Externalisation of Migration and Impact on the Human Rights of Migrants: Evidence from the Jesuit Refugee Service UK

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About JRS UK

The Jesuit Refugee Service (JRS) UK works with refugees and forcibly displaced people in over 50 countries worldwide. JRS in the UK specifically works with people who have been refused asylum and are destitute, and people in immigration detention. We provide services for destitute asylum seekers including free food, clothing and toiletries, accommodation, casework, legal support, classes and activities. We also run detention outreach services to Heathrow Immigration Removal Centre, and post-detention support. JRS UK previously ran outreach to the asylum camp at Napier Barracks, Folkestone, where we supported recently arrived asylum seekers.

Introduction

This submission addresses externalisation of migration focusing on asylum and related processes:

- **UK border control measures in France**.
- **Plans, both previous and prospective, to outsource asylum processing and refugee protection.**
- **Plans for 'return hubs' in third countries.**

Externalisation of UK border control is well-established but also fast developing. Currently, plans for asylum outsourcing and return hubs are both prospective; we place these plans in the context of the UK's legal framework and policy landscape.

UK border control measures in France

The UK government coordinates border control with the French government along its northern coast, with the ostensible aim of preventing people from crossing the Channel to the UK, and as such is externalising border control to France. JRS UK submitted evidence about the deadly impact of heavily securitising the Channel to the Special Rapporteur's investigation into Missing Migrants. This evidence is relevant here, and speaks to how externalised border control is disproportionately likely to operate without concern for human rights or even human life.

As part of this wider framework, the UK government operates five Short-Term Holding Facilities (STHFs) in Northern France. People attempting to cross the Channel to claim asylum in the UK are often detained in these centres, sometimes before being handed over

to French authorities. Being 'caught between' France and the UK, these centres operate without transparency, posing a high risk of arbitrary detention with uncertain impact on a future asylum claim. In November 2024, JRS UK visited northern France to speak with people there who are hoping to come to the UK to seek asylum. We heard from several people who had been held in STHFs in Northern France and found:

- A routine lack of explanation about what is happening. When people had been held in STHFs in Northern France, it was common for them not to know whether they were run by French or British authorities, and in general not to understand why they had been held there.
- People are not given any documentation recording their detention, or copies of any records taken when they were detained. As such, people are unaware of the information that the UK government holds on them, or any significance this might have in a future asylum application in the UK or France.

A subsequent report by His Majesty's Inspectorate of Prisons (HMIP) found safeguarding failures and poor oversight of use of force in UK STHFs in France.[1]

Plans to outsource asylum processing

Background: the Rwanda scheme

The previous government had made arrangements to forcibly and permanently transfer people seeking asylum to Rwanda. JRS UK's detention outreach team supported people who were told that they were going to be sent to Rwanda. They were from countries with high grant rates – i.e. they were very likely to be recognised as refugees if their claims were considered in the UK – and many were survivors of torture and other profound trauma. The prospect of the Rwanda scheme had a horrendous impact.

The scheme was ruled illegal by the UK Supreme Court on the basis that people transferred would not be safe, there being too great a risk of onward *refoulement*.[2] The previous government passed the Safety of Rwanda Act 2024 attempting to circumvent this judgement, but did not transfer anyone prior to the General Election. The current government has abandoned this plan and the *Border Security, Asylum and Immigration Bill*, going through parliament at the time of writing, would repeal the Safety of Rwanda Act. This is very welcome. However, this government has stated that it would like to pursue other schemes for outsourcing asylum processing. This is a worrying failure to learn lessons from the previous government's mistakes.

[1] HMIP accompanied by the Contrôleur Général des Lieux de Privation de Liberté, *Report on an unannounced inspection of the UK short-term holding facilities at France-UK Borders, 4-6 November 2024* (24th February 2025).
[2] House of Commons Library, research briefing, *The UK-Rwanda Migration and Economic Development Partnership* (29th May 2024).

UK government should take responsibility for processing UK asylum claims

Outsourcing of asylum processing by richer countries to poorer countries represents a fundamental failure on the part of rich countries to take a share in responsibility for hosting refugees. First, countries that are better resourced to process asylum claims should not seek to offload their responsibility for doing so. Second, doing so involves transferring people seeking asylum, many of whom are extremely vulnerable and have recently arrived in the country where they are claiming asylum – in this case, the UK - after deep trauma and an arduous journey. JRS UK have witnessed the re-trauma this causes, through our support of those facing removal to Rwanda.

Serious risk of human rights abuses

Out-of-country processing has resulted in severe human rights abuses in the rare other contexts where it has been attempted. Australia's offshore detention regime on Nauru and Manus Islands, in Papua New Guinea, meant years of human suffering. Since the policy began in 2013, adults and children have suffered inhumane treatment and medical neglect, and years of indefinite detention led to self-harm, widespread suicidal ideation, and suicide.[3]

Return Hubs

The UK government has announced plans to establish 'return hubs' in Southeast Europe for people refused asylum in the UK;[4] although at this time it appears that the government has not secured agreement with any third country to host these.

The use of return hubs cannot be justified: if it is feasible to remove someone in the UK to their country of origin, there is no good reason to send them to be detained in a third country prior to their eventual return. If it is difficult to remove someone, then by removing them to a third country either 1) it will also be difficult there, and they will spend an extended period in detention in a country to which they are completely unconnected or 2) it will be easier to remove them via a third country by circumventing safeguards and due processes that may be creating a barrier to their removal from the UK – which would be very dangerous.

The prospect of return hubs therefore threatens to undermine human rights on many levels:

Obstructing access to justice, including asylum

There is a serious risk that people will be sent to return hubs without sufficient opportunity to challenge this, and that it will then be very difficult for them to access justice in return hubs. Indeed, collaborative research by JRS offices Europe, including JRS UK, demonstrated that access to justice in immigration detention is seriously deficient across Europe.[5] This creates

[3] Australia: Appalling Abuse, Neglect of Refugees on Nauru | Human Rights Watch.
[4] Government considering sending failed asylum seekers to Balkans - BBC News.
[5] JRS Europe, *Detained and Unprotected: access to justice and legal aid in immigration detention across Europe* (July 2024).

a serious risk of unlawfully removing people, and specifically, of *refoulement* in contravention of the Refugee Convention.

JRS UK's detention outreach team regularly supports individuals facing hurried removal and seriously struggling to access due process. This includes individuals who had been unable to claim asylum, despite being legally entitled to do so, and presented with removal directions. Had it not been for JRS UK's intervention, they would have been removed without access to the asylum process. It is likely that this problem would be amplified by the existence of return hubs, and compounded within them.

Risk of *refoulement* and extended detention of refugees

Many people targeted to be sent to return hubs are likely to have been wrongly refused asylum. The UK's asylum determination process is badly broken; there is a well-evidenced culture of disbelief and refusal within Home Office decision-making,[6] with around half of refusals by Home Office decision-makers being overturned on appeal to the courts.[7] This situation is compounded by a crisis of non-availability of asylum and immigration legal aid across the UK.[8] The crisis has reached the point where it is very difficult, and often impossible, for asylum seekers to find a legal advisor, or for support organisations to refer service-users to legal advisors – a reality which JRS UK routinely faces. Without good legal advice, it is nearly impossible to navigate the asylum system, so the legal aid crisis significantly increases the likelihood of erroneous refusals. Moreover, asylum seekers are disproportionately likely to be unrepresented at appeal. Under mounting pressure, some providers of legal aid asylum advice have stopped providing advice for appeals, including the biggest provider in the UK.

Over decades, JRS UK has worked with many people refused asylum and declared 'appeal rights exhausted' only to be subsequently recognised as refugees after pursuing fresh asylum claims. Across the UK, this happens to thousands of people every year – to a total of 14,378 people between 2019 and 2023.[9] These numbers represent people who had been refused protection they badly needed and dubbed "failed asylum seekers." Many, when refused, faced the prospect of forced removal to a country where they would be in danger and lived in daily fear of this. Following refusal, all support for asylum seekers is cut off, and, already banned from working or claiming public funds, people refused asylum are made completely destitute

[6] Freedom from Torture, *Lessons not learned: the failures of asylum decision-making in the UK* (September 2019); JRS UK, *Being Human in the asylum system: a fresh perspective drawn from Catholic Social Teaching* (April 2021), pp.10-16.
[7] 48% in 2024, a figure almost the same as the previous year, according to the UK government's published statistics, available here: How many people claim asylum in the UK? - GOV.UK.
[8] Joint Briefing from 71 organisations, "Securing access to justice: the need for legal aid in immigration" (September 2024). See further Refugee Action and NAACOM, *Tipping the Scales: Access to justice in the asylum system* (2018), Jo Wilding, *Droughts and Deserts: A report on the immigration legal aid market.* (2019), Jo Wilding, *A Huge Gulf: Demand and Supply for Immigration Legal Advice in London* (2021).
[9] This data was provided by the UK Home Office to the NGO NACCOM in response to Freedom of Information Request (FOI) 2023/05756. The UK government does not publish statistics on fresh claims.

and homeless, facing a daily struggle to meet basic needs and vulnerable to exploitation, abuse, and serious deterioration of their health.[10]

This is a very difficult context in which to navigate the asylum system, secure legal advice and gather evidence for a fresh asylum claim, as JRS UK's destitution support team habitually observes. Under government plans, people in this situation could be sent to return hubs, where their ability to access the asylum process would be further reduced. The likelihood of reduced access to asylum for refugees entails a serious risk of onward *refoulement*. Even in cases where *refoulement* does not occur, there is a very high risk of refugees being trapped in detention for very long periods in return hubs.

Risk of wider human rights abuses

There is a serious risk that people will be subjected to human rights abuses in return hubs. The points raised with reference to human rights abuses in asylum outsourcing largely apply here: across contexts where asylum and migration procedures have been externalised, the impact on human lives has been profoundly negative.

It is important context that human rights abuses are a longstanding problem across the UK's detention estate. This was powerfully highlighted by the Brook House Inquiry report, published in September 2023. The report examined abuse at Brook House occurring over several months in 2017. It found numerous instances of violent abuse against detained people, and routine, layered failures to care for and safeguard them, alongside a "toxic" and "dehumanising" culture, and observed that these problems were not isolated or confined to Brook House, and often persisted at the time of writing.[11] JRS UK's May 2024 report, *After Brook House: continued abuse in immigration detention*, demonstrated that the Brook House Inquiry's findings continued to be echoed in people's experiences of immigration detention across the UK.[12] The previous government issued a brief response to the Brook House Inquiry, deeming the problems identified there to be largely historic.[13] The current government has also not substantively responded to the Brook House Inquiry, nor has it set out a plan for fixing the problems identified, despite the strong evidence that these are ongoing. The government's failure to take this issue seriously underlines concerns that they are unlikely to ensure adequate safeguarding and respect for rights in any 'return hubs', even if this were theoretically possible.

[10] As detailed in JRS UK *Destitute and in Danger: people made homeless by the asylum system* (2024).
[11] *The Brook House Inquiry Report: a public inquiry into the mistreatment of individuals detained at Brook House immigration removal centre*, Kate Eves, chair of the Brook House inquiry (September 2023).
[12] JRS UK, *After Brook House: continued abuses in immigration detention* (May 2024).
[13] Government response to the public inquiry into Brook House Immigration Removal Centre (accessible) - GOV.UK (www.gov.uk).

Concluding Remarks

The UK government has a well-established practice of externalising control of its southern border, and human rights abuses are frequent in this context. Now, it is seeking to externalise asylum procedures, from processing to return. This poses a very serious risk to the human rights of migrants, including refugees, and indeed threatens to place asylum and migration outside of a rights-based framework or rule of law.