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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the HRA, 3 and the issue came to a head in 2022 with the publication of a new ‘Bill of Rights’ Bill, which would have repealed the HRA and replaced it with a much more restrictive alternative 4. 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 HRA 8. Following the resignation of the Minister responsible for the ‘Bill of Rights’ Bill’s development and, lacking wider political support, the Bill was ultimately abandoned 9.

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 2021 10, the Illegal Migration Act 2023 11, Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 12, as well as the Victims and Prisoners Bill, and Safety of Rwanda (Asylum and Immigration) Bill currently going through

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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.


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 ECHR\textsuperscript{13}.

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’\textsuperscript{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 ECHR\textsuperscript{15} 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 IRELAND\textsuperscript{16} (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 2023\textsuperscript{17}, 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 intervener, was heard in the Belfast High Court in November 2023\textsuperscript{18} with a judgment expected in early 2024. The

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\textsuperscript{13} Section 1(5) of the Illegal Migration Act expressly disappplies 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.


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 Act. This challenge is vital for victims in Northern Ireland and around the world, who face the prospect of similar state-gifted impunity.

**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), 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 years. There is no option of legal gender recognition for people under 18 and non-binary people. Extremely long waiting lists for specialist healthcare further restrict trans people’s ability to obtain a Gender Recognition Certificate. This impacts trans people’s rights to equal protection, recognition before the law, private and family life and non-discrimination.

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 standards. 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’. 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 increase. The impact of a toxic political and public discourse on the rights of trans people has been noted with concern by the

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26 Amnesty International Gender Recognition submission


Council of Europe’s Commissioner for Human Rights and the UN Independent Expert on sexual orientation and gender identity during their recent visits to the UK.

In Scotland, the Gender Recognition Reform (Scotland) Bill 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 Government 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, it remains criminalized in England, Wales and Scotland, except where permitted by the Abortion Act 1967. 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 stigma.

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 1861. 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 law. Investigations and prosecution of women accused of illegal abortion have grown since 2022, and other cases are due for trial.

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.
Recommendations

Amnesty International recommends that:

- The UK and Scottish governments\(^{38}\) 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 choice\(^{39}\).

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 2015\(^{40}\), 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 (LAPSO), 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 review\(^{42}\). These restrictions were augmented by procedural changes brought in by judicial leadership\(^{43}\).

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 rights\(^{44}\). 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.


\(^{43}\) These include a tightening of the approach to the issue of standing to bring judicial review proceedings (the 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#009

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 funding. 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 stations.

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 on. 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 increased.

**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 disproportionally 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 group. 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 1981. In doing so, the UK ended its application of *jus soli* (by which nationality was automatically acquired by birth on its territory). From
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 not 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 citizen 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 PR CBC 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/AllUK%20%20Home%20Office%20Windrush%20Lessons%20Learned%20Review.pdf.
60 This has been the subject of litigation to the UK Supreme Court (https://www.supremecourt.uk/), see R (PR CBC & 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 older. 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”.

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 country. 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 unlawful.

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.

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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/hrwht/1943/194306/html#_idTextAnchor015](https://publications.parliament.uk/pa/jt201719/jtselect/hrwht/1943/194306/html#_idTextAnchor015)


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

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.
69 Article 68 of the Illegal Migration Act 2023.
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 so\(^{73}\). The UK Government is currently seeking to secure a further Act of Parliament - the *Safety of Rwanda (Asylum and Immigration)* Bill\(^{74}\) - 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 declaration\(^{75}\).

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 circumstances\(^{76}\).

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.
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 Act 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 decades.

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 reservation.

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 Strategy - 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 crimes.

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 people.

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/
83 Ibid
Prevent is subject to little oversight. It is excluded from the scope of the Independent Reviewer of Terrorism Legislation\textsuperscript{84}. 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 Prevent\textsuperscript{85}. 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 Islam\textsuperscript{86}. 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 2021-22\textsuperscript{87}. Concerns about their use on children, those with mental health conditions and Black people persist\textsuperscript{88}, 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 violence\textsuperscript{89}.

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 use\textsuperscript{90}, 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 discharged\textsuperscript{91}.

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\textsuperscript{84} “The 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-taser/


\textsuperscript{88} Keele University, Taser use and its association with social, ethnic and racial disparities in policing, October 2023, https://www.keele.ac.uk/kpc/fundedprojects/taser/ (Hereinafter, Keele University)

\textsuperscript{89} College of Policing, Conducted energy devices (Taser) https://www.college.police.uk/app/armed-policing/conducted-energy-devices-taser

\textsuperscript{90} Keele University

In August 2023, the Independent Office of Police Conduct (IOPC) repeated its concerns about Taser use on under 18-year-olds. 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 escape. 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 2019.

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’).
- 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) “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.” However, this law has since been passed with no significant amendments to its rights-restricting provisions.

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

112 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-clbqbxv3
113 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
114 https://educationhub.blog.gov.uk/2023/10/19/israel-hamas-conflict-advice-schools-ministers/
116 The Public Order Act 1986 (Serious Disruption to the Life of the Community) Regulations 2023.

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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. In February 2024, hearings on a possible final appeal against extradition will be held. 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). 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). 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). 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. 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.

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.