

By email only

Dame Angela Eagle DBE MP
Minister for Border Security and Asylum
Home Office

9 January 2025

Dear Minister,

Re: Follow-up to meeting on 16 December 2024

Firstly, thank you for meeting with myself and Allan Hogarth, Head of Government and Political Relations. We greatly appreciate your time and engagement, and that of your officials.

You invited us to send you a briefing concerning deportation of people designated as 'foreign criminals' by the UK Borders Act 2007 and the Nationality, Immigration and Asylum Act 2002 (as amended by the Immigration Act 2014). Thank you for that invitation. A critical aspect to this concerns British nationality rights. We enclose a joint briefing prepared with the Project for the Registration of Children as British Citizens (PRCBC) on this subject. I must mention that Amnesty does have wider concerns about the breadth of deportation powers and their exercise, particularly against people with lengthy residence and settled family, which do not concern nationality rights and are not therefore addressed in that briefing.

As regards the matters of asylum process, asylum legislation, enforcement and toxicity that were more substantively discussed at the meeting on 16 December 2024, I hope it is helpful to briefly set out the following considerations. As at the meeting, we draw on our experience of successive administrations (Labour, Conservative-Liberal Democrat coalition, and Conservative), particularly over the past 25 years or so.

Asylum process

We have noted and welcome the new emphasis given to fairness and efficiency, including respect for domestic courts and international law.

As discussed at the meeting, respect for the rule of law, including international human rights law, is both important in and for itself and important for the practical implications of failing to do so. Our experience of the immigration and asylum system under successive administrations is that avoidance of or attacks upon human rights standards have significantly contributed to the inefficiency, sometimes more serious dysfunction, of the system as well as its unfairness. That includes the creation, maintenance and exacerbation of asylum backlogs –

whether of people awaiting Home Office decisions, people in the appeals system, people in immigration detention, or people living in the UK who are at least formally required to leave.

In summary, we encourage Government to recognise that attempting to do things that cannot be done or should not be done can only exacerbate inefficiency and lack of confidence. A starting point must be to ensure refugees are identified and granted asylum to which they are entitled. A secondary consideration is identifying who, of those fairly assessed to not be entitled to asylum, can be safely returned and who cannot. There is no good purpose, for example, to recreating the situation faced by Lord Reid of Cardowan in 2006 of a very large body of people remaining in limbo in the UK. That situation arose, in part, because the Home Office had for years refused permission to stay to a very large number of people, many of whom with credible reasons to stay and whom the department had no real capacity to return. Equally, as discussed at the meeting, no good can come of rushing people through asylum procedures in detention – with all the risk that their claims are not adequately considered and with their languishing for further weeks, months or even longer after an unfair process, including appeals, has been completed.

We have previously written (including providing specific and detailed proposals to your Head of Asylum Operations) about how to create a decision-making process that is both fair and efficient. A critical aspect of these proposals is to avoid spending resources on activities, including enforcement activity, that are unnecessary or ineffective while best enabling people who will or should be staying to move on with their lives to the benefit of all.

Asylum legislation

We briefly discussed the legislation that the Government has inherited and the need for repeals. There are three primary considerations:

- legislation that prevents fair and efficient decision-making;
- legislation that, if not repealed, may be commenced or operationalised by a future Government; and
- legislation which, whether commenced or operationalised, signals that any new or renewed commitment to the rule of law is provisional or otherwise less than full.

In the immediate term, we urge focus on (1) the Safety of Rwanda (Asylum and Immigration) Act 2024, (2) the Illegal Migration Act 2023, and (3) the Nationality and Borders Act 2022. The first two of these three Acts of Parliament offend in their entirety each of the three considerations set out above. Moreover, each of these Acts are unusually devised as a single piece of legislation with all their respective provisions intended to combine for a statutory purpose expressly stated in each Act. It is for these reasons that we strongly encourage their wholesale repeal. There is no legitimate purpose to retaining any provision of

these Acts, whether un-commenced or unacted upon, and failing to repeal will undermine the credence of the Government's commitment to the rule of law.

As regards the Nationality and Borders Act 2022, this is a more traditional piece of legislation. Its specific provisions need to be considered individually. Moreover, several (not all) of its nationality provisions advance the rule of law, respect for human rights, and equalities. However, its asylum provisions (also its modern slavery and immigration provisions) are each individually harmful. Among these are provisions that seek to reinterpret – by narrowing – the autonomous meaning of the 1951 UN Convention relating to the Status of Refugees; and seek to discriminate illegitimately between refugees as to the safeguards they are to receive in the decision-making system and the quality of asylum they are to receive if and when their claims are granted. We would strongly urge that these several provisions are repealed.

Thank you also for indicating your openness to meeting and dialogue on the Government's Border Security, Asylum and Immigration Bill that was announced in the King's Speech and we understand is expected soon this year. We are, of course, always available to share our thoughts and experience.

Enforcement and Toxicity

While we understand Home Office responsibilities for enforcement, we are concerned that the toxicity of much public, media and political discourse will merely be encouraged if those responsibilities are managed insensitively.

Our experience of successive administrations is that attempts to counter more extreme political positions, and the sometimes hateful attitudes these promote and stir, have often merely enabled those with these positions and attitudes. We recall, for example, the focus on enforcement – removals, immigration raids, employer fines, etc. – that was so much a part of the Home Office public and political relations effort from around 2006/07, with regular news stories/releases on this activity and emphasis on such things as removals targets, etc. The impact of this was simply to increase and sustain the salience of concerns, real or perceived, regarding immigration.

We would therefore encourage Government to avoid repeating this mistake as it will only affirm the apparent relevance of more extreme political positions and will not satisfy those who promote these or are stirred by them.

Conclusion

We are mindful that the Government is still relatively new and the immigration, particularly asylum (also modern slavery), system that it inherited is in urgent need of repair.



However, while time is needed to complete that repair, the narrative and strategy the Government sets and pursues is vital. What may seem politically difficult now is unlikely to get any easier the more time is allowed to pass without setting out an agenda that clearly distinguishes this Government from what has gone before.

In this regard, we welcome early decisions such as that to scrap the Rwanda plan and discontinue the use of the Bibby Stockholm barge. These decisions have not, however, set a clearly distinct agenda because they have been explicitly presented as all about efficiency rather than as about fulfilling human rights and rule of law standards (or any other human value-based considerations).

The present focus on enforcement similarly tends to affirm a continued agenda of hostility towards people seeking asylum or migrants more generally rather than anything fundamentally new. For reasons we were grateful to have the opportunity to briefly discuss with you, our advice is that such an approach is in the interests of neither Government, the public, nor the refugees and migrants directly affected by the immigration and asylum system.

We also note this Government's determination to improve its international relations and cooperation. In principle, we support that. However, in practice, it matters that the Government should lead on promoting international human rights standards and responsibility-sharing – on matters of asylum as much as any other matter – rather than join with others in undermining these. The very recent decision to join in suspending decision-making on Syrian asylum claims is of concern. The UK and its EU partners need to be clear on hosting Syrians for the foreseeable future, including to avoid the dreadful implication for Syria's prospects if millions of Syrians are compelled to return from neighbouring countries.

Our position on several of the matters touched upon in this letter is concisely set out in short briefings available at <https://www.amnesty.org.uk/resources/rmr-programme-specific-issues-briefings>

Finally, thank you for your encouragement regarding future dialogue with you and your officials. We very much welcome that and emphasise our readiness to provide assessment, analysis and suggestion on asylum, immigration and related matters as and when these may be useful to you and your officials.

Sincerely,

Steve Valdez-Symonds
Refugee and Migrant Rights Programme Director

Encl. Deportation Briefing