



Nationality and Borders Bill 2021-22 House of Lords- Second Reading Briefing

Background

[Families Together](#) is a coalition of over 90 organisations who support the expansion of the UK's refugee family reunion rules, including a number who work directly with refugees in the UK to support their applications for family reunion.

The deaths of 27 people in the channel on the 24th of November 2021 was a stark reminder of the desperate situation people looking for safety find themselves in. No one chooses to cross the channel, the busiest shipping lane in the world, unless they have no other option. They have fled their home countries fleeing war, violence, persecution, and have undertaken unimaginable journeys to find safety in the UK.

The proposals outlined in the Nationality and Borders Bill do not increase routes that would give people an alternative to putting their lives at risk to reach safety, and do not make it easier for separated families to reunite in the UK. Instead, they restrict access to refugee family reunion and will criminalize and punish those who come to the UK via irregular routes. The proposals will put men, women and children at further risk, at further harm.

Refugee Family Reunion

Refugees in the UK often find themselves separated from their families following brutal experiences of conflict and persecution. Refugee Family Reunion is currently the most accessed safe route which allows family members to come safely to the UK to reunite with their sponsor, the family member already in the UK. In the last five years, over 29,000 people have arrived in the UK through the route of family reunion, 90% of whom were women and children. Restrictions to family reunion rights laid out in the Nationality and Borders Bill will leave families who have been separated by war, violence and persecution facing dangerous journeys in order to be together again. When the New Plan for Immigration was published, the Home Secretary stated "We should ask ourselves, where are the vulnerable women and children that this system should exist to protect?". Yet, these restrictions to family reunion rights will predominantly impact women and children. Therefore, these vulnerable groups whom the Home Secretary vowed to protect will be left in an even more vulnerable, precarious and risky situation.

The Nationality and Borders Bill effectively creates a discriminatory two-tier asylum system that undermines how the UK fulfils its international obligations to those seeking asylum, by criminalising and punishing refugees arriving in the UK. Clause 11 of the bill proposes to categorise refugees into two distinct groups, with different rights depending on how they have

arrived in the UK. This includes whether their family members will be granted family reunion, the length of leave given and whether a no recourse to public funds (NRPF) condition is attached.

Any restriction on family reunion rights will result in family members being left with the heart-breaking choice to either stay permanently apart, or risk their lives on treacherous journeys in order to reunite. Contrary to the proposals in the bill, all refugees should have full and equal access to their rights regardless of how they enter the UK in accordance with the Refugee Convention, which makes no allowance for such discrimination, and with international human rights law, which in principle prohibits such inequality. This includes full and equal access to family reunion rights.

Family members overseas are often left living in precarious and dangerous situations whilst they wait to be reunited with their sponsor in the UK. For the vast majority of those people, there is no viable safe alternative for them to be reunited with family members. Limiting this route therefore risks incentivising more dangerous journeys – made by people seeking to live with their family members – rather than reducing them. Studies show that family reunion boosts integration outcomes and allows those who've come to the UK seeking safety to rebuild their lives here, together. Research has highlighted that mental health struggles including anxiety, depression, guilt and social isolation are reported amongst those who are separated from their families. Being reunited with family members leads to positive integration outcomes and provides a support system which is vital when integrating into a new community.

Current Refugee Family Reunion Rules

Eligibility for refugee family reunion is set out in the UK's immigration rules. Under these rules, adult refugees in the UK can be joined via family reunion by their spouse/partner and their dependent children who are under the age of 18.

While the family reunion guidance does allow cases not covered by the rules to be granted in exceptional circumstances, in reality this rarely happens. Unlike adult refugees, children who are in the UK alone and who have refugee status have no right to be reunited with even their closest family members. Because of this rule, children living in safety in the UK must live without their family in perpetuity.

In the recent House of Commons debate on Afghanistan, Caroline Nokes MP, former immigration minister, advocated for children over 18 to be allowed to reunite with their family. She rightly reminded the House, "*Our children do not suddenly become independent because they pass a day over their 18th birthday*".

The Nationality and Borders Bill - Proposed Changes to Refugee Family Reunion

The Bill proposes that for someone who is recognised as being in need of international protection, the type of leave and the entitlements that come with it will depend on how that person entered the UK. This will include a restriction on their rights to refugee family reunion under the immigration rules. These proposals pose a huge threat to refugee protection in the UK including by completely undermining current refugee family reunion provisions.

Clause 11 of the bill categorises refugees into two groups, Group 1 and Group 2. Group 1 refugees are those who arrive in the UK directly from a country or territory where their life or freedom was threatened, have presented themselves to the authorities without delay or where a refugee has entered or is present in the United Kingdom unlawfully, they can show good cause for their unlawful entry or presence. There is no further detail provided on what a 'good cause' would be.

Group 2 refugees are those who don't fit into the above category. This includes those arriving via irregular routes such as by lorry or by boat or those arriving after traveling through what the Government considers to be "safe third countries."

The Bill gives the Secretary of State or an immigration officer the power to treat Group 1 and Group 2 refugees differently with regards to family reunion rights. There are no details in the bill or the wider documentation on what the family reunion rights for Group 2 refugees would be, other than to say that temporary protection will "restrict" those rights. Tom Pursglove, Parliamentary Under Secretary of State at the Home Office, provided some clarity on how this would be implemented in a letter to members of the Bill Committee. He wrote that "we will not permit Group 2 refugees to reunite with families unless a refusal would be a breach of our international obligations under Article 8 of the European Convention on Human Rights (ECHR). Our policy on Article 8 is already clear".¹

Far from being clear, the Home Office's current guidance on Article 8 runs to 100 pages.² This will make the refugee family reunion process far more complicated, undoing much of the positive work undertaken by the Home Office over recent years to make applications more straightforward. It also risks significantly reducing the number of families able to successfully reunite.

We strongly oppose the introduction of this differential treatment and are deeply concerned that if this clause becomes law, the number of family reunion visas issued will decrease substantially, and a vital safe route to the UK will be weakened. More people have been able to safely come to the UK via family reunion than resettlement routes. Over the last 5 years 29,834 people arrived in the UK under family reunion, compared to 23,665 people arriving under the UK's resettlement schemes³. As previously stated, 90% of family reunion visas are granted to women and children. While the Home Office has not provided any impact assessment setting out what

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[http://data.parliament.uk/DepositedPapers/Files/DEP2021-0840/Minister Pursglove 26 October Committee Session Letter.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2021-0840/Minister_Pursglove_26_October_Committee_Session_Letter.pdf)

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1026201/Family_life_as_a_partner_or_parent_private_life_and_exceptional_circumstances.pdf

3

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987777/asylum-summary-mar-2021-tables.ods

the impact of the changes would be on family reunion, the government proposals would prevent thousands of vulnerable women and children from entering the UK, removing a safe and legal route from some of the most vulnerable persons.

Evidence from Australia highlights that barriers to family reunion for those with Temporary Protection Visas (TPV) led to an increase of women and children making dangerous Journeys.

The report by the Kaldor centre⁴ states that:

'There is little evidence that introducing temporary protection measures have a deterrent effect. Indeed, after TPVs were introduced by the Howard Government, there was an increase in the number of women and children who arrived in Australia by boat. According to personal accounts, this was because the TPV regime precluded family reunion. The ineffectiveness of TPVs is the very reason that they were abolished by the Rudd Government.'

Although the Government's plans commit to increasing safe and legal routes, this proposal risks restricting access for many families, when the Government should instead build upon and widen the existing rules.

Instead of restricting access to family reunion, the bill could be an opportunity to expand this vital safe route by:

- Expanding the criteria of who qualifies as a family member for the purposes of refugee family reunion allowing adult refugees in the UK to sponsor their adult children and siblings who are under the age of 25, and their parents.
- Giving unaccompanied refugee children in the United Kingdom the right to sponsor their parents and siblings who are under the age of 25 to join them under the refugee family reunion rules.
- Reintroducing legal aid for all refugee family reunion cases.

The Nationality and Borders Bill is an important opportunity to make the UK's asylum system fairer, more humane and more efficient. At the heart of this should be expanding safe and legal routes to the UK, including making it easier for all refugee families to reunite. All refugees should have full and equal access to family reunion rights, regardless of how they enter the UK.

During the Committee and Report stage in the House of Commons, a number of amendments were tabled to protect and strengthen family reunion rights for all refugees. Sadly these amendments were unsuccessful and the government has failed to provide adequate assurance to address our concerns.

Case Study

I came to the UK with my children through a family reunion visa when my husband was granted refugee status. I am originally from Syria. Together with my family because of the

⁴ <https://www.kaldorcentre.unsw.edu.au/>

conflict in our country we were forced to flee to Egypt. My husband, after spending 3 years with us, continued his asylum journey to search for a safe place for his family.

Our vulnerability further increased when he left. In Egypt we lived in constant fear; there were times where thieves broke into our house, and some people tried to kidnap my son. At the time our son was very young. We increasingly felt insecure both at home and in the streets. My husband came to the UK by sea. He was granted refugee status after about 3 years waiting in the asylum system. I am grateful for the family reunion process which has enabled us to be a family again.

Being separated from my husband heavily impacted our relationship. In the three years we spent away from each other, I worked overtime and my kids would spend most of the day without me, and a big part of their childhood lacked their parents. Our children also didn't understand why their father had to be away from us for so long. That added to their feelings of abandonment and lack of safety.

The family reunion had a great impact. We felt a type of safety we haven't experienced before. My kids walked comfortably in the street; my son didn't squeeze on my hand the entire time when we're in public. You can see from their behavior that they felt how safe their house and environment is now.

The UK government should do more to expand the family reunion policy and increase safe routes for people escaping persecution to seek sanctuary. The new Immigration plan, if implemented through its Temporary Protection visa, is going to separate refugee families for an indefinite time and will negatively affect children and their parents.

- Mada, Voices Network Ambassador

Call To Action

- **During the Second Reading debate, ask the Home Office Minister what assessment the department has made of the impact the bill will have on the number of family reunion visas granted each year.**
- **Oppose the introduction of differentiated treatment in speeches at Second Reading.**
- **Make the case of the importance of expanding refugee family reunion to provide a safe route for people to reach the UK.**