**Human Rights in the UK – Parliamentary Briefing, October 2021**

**Summary**

There are several Bills currently progressing through the UK Parliament which a number of human rights organisations have warned could see devastating damage to fundamental human rights protections if passed in their current forms. These proposed changes would increase the marginalisation of some of the most discriminated against in our society, and also threaten the UK’s international reputation as an upholder of international human rights principles.

We are deeply concerned about the UK Government’s intention to ‘update’ the flagship UK human rights protection – the Human Rights Act – following the review launched in December 2020. The Act enshrines our freedoms into UK law, is binding on public bodies and means people can go to UK courts to have their rights upheld. It is our strong view that it must remain untouched.

**Recommendations**

As a group of organisations sharing similar concerns, we urge MPs to:

*Nationality and Borders Bill*

* **Raise concerns directly with the Home Secretary and/or Minister for Immigration Compliance and Justice by writing a letter outlining our shared objections to Part 2 and Clauses 9, 37 and 38 of the Bill.**

*Police, Crime, Sentencing and Courts Bill*

* **Urgently raise concerns about Parts 2, 3, 4 and 10 of the Bill within the Party, including through writing to the Minister for Safeguarding, and urge the Government to – at a minimum – accept ‘compromise’ amendments that may be voted through in the Lords.**
* **If/when the Bill returns to the Commons, vote in support of any relevant amendments added in the Lords that remove, or significantly improve, Part 2 Chapter 1, Part 3, Part 4 and Part 10 Chapter 1**

*Human Rights Act review*

* **Raise our shared concerns around amending or weakening the Human Rights Act - including by writing to the Secretary of State for Justice**

*Judicial Review and Courts Bill*

* **Raise concerns about Part 1 of the Bill which will reduce Judicial Review’s impact and allow public authorities to avoid consequences when they act unlawfully – including by writing directly to the Secretary of State for Justice**

**Nationality and Borders Bill**

Following a public consultation on the Home Office’s *New Plan for Immigration* – the *Nationality and Borders Bill* was introduced in Parliament in July 2021. Running for a period of six weeks, the consultation received over 8,500 responses around 75 per cent of these opposing the plans proposed by the UK Government.

Part 1 of the Bill focuses on British nationality law and corrects a number of injustices, anomalies and historical inequalities that have deprived some people of British nationality that should ought to have been theirs. We welcome these changes as they will improve justice and help to secure the human rights of many British people – excluding the proposal to deprive stateless children born in the UK of their rights to British citizenship.

However, **we are deeply concerned that parts of the Bill – most notably Part 2 (asylum) and Clauses 9 (Citizenship: stateless minors), 37 (illegal entry) and 38 (assisting unlawful immigration) - will undermine the human rights of people affected by the UK’s immigration laws and shut down the UK’s asylum system**. If this Bill passes in its current form, the UK will have reneged on its international duties, including under the 1951 Refugee Convention – while providing a green light for others to do the same.

By unilaterally redefining the meaning of the 1951 Refugee Convention – both in terms of who it applies to and how such a person is treated – some refugees, for example those who travel independently to the UK, will be discriminated against, and disadvantaged compared to others. Refugees and their families may be penalised in several ways – including granting refugees only very temporary period for which they may stay in the UK, with real uncertainty whether they will ever be permitted to stay longer or permanently or whether their families will ever be allowed to reunite with them here.

There are further penalties and exclusions that people seeking asylum will face, including prosecution for exercising the right to seek asylum by crossing borders, isolation from the community in detention or other accommodation centres, being left in limbo while the Home Office seeks to persuade another country to take responsibility for them and their asylum claim and expulsion from the UK for ‘offshore processing’ of their asylum claim. Neither the 1951 Refugee Convention, nor other international human rights standards, permit arbitrary discrimination between people entitled to asylum because of their shared status as refugees.

The Bill includes provisions to prosecute people who for no gain assist someone seeking asylum to reach UK shores safely; and to exclude children born stateless in the UK from securing their existing rights to British citizenship.

We strongly believe the proposals within this Bill will add complexity, delay, inequality, dysfunction and cost to the asylum and wider immigration system. Far from tackling human exploitation including by organised crime, the Bill will further empower and enable abusers – leaving women, men, and children more vulnerable.

**We therefore urge MPs to:**

* **Consider raising these concerns directly with the Home Secretary and/or Minister for Immigration Compliance and Justice by writing a letter outlining our shared objections to Part 2 and Clauses 9, 37 and 38 of the Bill.**

**Police, Crime, Sentencing and Courts Bill**

Hundreds of civil society organisations and legal academics, cross-party Parliamentarians, former Chief Constables and UN Special Rapporteurs have expressed concern at the introduction of this Bill, with many of its measures representing a serious threat to human rights – ranging from the rights to peaceful protest through to racial and other discrimination within the Criminal Justice System. ***Part 2 Chapter 1 (functions to reduce serious violence)*** *and* ***Part 10 Chapter 1* (*Serious Violence Reduction Orders) – recommend deletion***

Part 2 Chapter 1 of the Bill creates new duties for specified authorities in a local area to work together to reduce serious violence. Misleadingly billed as a ‘public health approach’, this duty will introduce an enforcement (rather than prevention) led approach that mirrors the failings of the Metropolitan Police service’s Gangs Matrix, which was found to be racially discriminatory; and whilst it has now been substantially reformed, it is rightly subject to ongoing review. The duty would mandate data sharing whilst deliberately qualifying data protection requirements; conflate victims of violence with perpetrators; and could erode relationships of trust between teachers, health workers, social workers and the people they support, hindering the provision of vital services.

Part 2 Chapter 1 should be seen in conjunction with Part 10 Chapter 1, which would introduce Serious Violence Reductions Orders (SVROs), given that data collected under Part 2 could be used to inform the application of them.

SVROs would be imposed on individuals based on a “balance of probability” judgement that they committed a crime with a bladed or offensive weapon, setting a very low threshold to criminalise. However, they could also be applied to anyone involved in an incident who “ought to have known” a weapon was present, even if they themselves did not have one. Anyone subject to an SVRO can then be subjected to stop and search at any time, meaning individuals can be stopped and searched without any suspicion of being involved in any current crime (including because they were merely present at a previous incident where someone else had a weapon).

Stop and search powers are overwhelmingly used against Black people and there is very little evidence to suggest their efficacy in crime prevention. The College of Policing has said ““There is limited evidence regarding the impact of stop and search on crime...any impact is likely to be small, highly localised and short-lived”. Her Majesty’s Inspectorate of Constabulary has also questioned their effectiveness and both bodies have concluded their over-use and misuse has clearly undermined public trust and confidence in the police.

***Part 3 (public order) – recommend deletion***

The rights to peaceful protest are fundamental universal rights enshrined in international domestic human rights law. Under international law any restrictions or limitations to these rights must be imposed as a last resort in cases where it is necessary to prevent serious harm, and even then, only after all other less intrusive measures are considered.

Part 3 of the Bill represents a significant lowering of thresholds applied to public order situations, with the introduction of new highly subjective and ill-defined vague terms such as noise, unease and annoyance. The Bill also gives Minister further enhanced powers to issue further legally binding regulations round these highly subjective and vague thresholds, which raises the prospect that the current or any future government may misuse these powers to stifle criticism and views that it might find uncomfortable. This sets an enormously dangerous precedent and only provides the police with even greater powers to police protest than they already have.

The new criminal offence of participating in a demonstration and not being aware of any restrictions in place using the threshold of ‘ought to have known’ is a hugely disproportionate criminalisation of individuals whose activities would otherwise have been perfectly lawful in any given context.

***Part 4 (trespass) - recommend deletion***

We support the analysis and recommendations of Friends, Families and Travellers. For more information see <https://www.gypsy-traveller.org/briefing-on-part-4-pcscbill/>

Given our concerns outlined above, **we are strongly urging MPs to:**

* **Urgently raise concerns about relevant parts of the Bill within the Party, including through writing to the Minister for Safeguarding, and urge the Government to – at a minimum – accept ‘compromise’ amendments that may be voted through in the Lords.**
* **If/when the Bill returns to the Commons, vote in support of any relevant amendments added in the Lords that remove, or significantly improve, Part 2 Chapter 1, Part 3, Part 4 and Part 10 Chapter 1 (for more information on specific ‘compromise’ amendments to support, please contact** **parliament@amnesty.org.uk****)**

**The Human Rights Act Review**

The Human Rights Act is the flagship of the UK’s Human Rights protections. It enshrines our freedoms in UK law, is binding on public bodies and means people can go to UK courts to have their rights upheld. In the UK it is our best way of accessing and enforcing the European Convention on Human Rights, which was agreed in the aftermath of the Second World War. This includes freedom of thought, belief and religion, freedom of expression, freedom of assembly and association and protection from discrimination in respect of these rights.

It is because of this that we remain deeply concerned at the UK Government’s intention to ‘update’ the Act – a commitment that follows a similar path to those who have wanted to repeal it.

While the UK Government have set their intentions, the devolved administrations are instead trying to strengthen their human rights protections by further incorporating international human rights law into Scotland and the renewed process for a Bill of Rights in Northern Ireland. This is crucial because the HRA is a cornerstone of the UK’s constitutional arrangements; it is embedded in the Scotland Act and the Wales Act which set up the Parliaments in Edinburgh and Cardiff and is fundamental to the Good Friday/Belfast Agreement and power-sharing and policing arrangements in Northern Ireland. The devolved administrations are opposed to any amendment to the Human Rights Act and any changes imposed on the Parliaments and Assembly may inflame tensions further.

Despite there being no need to amend the Human Rights Act, in December 2020 the UK Government launched a review into the Act. We are now awaiting the Review’s final report, along with the Government’s proposals that we hope will be subject to a public and full twelve-week consultation.

While we await these, **we are urging MPs to raise our shared concerns around amending or weakening the Human Rights Act - including by writing to the Secretary of State for Justice**

**Judicial Review and Courts Bill**

In July 2021, the Judicial Review and Courts Bill was formally introduced in Parliament - this followed an independent review after which the Government published (and consulted on) their proposals.

In its opening remarks, the Ministry of Justice’s consultation document ‘Judicial Review: proposals for further reform’ reinforced the notion that judicial review is a critical check on the power of the state. We are therefore concerned that the Bill introduces provisions which risk reducing proper accountability for state actions, significantly reducing Judicial Review’s impact and allowing public authorities to avoid the full consequences when they act unlawfully.

If the Bill progresses unamended, claimants and others affected by unlawful decisions of the state could now find that they win their case but get no remedy and see no impact in their own lives, or those of anyone else negatively affected by what happened. This cannot be seen as meaningful justice, not least for human rights cases, given that the European Convention on Human Rights requires effective remedies.

The Bill is set to return for its Second Reading in the House of Commons on Monday 18 October. **We are urging MPs to raise concerns about Part 1 of the Bill which will reduce Judicial Review’s impact and allow public authorities to avoid consequences when they act unlawfully – including by writing directly to the Secretary of State for Justice**

**About**

This briefing has been produced by Amnesty International UK as part of the Week of Action October 2021.

For further detailed information about any of the issues covered in this briefing, please contact parliament@amnesty.org.uk