:

- Repeal the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 and legislate to institute mechanisms which discharge the UK's human rights obligations and deliver truth, justice and effective remedies including reparations to victims of the Northern Ireland conflict.

4. LEGAL GENDER RECOGNITION (ARTS. 2, 16, 17 AND 26)

The government has failed to reform the Gender Recognition Act (2004)²¹ which remains dependent on a psychiatric diagnosis of gender dysphoria, as well as other intrusive and cumbersome requirements, such as living in the person's affirmed gender for two years²². There is no option of legal gender recognition for people under 18 and non-binary people. Extremely long waiting lists for specialist health care further restrict trans people's ability to obtain a Gender Recognition Certificate²³. This impacts trans people's rights to equal protection (art 2), recognition before the law (art 16), right to private and family life (art 17) and right to non-discrimination (art 26)²⁴.

Sections of the government and media have adopted an increasingly hostile stance against trans people, spreading fears about the consequences of reforming legal gender recognition with a system based on self-identification in line with human rights standards²⁵. It is extremely concerning that the government is developing policy, and possibly legislation, which is not rooted in evidence and is railing against so-called 'gender ideology'²⁶, a bogus concept used to try and justify efforts to restrict the rights of LGBTI (lesbian, gay, bisexual, transgender and intersex) people and women. Hate crime against trans people in England and Wales has reached record high levels. In 2022, the police recorded 4,355 hate crimes against trans people, an increase of 56 per cent from the previous year. According to the Home Office, widespread discussion of trans rights issues on social media has likely played a part in this increase²⁷. The impact of a toxic political and public discourse on the rights of trans people has been noted with concern by the

¹⁹ Ireland Department of Foreign Affairs, *Statement by the Tánaiste, Micheál Martin, on the Government decision to initiate an inter-State case against the United Kingdom*, 20 December 2023, <https://www.gov.ie/en/press-release/82232-statement-by-the-tanaiste-micheal-martin-on-the-government-decision-to-initiate-an-inter-state-case-against-the-united-kingdom/>

²⁰ Amnesty International UK, *Irish Government challenge to Troubles Act 'vital for victims here and around the world'*, 20 December 2023, <https://www.amnesty.org.uk/press-releases/irish-government-challenge-troubles-act-vital-victims-here-and-around-world>

²¹ Gender Recognition Act 2004 <https://www.legislation.gov.uk/ukpga/2004/7/contents>

²² Amnesty International UK Submission to the Women and Equalities Committee inquiry, *Reform of the Gender Recognition Act*, November 2020, <https://committees.parliament.uk/writtenevidence/16927/pdf> [hereinafter, Amnesty International Gender Recognition submission]

²³ BBC News, *Trans people can wait seven years for NHS initial assessment*, 2 August 2023, <https://www.bbc.co.uk/news/uk-england-bristol-61605588>

²⁴ Amnesty International Gender Recognition submission

²⁵ See Pink News, *Ofcom boss declares it 'extremely inappropriate' for BBC to 'balance' trans people with anti-trans activists*, 15 December 2020, <https://www.thepinknews.com/2020/12/15/ofcom-melanie-dawes-bbc-lgb-alliance-john-nicolson-trans-transphobia-balance/> and Independent Press Standards Organisation (IPSO), *Mediatique, Examining trends in editorial standards in coverage of transgender issues*, November 2020, <https://www.ipso.co.uk/media/1986/mediatique-report-on-coverage-of-transgender-issues.pdf>

²⁶ AWID Brief, "Gender ideology" narratives: a threat to human rights, July 2022, <https://www.awid.org/sites/default/files/2022-08/Final%20EN%20Web%20-%20Gender%20Ideology%20Brief%20-%20July%202022.pdf>

²⁷ Home Office, *Hate crime, England and Wales, 2022 to 2023 second edition*, 2 November 2023, <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2022-to-2023/hate-crime-england-and-wales-2022-to-2023#police-recorded-hate-crime>

Council of Europe's Commissioner for Human Rights²⁸ and the UN Independent Expert on sexual orientation and gender identity during their recent visits to the UK²⁹.

In Scotland, the Gender Recognition Reform (Scotland) Bill³⁰ was passed by a majority of parliamentarians and would have brought the process of legal gender recognition for trans people in Scotland in line with international human rights law and standards by introducing a system of self-determination. The Bill was vetoed however by the UK Government³¹ and therefore has not been enacted, and trans people in Scotland remain subject to the Gender Recognition Act 2004.

Recommendation

Amnesty International recommends that the UK:

- Reform the Gender Recognition Act by bringing it in line with international human rights law and enable devolved governments to follow suit.

5. SEXUAL AND REPRODUCTIVE RIGHTS: ACCESS TO ABORTION (ARTS. 2, 3, 7, 17 AND 26)

While abortion was decriminalized in Northern Ireland in 2019 through the repeal of articles 58 and 59 of the Offences Against Persons Act,³² it remains criminalized in England, Wales and Scotland, except where permitted by the Abortion Act 1967³³. As a result, women and pregnant people face unequal treatment depending on which part of the UK they live in.

In Northern Ireland, four years on from decriminalization there remain significant barriers to abortion care. These include sporadic, under-resourced and understaffed services, conscience-based refusals, misinformation and pervasive stigma³⁴.

In the rest of the UK, abortion was legalized in certain circumstances in 1967. However, it remains a crime when outside of those parameters, based on provisions of the Offences Against the Persons Act, a law dating back to 1861³⁵. For example, if a woman or pregnant person goes through an abortion without authorisation from two doctors, by buying pills online, they are liable to be prosecuted and receive a life sentence under the OAPA. In June 2023 a woman who already had three kids was reportedly sentenced to 28 months in custody (reduced to 14 months suspended at appeal) for having terminated her pregnancy outside the law³⁶. Investigations and prosecution of women accused of illegal abortion have grown since 2022, and other cases are due for trial³⁷.

Scotland lags behind England in its provision for later-term abortions. Abortion for non-medical reasons is not normally available after 18-20 weeks in Scotland, resulting in those who request an abortion for non-medical reasons beyond this point in their pregnancy being required to travel to England if they wish to proceed with the termination.

²⁸ Section 1.5, See paras.126-131, The Commissioner for Human Rights of the Council of Europe Country Report, Dunja Mijatović, Report following her visit to the UK from 27 June to 1 July 2022, 18 November 2022 at <https://rm.coe.int/report-on-the-visit-to-united-kingdom-from-27-june-to-1-july-2022-by-d/1680a952a5>

²⁹ End of mission statement, UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Country visit to the United Kingdom of Great Britain and Northern Ireland (24 April – 5 May 2023), 10 May 2023, <https://www.ohchr.org/sites/default/files/documents/issues/sexualorientation/statements/eom-statement-UK-IE-SOGI-2023-05-10.pdf>

³⁰ Gender Recognition Reform (Scotland) Bill: <https://www.parliament.scot/bills-and-laws/bills/gender-recognition-reform-scotland-bill>

³¹ UK Government, Scotland, Policy statement of reasons on the decision to use section 35 powers with respect to the Gender Recognition Reform (Scotland) Bill, 17 January 2023, <https://assets.publishing.service.gov.uk/media/63c68c66e90e074eecb1c26e/policy-statement-section-35-powers-Gender-Recognition-Reform-Scotland-Bill.pdf>

³² See section 9 of the Northern Ireland (Executive Formation etc) Act (2019), <https://www.legislation.gov.uk/ukpga/2019/22/enacted#section-9-1>

³³ Abortion Act 1967 <https://www.legislation.gov.uk/ukpga/1967/87/contents>

³⁴ Amnesty International UK, Northern Ireland: Four years on from decriminalisation abortion access 'a right but not reality' - new report, 7 December 2023, <https://www.amnesty.org.uk/press-releases/northern-ireland-four-years-decriminalisation-abortion-access-right-not-reality-new>

³⁵ Offences against the Person Act 1861 <https://www.legislation.gov.uk/ukpga/Vict/24-25/100/contents>

³⁶ BBC News, Carla Foster: Mother jailed over lockdown abortion to be released, 18 July 2023, <https://www.bbc.co.uk/news/uk-england-65581850>

³⁷ The Guardian, Abortion prosecutions are never in the public interest, says royal college, 22 January 2024, <https://www.theguardian.com/world/2024/jan/22/illegal-abortion-prosecutions-uk-police-royal-college>

Recommendations

Amnesty International recommends that:

- The UK and Scottish governments³⁸ decriminalize abortion by repealing sections 58 and 59 of the OAPA and ensure abortion is lawful and accessible without barriers to all people who need it for the entire duration of pregnancy.
- The Northern Ireland Department of Health and the UK Secretary of State for Northern Ireland ensure the full provision of abortion services, including that abortion is available locally in Northern Ireland, across all health trusts and for the entire duration of pregnancy, and that patients have a choice of abortion method; and ensure that all abortion service provision respects patients' rights to physical and mental health and autonomy in decision-making, including informed choice³⁹.

6. ACCESS TO JUSTICE AND FAIR TRIAL: LEGAL AID (ARTS. 13, 14, 23, 26)

Cuts to the provision of free legal advice and representation in both civil and criminal law instituted prior to UK's 7th periodic report to the Human Rights Committee in 2015⁴⁰, have continued and led to serious consequences for access to justice and legal protection of human rights. To a significant extent this has been a conscious and deliberate aim of government policy since the introduction of the Legal Aid, Sentencing and Punishment of Offenders Act in 2012 (LASPO), which implemented the main body of legal aid cuts. The Government has not only wished to make savings in public expenditure from the legal aid budget but also wanted to reverse what it referred to as a 'culture' of litigating to resolve civil disputes, including human rights issues, and the use of the law for what it considered to be 'political campaigning' purposes,⁴¹ On that latter point, cuts to legal aid were combined with legislative restrictions on judicial review⁴². These restrictions were augmented by procedural changes brought in by judicial leadership⁴³.

The provision of legal aid, however, remains the central issue in terms of human rights impact. The lack of adequate legal aid in some cases potentially raises serious human rights issues. For example, inquests and the vast majority of private family law cases are now ineligible for legal aid as a result of which decisions about fundamental issues such as custody of children are taken in courts without people having access to legal representation. There is also a growth of 'advice deserts' in which large areas of the country have little or no provision of qualified legal advice in crucial civil areas such as housing, immigration and welfare rights⁴⁴. Cases in these categories often involve crucial human rights issues including the right to respect for private and family life, the right not to be subject to degrading treatment and the right to be represented in seeking legal review of their expulsion from the country.

³⁸ The UK Parliament is responsible for abortion law in England and Wales and Scottish Parliament is responsible for the law in Scotland.

³⁹ See full recommendations at Amnesty International, *Legal but not local: Barriers to accessing abortion services in Northern Ireland* (EUR 45/7268/2023, 7 December 2023) <https://www.amnesty.org.uk/press-releases/northern-ireland-four-years-decriminalisation-abortion-access-right-not-reality-new>

⁴⁰ Human Rights Committee, *Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland*, CCPR/C/GBR/CO/7, 7 August 2015,

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CCPR%2FC%2FGBR%2FCO%2F7&Lang=en

⁴¹ Amnesty International, *Cuts that hurt: The impact of legal aid cuts in England on access to justice*, 11 October 2016 (EUR 45/4936/2016 <https://www.amnesty.org/en/documents/eur45/4936/2016/en/> and Amnesty International UK, *Review into legal aid cuts must be thorough and transparent*, <https://www.amnesty.org.uk/press-releases/uk-review-legal-aid-cuts-must-be-thorough-and-transparent-say-amnesty> 31 October 2017.

⁴² Criminal Justice and Courts Act 2015, <https://www.legislation.gov.uk/ukpga/2015/2/contents/enacted> ; Judicial Review and Courts Act 2022 <https://www.legislation.gov.uk/ukpga/2022/35/contents>

⁴³ These include a tightening of the approach to the issue of standing to bring judicial review proceedings (*he Queen (on the application of (1) Good Law Project Limited (2) Runnymede Trust) v (1) The Prime Minister (2) Secretary of State for Health and Social Care [2022] EWHC 298 (Admin)*) and Supreme Court practice directions which limited the role and possibility of 3rd party interventions, <https://www.supremecourt.uk/procedures/practice-direction-06.html#09>

⁴⁴ See eg The Law Society, *Legal aid deserts*, 29 August 2023, <https://www.lawsociety.org.uk/campaigns/civil-justice/legal-aid-deserts>, Refugee Action, *No Access To Justice: How Legal Advice Deserts Fail Refugees, Migrants and Our Communities*, 9 June 2022, <https://www.refugee-action.org.uk/no-access-to-justice-how-legal-advice-deserts-fail-refugees-migrants-and-our-communities/>

In relation to criminal law, which in comparison to civil law was relatively protected from the cuts, barristers were forced to engage in (extremely rare) industrial action in the summer of 2022, to secure greater funding⁴⁵. Most recently, the High Court has ruled that the government's decision, not to fully implement recommendations of an independent review into the funding of criminal legal aid solicitors, was '*irrational*'. Amongst other roles, these solicitors provide post-arrest legal representation at police stations⁴⁶.

Civil legal aid remains greatly underfunded, to the point where even the relatively few government tenders for legal aid contracts that there are, frequently go unfulfilled as the payment rates are not viable for legal firms to work on⁴⁷. At the time of writing, the Ministry of Justice has launched a review into the provision of civil legal aid, but there is no commitment for that provision to be substantially increased⁴⁸.

Recommendations

Amnesty International recommends that the UK:

- Commit to raising civil legal aid rates to a level that makes the work financially viable for lawyers to undertake.
- Revise LASPO criteria to:
 - ensure that children and families without sufficient means should be able to obtain legal advice, assistance, and where litigation is contemplated,
 - ensure that legal representation is available free of charge in any case where a child's best interests are engaged;
- Restore initial legal advice for private family law cases;
- Restore welfare benefits advice funding;
- Restore legal aid to all immigration cases raising arguable human rights concerns;
- Facilitate the provision of meaningful legal information and effective advice for individuals detained under immigration powers;
- Ensure family reunification cases are entitled to legal aid.

7. CITIZENSHIP (ARTS. 12, 13, 17, 24, 26)

The UK continues to implement policies and practices that disenfranchise and alienate people entitled to its citizenship with discriminatory effects on the basis of race, colour, and religion. They have disproportionately affected racialized people and religious groups. The overall effect is that British people, as identified by the UK's nationality laws, are wrongly made aliens in and to their own country and deprived of rights that are properly theirs as members of that national group⁴⁹. Since 1 January 1983, the UK has adopted as the underlying basis for its citizenship (entitled "British citizenship") a principle of connection to the UK as set out by the British Nationality Act 1981⁵⁰. In doing so, the UK ended its application of *jus soli* (by which nationality was automatically acquired by birth on its territory). From

⁴⁵ The Law Society, *Bar Strike – What you need to know*, 22 June 2022, <https://www.lawsociety.org.uk/topics/legal-aid/bar-strike-what-you-need-to-know>; The Guardian, *Criminal barristers in England and Wales vote to end strike action*, 10 October 2022, <https://www.theguardian.com/law/2022/oct/10/barristers-in-england-and-wales-vote-to-end-strike-action>

⁴⁶ High Court of Justice, *Law Society v Lord Chancellor* Judgement, 31 January 2024, <https://www.judiciary.uk/wp-content/uploads/2024/01/Law-Society-v-Lord-Chancellor-judgment-Final.pdf>;

⁴⁷ The Law Society Gazette, *LAA fails to attract sufficient bids for housing legal aid contracts*, 14 February 2023, <https://www.lawgazette.co.uk/news/laa-fails-to-attract-sufficient-bids-for-housing-legal-aid-contracts/5115133.article>

⁴⁸ UK Ministry of Justice, *Review of Civil Legal Aid*, 24 January 2024, <https://www.gov.uk/guidance/civil-legal-aid-review>

⁴⁹ *Reasserting Rights to British Citizenship Through Registration*, IANL, Vol 34, No 2, 2020, Solange Valdez-Symonds & Steve Valdez-Symonds. See also. Joint Amnesty International UK and PRCBC *Briefing to Amendment 184 (Citizenship Consultation) for Lords Committee on Nationality and Borders Bill*, 8 February 2022, <https://www.amnesty.org.uk/resources/joint-amnesty-uk-and-prcbc-briefing-amendment-184-citizenship-consultation-lords>

⁵⁰ British Nationality Act 1981 <https://www.legislation.gov.uk/ukpga/1981/61>

1983, British citizenship was automatically acquired by birth in the UK only if, at birth, the person's parent was a British citizen or settled⁵¹.

However, British citizenship remains the right of other people born in the UK if and when they have continued to reside in the UK to their tenth birthday⁵² or, during their childhood, one of their parent's became settled⁵³. People, including children, who are entitled to British citizenship but whose right to that citizenship is not delivered automatically, are required to secure their right by a process of registration.

In the years since 1983, there have been several developments of policy and practice that have undermined this right to citizenship, causing the deprivation of citizenship of British persons belonging to the UK either before their acquisition of citizenship by registration or following their acquisition of citizenship (including the automatic acquisition of citizenship at birth or later registration by entitlement)⁵⁴. The expansion of Home Office powers, particularly beginning from 1 April 2003, to strip British people of their British citizenship has received relatively significant attention⁵⁵. The most recent extension of these powers has been to permit the stripping of citizenship in circumstances without notifying the person of either the intention to do so or the fact of having done so⁵⁶. However, far less attention has been given to the impact upon a far greater number of people of policies and practices, described below, that have prevented British people, many of whom children, from ever exercising their right to citizenship by registration.

The people disproportionately affected have always been Black and Brown British people, beginning in the 1980s with a failure to give effect to the right of many thousands of British people who had settled in the UK from former colonies to be registered as British citizens in the immediate aftermath of the creation, by the British Nationality Act 1981, of that citizenship⁵⁷. Among the means, by which that deprivation was achieved was introducing a time limit within which these British people had to register their citizenship, coupled with the dissemination of information by the Home Office asserting that there was no need for the people to exercise their right to be registered as British citizens⁵⁸.

From the mid-2000's, the British people affected have mostly been children born in the UK, whose parents were neither British citizens nor settled at the time of their birth but whose connection to the UK, and right to British citizenship, has been established in their childhood (generally no later than their reaching the age of 10). These British people have been effectively excluded from their citizenship for a range of reasons, including the government's failure to raise awareness of their citizenship rights,⁵⁹ the government charging fees for registration that, from 2007, have been both high and set far above administrative costs, in order to raise funds for the immigration system,⁶⁰ and an arbitrary requirement,

⁵¹ Section 1(1), British Nationality Act 1981. 'Settled' is defined at section 50(2) of the Act to mean being both ordinarily resident in the UK and free of any restriction on how long the person may stay.

⁵² section 1(4), British Nationality Act 1981.

⁵³ section 1(3), British Nationality Act 1981.

⁵⁴ The latter is often referred to as citizenship-stripping. The power to strip a person of British citizenship is given to the Home Secretary under section 40, British Nationality Act. A British citizen (other than by naturalization) can in no circumstances be stripped of citizenship unless they have another nationality. This introduces inequality in the vulnerability of British citizens to the power because it is disproportionately Black and Brown British citizens who may have another nationality (and hence be within the scope of the power) by virtue of parentage or other ancestry, whether or not they possess any real connection with that other nationality.

⁵⁵ There has, for example, been considerable attention to Shamima Begum, whose case continues to be litigated in the UK. See, e.g., *Secretary of State for the Home Department v Begum* [2021] UKSC 7; *Shamima Begum (Deprivation: Substantive)* [2023] UKSIAC 1, the latter of which is on appeal to the Court of Appeal. <https://www.supremecourt.uk/cases/uksc-2020-0158.html>

⁵⁶ Section 10, Nationality and Borders Act 2022 amended section 40, British Nationality Act 1981 with effect from 10 May 2023. The circumstances in which notification may be withheld include where the Home Secretary concludes that it is in the interests of national security, investigating or prosecuting organized or serious crime, preventing or reducing risk to any person's safety or the relationship between the UK and another country. For Amnesty International's concerns, see e.g., *Joint Amnesty UK and PRCBC briefing on Nationality and Borders Bill (deprivation of citizenship)*, HL Committee, 26 January 2022 <https://www.amnesty.org.uk/resources/joint-amnesty-uk-and-prcbc-briefing-nationality-and-borders-bill-deprivation-citizenship>

⁵⁷ Section 7, British Nationality Act 1981.

⁵⁸ This is address in Amnesty International UK submission to the Windrush Lessons Learned Review, October 2018 This was a government commissioned review into the lessons to be learned from what had been done to a body of people who had come to be known as the Windrush generation. <https://www.amnesty.org.uk/files/Resources/AIUK%20to%20Home%20Office%20Windrush%20Lessons%20Learned%20Review.pdf>.

⁵⁹ See PRCBC/Ealing Law Centre report, *Systemic Obstacles to Children's Registration as British Citizens*, November 2014; and Amnesty/PRCBC briefing during the passage of the Nationality and Borders Act 2022, <https://prcbc.org/wp-content/uploads/2023/11/systemic-obstacles-on-the-registration-of-children-as-british-citizens.pdf>

⁶⁰ This has been the subject of litigation to the UK Supreme Court (<https://www.supremecourt.uk/>), see *R (PRCBC & O) v Secretary of State for the Home Department* [2022] UKSC 3; [2021] EWCA Civ 193; and [2019] EWHC 3536 (Admin). In response to that litigation, the Government has

first introduced in 2006, of ‘good character’ before acting on the entitlement to registration of any person aged 10 years or older⁶¹. Above costs fees and the requirement of good character were introduced without assessment of either their race impact, their impact upon children or the nature of the rights to citizenship that were being obstructed. Among the children affected are also some children born British citizens, but unable to prove this – e.g., because their British citizen father is absent, and they are without means to establish paternity and/or his status at the time of their birth. Registration ought to be the safeguard permitted these children to nonetheless secure their citizenship, but barriers described here (fees, a character requirement) prevent that.

Deprivation of citizenship – whether before or after its acquisition – alienates the person from the community and country to which they belong, wrongly bringing the person, for example, within the scope of Article 13 and liable to an expulsion that constitutes the person’s exile in implicit violation of Article 12.4. The impact of deprivation or exile may have profound impacts upon, amongst others, rights under Article 17 (not to suffer arbitrary and unlawful interference with privacy, family or home). The impact upon children has been found to be to make them feel “...alienated, excluded, isolated, “second-best”, insecure and not fully assimilated into the culture and social fabric of the UK”⁶². Moreover, deprivation and exile are each a fundamental denial of the person’s connection to and right to be in, or return, to their own country, which also impacts their exercise of rights that apply only to citizens as distinct from aliens. It is a profound degradation to be wrongly treated as not a member of one’s own community and country⁶³. The practical impacts of alienation, even prior to expulsion and exile, include the possibility of being detained indefinitely under immigration powers; excluded from permission to work, study or receive social assistance; exclusion from free secondary healthcare. Essentially, the impact is to be wrongly treated as an alien in one’s own country; including in some cases to be treated as an alien whose status is irregular and unlawful⁶⁴.

These policies and practices (e.g., regarding fees, character requirement and failure to promote awareness of citizenship rights) in the UK have a discriminatory effect based on race, colour and religion, disproportionately affecting Black, Brown or Muslim people and leading to significant inequality before the law of the persons so alienated (it being materially disadvantageous to be treated as an “alien” rather than as a citizen) contrary to Article 26. The impact of the relevant policies and practices disproportionately first occurs during childhood, generally undermining the child’s rights under Article 24.1 and the child’s rights under Article 24.3 directly.

Recommendations

Amnesty International recommends that the UK:

- Take steps to reverse changes to its nationality laws, and policies and practices of the Home Office made over the course of the present century (particularly since 2003), (including provision for fees set at above administrative cost to exercise a person’s right to British citizenship by registration, the introduction of a character requirement for people as young as 10 to exercise that right, and the extension of powers to strip people of that citizenship) that arbitrarily exclude British people from their citizenship rights and discriminate against people on grounds of race, colour, ethnicity and religion.

introduced a fee exemption for children in local authority care and a fee waiver for children able to demonstrate they cannot afford the fee. Nonetheless, other children and adults (including those first deprived by this fee during their childhood at a time when no exemption or waiver existed) remain caught by it. The current fee is £1,214 for a child and £1,351 for an adult; whereas the administrative cost of registration is assessed to be £505.

⁶¹ This requirement was first introduced in December 2006. The relevant provision is now section 41A, British Nationality Act 1981, which was introduced on 13 January 2010 by section 47, Borders, Citizenship and Immigration Act 2009. Amnesty and PRCBC have together raised concerns about this requirement, its origins and impact, including to the Joint Committee on Human Rights, in response to the parliamentary committee’s consideration of related matters in 2019. The committee’s Twentieth Report of Session 2017-19, *Good Character Requirements: Draft British Nationality Act 1981 (Remedial Order) 2019 – Second Report*, July 2019, HC 1943/HL Paper 397 addresses several of these concerns at Chapter 3. https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/1943/194306.htm#_idTextAnchor015

⁶² A finding made by the High Court on the basis of a “mass of evidence” in *R (PRCBC, O & A) v Secretary of State for the Home Department* [2019] EWHC 3536 (Admin) <https://www.judiciary.uk/wp-content/uploads/2019/12/prcb-v-sshd.pdf>

⁶³ The ICCPR explicitly recognizes the importance of a person’s own country at Articles 12.4 and 25; and implicitly at Article 13.

⁶⁴ See: Amnesty UK & PRCBC Lords’ Committee Briefing on Part 1 (Nationality), Nationality and Borders Bill, 26 January 2022 <https://www.amnesty.org.uk/resources/amnesty-uk-prcbc-lords-committee-briefing-part-1-nationality-nationality-and-borders-bill>; Joint Amnesty UK and PRCBC Briefing to Amendment 184 (Citizenship Consultation) for Lords Committee on Nationality and Borders Bill, 8 February 2022 <https://www.amnesty.org.uk/resources/joint-amnesty-uk-and-prcbc-briefing-amendment-184-citizenship-consultation-lords>

- Take steps to apply a race-conscious approach to policies and practice regarding citizenship that takes account of systemic discrimination on the basis of race, ethnicity, colour, and religion.

8. THE TREATMENT OF MIGRANTS, REFUGEES AND ASYLUM SEEKERS (ARTS. 7 AND 13)

Since December 2020, on the UK's departure from the EU, the UK Government has pursued a policy of refusing to admit, consider and determine the claims to asylum of people arriving to the UK without prior permission⁶⁵. The policy, which has been incrementally extended and hardened since its initial introduction, has placed many thousands of people in an indefinite limbo by which the person remains without permission to be in the UK while barred from the determination of any right to such permission – thereby at risk of detention and expulsion from the UK, reliant on the UK Home Office financial support and accommodation (“asylum support”), and unable to secure recognition of their status as refugee or any other entitlement to protection they may have⁶⁶. For some time, this policy remained set out in immigration rules, made under powers given to the Home Secretary under section 1(4) and 3(2), Immigration Act 1971. The UK has since passed legislation to place the policy on a legislative footing (section 16, Nationality and Borders Act 2022⁶⁷) and later to render the policy mandatory, permanent and inflexible (section 5, Illegal Migration Act 2023⁶⁸), though the latter Act of Parliament is yet to be fully commenced by the Secretary of State⁶⁹.

The limbo created by the policy has greatly enlarged the number of people seeking asylum in the UK, dependent on asylum support, including accommodation⁷⁰. In response, the UK Government has increasingly sought to rely on grossly unsuitable and woefully inadequate places of accommodation in which to house or hold people⁷¹. There appears to be growing evidence of the serious human rights impact of this policy. For example, there has been a significant increase in the number of deaths in UK asylum accommodation, a significant increase in infant mortality in the UK asylum system, and a significant increase in numbers of children going missing from that system that is on its face attributable to concerns about that system's hostile or punitive attitude to those who seek asylum⁷². The impact of being deterred from maintaining contact with the UK authorities is to place people, including children, at severe risk of exploitation by individuals and organized crime, including in conditions that would contravene Articles 7 and 8.

Nonetheless, the UK Government has sought to make arrangements with other countries for the transportation of people seeking asylum in the UK from the UK in an attempt to abandon all responsibility for the people falling within this policy. To date, only one country – Rwanda – has agreed to any such arrangement, which it did in April 2022. The UK Government has since sought to give effect to

⁶⁵ The policy was first implemented by Statement of Changes in Immigration Rules (HC 1043), which inserted paragraphs 345A-D to those rules. The rules permitted the Home Secretary to treat an asylum claim made by a person present in the UK as inadmissible. The effect of that was that no decision would be made on the claim; and the person would be left with no determination upon their refugee status and without permission to be in the UK for so long as they remained in the UK and the Home Secretary chose to persist with the refusal to admit the claim.

⁶⁶ Rendering a person liable indefinitely to these conditions is arbitrary and may be unlawful, because the policy that is the cause of the liability is an intentional refusal to determine the refugee (or other protection) status of a person whose claim to that status would vindicate their right not e.g., to be detained or excluded from work that could remove their dependency on asylum support.

⁶⁷ Nationality and Borders Act 2022, <https://www.legislation.gov.uk/ukpga/2022/36/contents/enacted>

⁶⁸ Illegal Migration Act 2023, <https://www.legislation.gov.uk/ukpga/2023/37/contents/enacted>

⁶⁹ Article 68 of the Illegal Migration Act 2023.

⁷⁰ See Home Office, Immigration system statistics data tables, 23 November 2023, <https://www.gov.uk/government/statistical-data-sets/immigration-system-statistics-data-tables>

⁷¹ See e.g., Bibby Stockholm: Migrant barge faces legal challenge over fire safety - BBC News <https://www.bbc.co.uk/news/uk-66636547>; House of Lords Library, *The use of Napier Barracks to house asylum seekers: regret motion*, 5 April 2022 <https://lordslibrary.parliament.uk/the-use-of-napier-barracks-to-house-asylum-seekers-regret-motion/>;

House of Commons Library, *Asylum accommodation: hotels, vessels and large-scale sites*, 7 July 2023, <https://commonslibrary.parliament.uk/research-briefings/cbp-9831/>

The Guardian, *Shared rooms, rancid food, no clothes: new report lays bare shocking conditions of those seeking refuge in UK*, 22 April 2023, <https://www.theguardian.com/uk-news/2023/apr/22/shared-rooms-rancid-food-no-clothes-new-report-lays-bare-shocking-conditions-of-those-seeking-refuge-in-uk>

⁷² See e.g., BBC News, *About 200 asylum-seeking children have gone missing, says minister*, 24 January 2023, <https://www.bbc.co.uk/news/uk-politics-64389249>; Liberty Investigates, *Suicides of asylum seekers in Home Office accommodation double in last four years*, 21 December 2023, <https://libertyinvestigates.org.uk/articles/suicides-of-asylum-seekers-in-home-office-accommodation-double-in-last-four-years/>; ITV News, *Pregnant asylum seekers face 'dehumanising' conditions that 'risk babies lives'*, 27 October 2022, <https://www.itv.com/news/2022-10-26/pregnant-asylum-seekers-face-dehumanising-conditions-that-risk-babies-lives>

that arrangement and continues to do so. The UK Supreme Court has, however, ruled that it would not be compliant with international law, particularly the prohibition of *refoulement*, to do so⁷³. The UK Government is currently seeking to secure a further Act of Parliament - the Safety of Rwanda (Asylum and Immigration) Bill⁷⁴ - to declare Rwanda to be safe and expulsion to Rwanda to be fully compliant with international law, including as regards *refoulement*, in contradiction to the ruling of the Supreme Court and notwithstanding any evidence currently available or available in the future that does or might show this to be factually false. Moreover, the Bill includes provisions intended to oust the jurisdiction of the UK courts to review any declaration that Rwanda is a safe place to send people seeking asylum in the UK, or the legality of acting upon such a declaration⁷⁵.

In proceeding this way, the UK Government is knowingly seeking to utilize its majority in the lower house of the UK Parliament to create domestic law that will permit or require the violation of international human rights law. This includes Article 7 and Article 13 in the cases of refugees who have sought asylum in the UK; and in the cases of other persons who have sought protection in the UK against risks of treatment within the scope of Article 7.

As a result of the widespread denial of asylum, which has motivated the arrangement with Rwanda, the UK Government has created conditions in the UK that are so profoundly hostile and harmful to many people seeking asylum as to constitute treatment that is contrary to Article 7, or make them vulnerable to third party exploitation that is contrary to that article or Article 8. The impact of the UK Government's actions in this regard, including putting in place legislation to ensure its actions, which are potentially violations of human rights law, are not subject to judicial scrutiny or remedy, undermine respect for international law, including the Covenant, and more widely.

Recommendation

Amnesty International recommends that the UK:

- Abandon Government policy of refusing to admit and determine asylum claims in the UK made by people arriving without prior permission by:
 - repealing the legislation by which this policy has been adopted and promoted.
 - focusing efforts on guaranteeing the right to seek and enjoy asylum, particularly by ensuring that the UK operates a fair and efficient system for determining refugee status and securing the rights and dignity of every person who seeks asylum in the UK, and
 - in doing so, ensuring the conditions of people seeking asylum in the UK – including concerning accommodation, welfare and health - comply with international human rights standards.

9. EQUAL PROTECTION FROM DOMESTIC ABUSE FOR MIGRANT WOMEN 2, 3, 17 AND 26

The UK Domestic Abuse Act 2021 does not provide equal protection to migrant women, who are not afforded a safe mechanism for reporting violence and cannot access social and economic support, including access to life-saving refuges, except in narrow circumstances⁷⁶.

On 21 July 2022, the UK ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), which entered into force in the UK on 1 November 2022. Regrettably, the UK has reserved the right not to be bound by the provisions in Article 59 which confers a duty to ensure that women whose immigration status depends on a

⁷³ [2023] UKSC 42 <https://www.supremecourt.uk/cases/index.html>

⁷⁴ Safety of Rwanda (Asylum and Immigration) Bill <https://bills.parliament.uk/bills/3540>

⁷⁵ The Bill, *op cit*, expressly excludes any consideration of the risk of *refoulement* arising from the implementation of the arrangement with Rwanda.

⁷⁶ The Domestic Violence Rule (DVR) applies to a person who is in the UK as the spouse, partner or civil partner of someone who is British or has indefinite leave to remain. The Rule allows people who entered the UK on a spousal visa and then suffered domestic abuse to apply for Leave to Remain. For the same group if people the Destitute Domestic Violence Concession (DDVC) provides access to public funds (necessary to access refuges) for three months.

spouse/partner can obtain an autonomous resident status if the relationship breaks down⁷⁷. As a result, migrant women survivors of domestic violence in the UK continue to lack the same support and protection as other survivors and risk being subject to immigration enforcement if and when they report the abuse they are facing.

The Government's motivation for the reservation was to wait for evidence arising from its Support for Migrant Women pilot scheme, a programme set up following the adoption of the Domestic Abuse Act⁷⁸ to provide financial support and gather evidence on the needs of women not eligible for the Domestic Violence Rule and who therefore have no access to public funds. However, specialist domestic violence services have documented the discrimination faced by survivors with no recourse to public funds for decades⁷⁹.

However, Article 59 is about the duty to ensure that women whose status depends on a spouse/partner can obtain an autonomous resident status if the relationship breaks down. The issue of financial support, although relevant, is separate and different. The government said that the withdrawal would be reviewed based on the evaluation of the support scheme and it would keep the reservation under review. The report was published in August 2023 but there is no known time frame for a reassessment of the reservation⁸⁰.

Recommendation

Amnesty International recommends that the UK:

- Promptly withdraw the reservation to Article 59 of the Istanbul Convention, to enable equal support and protection for all migrant women survivors of domestic abuse regardless of their resident status.

10. PROFILING (ARTS. 18, 19, 21, 22, 26)

The UK Government's Prevent Strategy⁸¹ - one of four elements of the UK government's counter-terrorism strategy, known as CONTEST - violates several human rights. Its dragnet approach requires schools, hospitals, local councils, and universities and other institutions to refer to the police people who they think may be "drawn to terrorism", without any real basis and on spurious grounds, even though those individuals have not committed any crimes⁸².

A recent Amnesty International report documented how a person referred to Prevent – and their relatives – can experience life-changing impacts: stress, anxiety, and other mental health consequences; unmanageable financial costs associated with challenging referrals; a loss of trust in state institutions; and worries over privacy and data protection. Poor transparency surrounding Prevent and barriers to redress compound these effects. Efforts by institutions and individuals to comply with Prevent are leading to violations of people's rights to freedom of expression, freedom of thought, conscience and religion, freedom of peaceful assembly, and critically, the right to equality and non-discrimination due to its disproportionate impact on Muslims, young people, and neurodiverse people⁸³.

⁷⁷ United Kingdom (21/072022) Reservations and Declarations for Treaty No.210 - Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210), <https://www.coe.int/en/web/conventions/full-list?module=declarations-by-treaty&numSte=210&codeNature=2&codePays=UK>

⁷⁸ Recommendation 9 of the House of Commons Women's and Equalities Committee, *So-called honour-based abuse: Government response to the Committee's Sixth Report, 13 September 2023*, <https://committees.parliament.uk/publications/41432/documents/203672/default/>

⁷⁹ Southall Black Sisters, *Safe and Secure: The No Recourse Fund – Report of Findings*, 4 January 2023, <https://southallblack SISTERS.org.uk/news/safe-and-secure-the-no-recourse-fund-report-of-findings/>

⁸⁰ Rt Hon Caroline Nokes MP, Chair, Women and Equalities Committee letter to UK Home Secretary, 13 December 2023, <https://committees.parliament.uk/publications/42582/documents/211692/default/>

⁸¹ HM Government, Prevent Strategy, 2011, <https://assets.publishing.service.gov.uk/media/5a78966aed915d07d35b0dcc/prevent-strategy-review.pdf>

⁸² Amnesty International, *This Is The Thought Police: The Prevent duty and its chilling effect on human rights* (Index EUR 45/7368/2023), November 2023, <https://www.amnesty.org.uk/files/2023-11/Amnesty%20UK%20Prevent%20report%20%281%29.pdf> See also <https://www.amnesty.org.uk/Prevent>

⁸³ Ibid

Prevent is subject to little oversight. It is excluded from the scope of the Independent Reviewer of Terrorism Legislation⁸⁴. A Prevent Oversight Board with representatives from government departments is mentioned in the Prevent strategy; however, it had not met from 2018 until at least 2023 and the Home Office has refused to share any record of its meetings or names of its current members. In January 2021 the government appointed Sir William Shawcross as the Independent Reviewer of Prevent⁸⁵. More than 500 human rights organizations (including Amnesty International), Muslim-led civil society organizations and individuals boycotted the review because of his history of making prejudiced remarks about Islam⁸⁶. The “Shawcross Review” cannot be considered as independent or an effective oversight mechanism.

Recommendations

Amnesty International recommends that the UK:

- Abolish the Prevent duty under the Counter-Terrorism and Security Act 2015, thereby leaving professionals to use ordinary safeguarding processes to refer individuals at risk of harm, including children facing recruitment to non-state armed groups.
- Withdraw the Prevent strategy and refrain from associating non-violent groups and their views (‘non-violent extremism’) with “terrorism”.
- Refrain from attempts to delegitimise criticisms of the Prevent strategy by journalists, academics, and civil society, and instead engage meaningfully with the issues raised. Establish and implement alternatives to the criminal justice system for children accused of terrorism offences.

11. THE USE OF CONDUCTIVE ENERGY DEVICES (TASERS) (ARTS. 6, 7, 24 AND 26)

Police use of Conductive Energy Devices (CEDs), known as “Tasers”, has continued to increase exponentially with Taser deployments rising from 17,000 in 2017-2018 to 34,276 uses in 2021-22⁸⁷. Concerns about their use on children, those with mental health conditions and Black people persist⁸⁸, and concerns over their misuse are growing also as the weapon increasingly moves from being seen as a specialist weapon used as an alternative to lethal firearms, to becoming a tool of general policing and an officer safety device. At the same time, guidance on their use remains vague and fails to set the appropriate thresholds of their use at the level of imminent threats to life or serious violence⁸⁹.

Systemic racism continues to be a critical concern. In December 2023 a major independent report, commissioned and funded by the National Police Chiefs Council concluded that institutional racism played a significant role in high levels of racial disparity in Taser use⁹⁰, especially against Black people. UK Home Office statistics for 2019/20 showed that Black people were eight times more likely than white people to experience Taser being drawn on them or discharged⁹¹.

⁸⁴ “[T]he Prevent duty (whether statutory or otherwise) is not formally subject to the oversight of the Independent Reviewer of Terrorism Legislation or any other such audit”, Independent Review of Terrorism Legislation, *The Terrorism Acts in 2015*, 2 December 2016, Annex 2 para 21 <https://terrorismlegislationreviewer.independent.gov.uk/annual-report-official-teaser/>

⁸⁵ Home Office, *The independent review of Prevent*, February 2023, <https://www.gov.uk/government/publications/independent-review-of-prevents-report-and-government-response/independent-review-of-prevent-accessible>

⁸⁶ Amnesty International, ‘UK NGOs condemn appointment of William Shawcross and announce civil society-led review of Prevent’, 16 February 2021, [amnesty.org/en/latest/press-release/2021/02/uk-ngos-condemn-appointment-of-william-shawcross-and-announce-civil-society-led-review-of-prevent/](https://www.amnesty.org/en/latest/press-release/2021/02/uk-ngos-condemn-appointment-of-william-shawcross-and-announce-civil-society-led-review-of-prevent/)

⁸⁷ <https://www.gov.uk/government/statistics/police-use-of-force-statistics-england-and-wales-april-2021-to-march-2022/police-use-of-force-statistics-england-and-wales-april-2021-to-march-2022>. In 2021 Police Scotland confirmed plans for a four-fold increase in the number of specially trained officers to carry tasers to 2000 over three years⁸⁷ (Chief Constable’s Report to the Scottish Police Authority, September 2021: <https://www.spa.police.uk/spa-media/2gsj1skj/rep-b-20210924-item-4-cc-report-to-spa-board-29-september-2021.pdf>).

⁸⁸ Keele University, *Taser use and its association with social, ethnic and racial disparities in policing*, October 2023, <https://www.keele.ac.uk/kpac/fundedprojects/taser/> [Hereinafter, Keele University]

⁸⁹ College of Policing, *Conducted energy devices (Taser)* <https://www.college.police.uk/app/armed-policing/conducted-energy-devices-taser>

⁹⁰ Keele University

⁹¹ NPCC, ‘*Disproportionality in Police Use of Taser: Independent Panel Chair Announced*’, December 2020, <https://news.npcc.police.uk/releases/disproportionality-in-police-use-of-taser-independent-panel-chair-announced>

In August 2023, the Independent Office of Police Conduct (IOPC) repeated its concerns about Taser use on under 18-year-olds⁹². In a review of 40 cases of deployment of Taser against children, the IOPC found 27.5% of these cases involved Taser use on Black children, 27.5% on those suffering a mental health episode and 42.5% of taser discharges to prevent escape⁹³. For compliance with relevant international human rights instruments and standards, including the ICCPR, Tasers must only be used in response to imminent threats to life and serious violence that cannot be contained by a lesser use of force. There should be a presumption against its use against under 18s, which would prohibit use against children in all but the most extreme circumstances, in line with the Committee against Torture’s concluding observations in 2019⁹⁴.

Recommendations

Amnesty International recommends that the UK:

- Restrict the use of Tasers to imminent threats to life or serious violence and prohibit the use of these devices in direct contact mode (also known as ‘drive-stun’)⁹⁵.
- Provide clear presumptions against the use of Tasers against children and young people – that would recognize extreme circumstances where Taser use could be justified in order to save life;
- Fully address systemic racism and racial discrimination in policing and law enforcement including in the use of Tasers.

12. RESTRICTIONS OF RIGHTS RELATING TO PROTEST (ARTS. 21, 22)

Over the last few years, a series of changes to UK legislation have given Police and Government Ministers unprecedented powers to restrict the rights to peaceful protest. In April 2023, UN High Commissioner for Human Rights warned that the then Public Order Bill (now Public Order Act):⁹⁶ “impose[d] serious and undue restrictions on these rights that are neither necessary nor proportionate to achieve a legitimate purpose as defined under international human rights law. This law is wholly unnecessary as UK police already have the powers to act against violent and disruptive demonstrations”⁹⁷. However, this law has since been passed with no significant amendments to its rights-restricting provisions.

Both the 2022 Police, Crime, Sentencing and Courts Act⁹⁸ and the 2023 Public Order Act criminalize various forms of peaceful protest, such as “locking on”⁹⁹, have expanded police stop-and-search powers, created protest banning orders, and given the Government powers to seek civil injunctions

⁹²IOPC, ‘IOPC statement on review of Taser discharges on children under 18’, August 2023, <https://www.policeconduct.gov.uk/news/iopc-statement-review-taser-discharges-children-under-18>

⁹³ Ibid. Also, the use of Taser by Police Scotland against children increased in 2022-23 by 17 per cent, with 41 instances recorded. Police Scotland, Use of Force External Performance Reports 2021-2022: <https://www.scotland.police.uk/about-us/how-we-do-it/use-of-force/>

⁹⁴ See Amnesty International, United Kingdom: Submission to the United Nations Committee against Torture - Amnesty International, 22 March 2019 (Index EUR 45/0096/2019) <https://www.amnesty.org/en/documents/eur45/0096/2019/en/> and Committee against Torture *Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland* CAT/C/GBR/CO/6, paras 28-29. <https://www.ohchr.org/en/documents/concluding-observations/catcgbrc06-concluding-observations-sixth-periodic-report-united>

⁹⁵ This refers to the weapon’s direct contact with the body. See: College of Policing, ‘Conducted energy devices (Taser)’, March 2022, <https://www.college.police.uk/app/armed-policing/conducted-energy-devices-taser/>;

British Transport Police, ‘What is CED ‘use’?’, <https://www.btp.police.uk/police-forces/british-transport-police/areas/campaigns/Taser/what-is-ced-use/>

⁹⁶HM Government, Public Order Act 2023, <https://www.legislation.gov.uk/ukpga/2023/15/enacted>

⁹⁷ United Nations OHCHR, ‘UN Human Rights Chief urges UK to reverse ‘deeply troubling’ Public Order Bill’, April 2023, <https://www.ohchr.org/en/press-releases/2023/04/un-human-rights-chief-urges-uk-reverse-deeply-troubling-public-order-bill>

⁹⁸ HM Government, Police, Crime, Sentencing and Courts Act 2022, <https://www.legislation.gov.uk/ukpga/2022/32/contents/enacted>

⁹⁹ “Locking on” is where you attach yourself to another object or another person.

See: Amnesty International, ‘Submission to the 41st Session of the UPR Working Group November 2022’, March 2022, <https://www.amnesty.org/en/documents/eur45/5421/2022/en/>; Amnesty International UK, ‘Updated Recommendations to the 41st Session of the UPR Working Group November 2022’, October 2022: <https://www.amnesty.org.uk/resources/updated-recommendations-41st-session-upr-working-group>

against peaceful protesters as well as allowing Police to impose significant restrictions on protests deemed unduly disruptive with regards to noise and nuisance¹⁰⁰.

In June 2023, The Public Order Act 1986 (Serious Disruption to the Life of the Community) Regulations 2023¹⁰¹ were passed which further expanded the circumstances in which police can impose restrictions on protest. They also lowered the threshold of “serious disruption”, defined in the regulations as an obstruction causing “more than minor hindrance to day-to-day activities”, which allowed the police to restrict a broader range of protests. Alongside increased policing powers, prosecutions and other sanctions for protest related offences also significantly increased, both in terms of applicable prison sentences and fines that can be imposed. The government has indicated its intention to legislate to further expand policing powers to intervene in non-violent protests¹⁰².

As a result of these increasing restrictions, prosecutions and imprisonment of peaceful environmental protesters continued throughout 2023¹⁰³ and dozens of arrests were made during peaceful protests during the Coronation of King Charles, including pre-emptive arrests¹⁰⁴. The majority of charges were subsequently dropped.

Most recently, the (now former) Home Secretary sought to interfere with the operational independence of the Met Police by accusing them of favouritism and challenging their decision to allow a ‘pro-Palestinian’ march to go ahead¹⁰⁵. The police concluded no grounds existed to ban the demonstration¹⁰⁶. Also, the Education Secretary, the Minister for Schools, and the Minister for Skills, Apprenticeships and Higher Education, wrote to schools and colleges on 17 October 2023 advising on “how to respond to the Israel-Hamas conflict in the classroom”¹⁰⁷. Among other suggestions, their advice recommended the ‘Prevent programme’ for assessing the risk of radicalization and making a relevant referral. As detailed earlier in this submission, this is a highly controversial programme which Amnesty International has found violates several human rights¹⁰⁸.

Recommendations

Amnesty International recommends that the UK:

- Repeal The Public Order Act 2023 and the public order related measures in the 2022 Police Crime and Sentencing Act and other regulations related to the policing of protest¹⁰⁹. This legislation is incompatible with the UKs international human rights obligations on freedom of expression and assembly.
- Ensure all police forces have comprehensive training and guidance on protest rights and the duty to facilitate peaceful protest.

¹⁰⁰ Amnesty International UK, ‘Submission to the Joint Committee on Human Rights - Police, Crime, Sentencing and Courts Bill’, May 2021, committees.parliament.uk/writtenevidence/36270/pdf/

¹⁰¹ HM Government, The Public Order Act 1986 (Serious Disruption to the Life of the Community) Regulations 2023, <https://www.legislation.gov.uk/uksi/2023/655/contents/made>

¹⁰² Chay Quinn, LBC, ‘Rishi Sunak orders ‘crack down on unruly protesters’ after Armistice Day violence’, November 2023, <https://www.lbc.co.uk/news/sunak-clamp-down-protests-braverman-loopholes/>

¹⁰³ Damien Gayle, The Guardian, ‘Met uses new anti-protest powers to arrest climate protesters for first time’, October 2023, <https://www.theguardian.com/environment/2023/oct/30/met-arrest-more-than-60-climate-activists-just-stop-oil-protest-first-use-powers-public-order-act>

¹⁰⁴ George Monbiot, The Guardian, ‘The coronation arrests are just the start. Police can do what they want to us now’, May 2023, <https://www.theguardian.com/commentisfree/2023/may/12/coronation-protest-arrests-police>

¹⁰⁵ Suella Braverman, The Times, ‘Police must be even-handed with protests’, November 2023 <https://www.thetimes.co.uk/article/pro-palestine-protest-london-met-police-cbqnxbtv3>

¹⁰⁶ Mark Easton and Sean Seddon, BBC News, ‘No grounds to ban pro-Palestinian march, says Met chief’, November 2023, <https://www.bbc.co.uk/news/uk-67349474>

¹⁰⁷ <https://educationhub.blog.gov.uk/2023/10/19/israel-hamas-conflict-advice-schools-ministers/>

¹⁰⁸ HM Government, Prevent Strategy, 2011, <https://assets.publishing.service.gov.uk/media/5a78966aed915d07d35b0dcc/prevent-strategy-review.pdf>; Amnesty International, *This Is The Thought Police: The Prevent duty and its chilling effect on human rights* (Index EUR 45/7368/2023) November 2023 <https://www.amnesty.org.uk/files/2023-11/Amnesty%20UK%20Prevent%20report%20%281%29.pdf>

¹⁰⁹ The Public Order Act 1986 (Serious Disruption to the Life of the Community) Regulations 2023.

13. CASE OF JULIAN ASSANGE (ARTS. 7, 9, 19)

Julian Assange, co-founder of Wikileaks, has been detained in HMP Belmarsh, a high security prison in southeast London, since April 2019. Beginning in February 2020, he has been subjected to a series of extradition proceedings in British courts pursuant to a request from the United States government for his transfer to the US to stand trial based on charges under The Espionage Act of 1917 and the Computer Fraud and Abuse Act.¹¹⁰ In February 2024, hearings on a possible final appeal against extradition will be held.¹¹¹ The conduct for which Julian Assange has been charged involves legitimate activities associated with his work as a publisher for Wikileaks, including publishing evidence of potential war crimes and other government wrongdoing. Amnesty International has concluded that these charges are politically-motivated and has called on the US authorities to drop all the charges as they constitute a violation of his right to freedom of expression (Article 19).¹¹² As a result of the political nature of the charges, Amnesty International considers that for most of the time that Julian Assange has been held in HMP Belmarsh, he has been subjected to arbitrary detention (Article 9).¹¹³ If the UK authorities extradite him to the US, they will violate the prohibition on *refoulement* as he will be at risk of serious human rights violations, including the possibility of prolonged solitary confinement, which can amount to torture or cruel, inhuman or degrading treatment (Article 7).¹¹⁴ The US authorities have offered so-called diplomatic assurances against ill-treatment to the UK government. By their nature such assurances are not legally binding and the need for them in the first place indicates that a person is in fact at risk of ill-treatment upon return. The US's assurances in the Assange case contain so many caveats that their reliability is even further diminished.¹¹⁵ If he is transferred to, and tried and convicted in the US, the UK government would be complicit in the erosion of global media freedoms. Publishers and investigative journalists worldwide would suffer the "chilling effect" of knowing that any state might seek their extradition and/or prosecute them for their legitimate activities as media workers, including receiving and making public information related to governmental misconduct. The public's right to information would be profoundly undermined.

Recommendations

Amnesty International recommends that the UK:

- Make diplomatic representations to the US authorities requesting that they drop immediately all the charges against Julian Assange.
- Decline to extradite or otherwise transfer Julian Assange to the US or to any country from which he could be transferred onward to the US.
- Reject as inherently unreliable any diplomatic assurances against torture or cruel, inhuman or degrading treatment from the US government.
- Release Julian Assange from HMP Belmarsh.
- Support and uphold global media freedoms in the UK and in coalition with other states in the interest of the public's right to information regarding the actions of their governments.

¹¹⁰ Amnesty International, "UK: Amnesty International urges the UK to guarantee a fair extradition process to Julian Assange", 27 February 2020, <https://www.amnesty.org/en/latest/news/2020/02/uk-amnesty-international-urges-the-uk-to-guarantee-a-fair-extradition-process-to-julian-assange/>

¹¹¹ Amnesty International, "UK/US: Global media freedom at risk as Julian Assange back in court facing possible extradition to USA," 13 February 2024, <https://www.amnesty.org/en/latest/news/2024/02/uk-usa-global-media-freedom-at-risk-as-julian-assange-back-in-uk-court-facing-possible-extradition-to-usa/>

¹¹² Amnesty International, "US/UK: Drop charges and halt extradition of Julian Assange," 21 February 2020, <https://www.amnesty.org/en/latest/news/2020/02/usuk-drop-charges-and-halt-extradition-of-julian-assange/>

¹¹³ Amnesty International, "UK: Decision to refuse Assange bail renders his continued detention 'arbitrary'", 6 January 2021, <https://www.amnesty.org/en/latest/news/2021/01/uk-decision-to-refuse-assange-bail-renders-his-continued-detention-arbitrary-2/>

¹¹⁴ OHCHR, "UN Special rapporteur on torture urges UK government to halt imminent extradition of Julian Assange", 6 February 2024, <https://www.ohchr.org/en/press-releases/2024/02/un-special-rapporteur-torture-urges-uk-government-halt-imminent-extradition>; Amnesty International, "UK/US: Home Secretary's certification of Assange extradition puts him at risk," 17 June 2022, <https://www.amnesty.org/en/latest/news/2022/06/uk-us-home-secretarys-certification-of-assange-extradition-puts-him-at-risk/>

¹¹⁵ Amnesty International, *US/UK: "Assurances" leave Julian Assange at risk of ill-treatment if extradited from the UK*, EUR 45/4450/2021, 13 July 2021, <https://www.amnesty.org/en/documents/eur45/4450/2021/en/>

Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

Contact


info@amnesty.org


facebook.com/
AmnestyGlobal


@Amnesty


amnesty.org



Amnesty International
Peter Benenson House
1 Easton Street
London WC1X 0DW, UK

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence (see creativecommons.org/licenses/by-nc-nd/4.0/legalcode).

Where material is attributed to a copyright owner other than Amnesty International, this material is not covered by the Creative Commons licence.

For more information, visit the [permissions page](#) on Amnesty International's website.

Index: **EUR 45/7670/2024**

Publication: **February 2024**

Original language: **English**

© Amnesty International 2024

**AMNESTY
INTERNATIONAL** 