



Government Immigration Bill 284 (Session 2022-23)

House of Commons Report and Third Reading, 26 April 2023

Introduction

Amnesty International UK (AIUK) is profoundly concerned at the UK Government's most recent Immigration Bill. This proposed legislation is yet another huge step towards the UK completely abandoning its responsibilities under international law to respect and protect the universality of human rights. If passed, this Bill will harm refugees, victims of human trafficking, rob British people of their rights to British citizenship and will set a dangerous example to other countries. It will do this all, ultimately at a huge human, moral and financial cost.

To date, the Government has effectively avoided any real parliamentary scrutiny of this Bill. Taking the Bill in a Committee of the whole House has ensured no line-by-line examination. Ministers have avoided the need to reply to focused debate on each of the Bill's specific provisions. Meanwhile, the factual and legal context of this Bill continues to be, by many in the Chamber, widely misunderstood, misrepresented, or largely ignored.

This Bill should never have been introduced - it is entirely unsalvageable and we urge parliamentarians to reject it in its entirety. We ask that MPs give strong consideration to the issues found in this short briefing and seek to raise them in the Chamber during these crucial remaining Commons stages.

Keeping to the facts

Many of those in favour of the Bill have relied on misinformation and harmful rhetoric to push forwards with this proposed legislation. AIUK are deeply concerned about this and urge MPs to expose this by raising the following points during these final Commons stages:

- The UK is, and has long been, party to a body of international law along with other countries, by which it has promised to respect human rights including refugee law and which it (at least formally) expects others to abide by.
- That expectation is, however, dependent on a global asylum system that requires all to share responsibility.ⁱ The UK's expectation that others – already taking more and, in many instances, far more responsibility than does this countryⁱⁱ – should continue to abide by promises and obligations the UK is to reject is unfair, unsustainable and liable to do great damage to the system on which the UK relies.ⁱⁱⁱ
- Refugees are entitled to seek and receive asylum in any country, near or far.^{iv} Some have strong reasons for seeking asylum in the UK, while others have little choice about their destination country.
- A person must first reach the UK before they can seek asylum here,^v and there is no visa to come for that purpose.^{vi} In any case, refugees must often travel by unofficial or irregular routes which are often dangerous and controlled by people smugglers.
- Since December 2018, the backlog of asylum claims awaiting determination for periods in excess of 6 months has, in four years, risen from 16,555 to 109,641.^{vii} This backlog is very largely a result of the Government's response to people arriving by boat, a response which has increasingly been to delay or even refuse to decide the claims received by the UK.
- The policy to delay or refuse to decide asylum claims – which was made concrete in immigration rules laid in December 2020^{viii} and made law by last year's Nationality and Borders Act 2022^{ix} – is set to be significantly worsened in this Bill.^x It will apply to nearly every refugee seeking asylum from March 2023, the date the Bill was introduced.

- For all the excitement and hostility stirred by the visibility of journeys by small boat across the Channel, the fact of these journeys and their increase is almost entirely explained by a displacement from less visible journeys to the UK.^{xi} Rt Hon Sajid Javid MP was, in late December 2018, the first Home Secretary to respond to the visibility of this displacement and, from that moment, ministers have allowed or encouraged a false sense that the UK was facing some kind of threat.^{xii}
- In support of this policy, and to distract from its manifest catastrophe, Ministers have misrepresented the circumstances of both people seeking asylum and victims of human trafficking – even to the extent of making claims that are plainly contradicted by Government data.^{xiii}

Harmful rhetoric

The Home Secretary has described the arrival of refugees via the English Channel as an “invasion”,^{xiv} claimed it was her “dream” to expel refugees to Rwanda^{xv} and denied knowledge of killings of refugees by security forces in that country while immediately, without reflection, declaring that learning of this makes no difference to her assessment of the country’s regime.^{xvi} Since Committee stage, the Home Secretary has been called out – including by senior Conservatives - for her racist and harmful rhetoric when discussing the Bill and the broader context in which it sits.^{xvii}

AIUK’s goal is for every one of us to be treated with dignity and respect. That must apply regardless of our status in immigration or nationality law. We are therefore deeply concerned that this language is being used to intentionally stir-up division and hate against people, who are already politically and socially marginalised and would be even more alienated by this Bill if passed.

The question for Parliament – whatever the language any individual member or party frontbench chooses to adopt or avoid – is whether it will sanction the passing of Government legislation that is not merely underpinned by that rhetoric but seeks to manifest its indecency and inhumanity in an Act of Parliament.

Summary of concerns with Bill

Asylum

The primary purpose of this Bill is to effectively shut down the UK’s asylum system. It is explicit in barring the Home Secretary from considering the asylum or human rights claim of any person caught by its provisions. Instead, she will be required to expel them from the UK, however impractical or harmful that may be to the person, their partner or child.^{xviii}

Access to justice, legality and human rights

This Bill undermines international law, along with domestic constitutional and legal principle. At its worst, it purposefully seeks conflict with the European Court of Human Rights; excludes the higher courts in England and Wales, Scotland and Northern Ireland; generally excludes any real judicial oversight over detention for 28 days, including where children may be detained; allows improper executive control or influence over judicial functions; removes domestic human rights protections from the most politically marginalised people whose very lives depend on those protections; and arbitrarily deprives British people’s citizenship rights.^{xix}

Legal proceedings

This Bill essentially bans the Home Secretary from ever considering the rights, needs and individual circumstances of any refugee, victim of human trafficking or other person (of whatever age), who may be brought or come to the UK without permission. It establishes a highly complex and extremely limited process by which the Home Secretary can be asked to check whether her intention to expel someone will quickly lead to serious and irreversible harm to that person or whether she may have wrongly identified them as someone to whom her expulsion powers apply. That process is highly controlled by the Home Secretary, with very little scope for any judicial oversight – possibly by a first-tier tribunal employment law judge. The intention is simple – to effectively exclude anything that may prevent someone being expelled.^{xx}

Modern slavery

This Bill would intentionally switch off vital protections for victims of modern slavery. Even more alarmingly, it will create the very conditions in which modern slavery thrives – an underclass of people, many of whom refugees, too fearful to turn to the authorities (or anyone who may report to them) and so extremely vulnerable to all forms of human exploitation.^{xxi}

British citizenship

This Bill proposes to exclude some British children from their statutory rights to be registered as British citizens. This applies to children born in the UK who have lived here continuously to at least the age of ten; and to children born in the UK whose parent has become a British citizen or been permitted to stay here permanently. It also applies in various circumstances to children born to British citizens overseas.^{xxii}

ⁱ UNHCR has inevitably emphasised this in its statements on this Bill; and is reflected in the Preamble to the Refugee Convention.

ⁱⁱ As Home Office immigration asylum quarterly statistics, Eurostat data and UNHCR refugee data confirm.

ⁱⁱⁱ A point UNHCR has rightly emphasised in its statements on this Bill.

^{iv} Article 14 of 1948 Universal Declaration of Human Rights does not restrict the right to seek asylum to any particular countries; and the 1951 UN Convention relating to the Status of Refugees prohibits penalisation of refugees for crossing borders without permission for the purpose of seeking asylum (including where they may cross multiple borders).

^v This has long been expressly stated in Home Office policy; and was made law by Nationality and Borders Act 2022, section 14 by designating certain places all expressly “in the United Kingdom” as the sole places where an asylum claim may be made.

^{vi} Immigration rules require visas to travel from all countries from which any significant number of refugees come, provide no visa for the purpose of seeking asylum and provide for refusal or cancellation of any visa if applied for a purpose for the rules to not provide (including seeking asylum).

^{vii} Home Office immigration asylum quarterly statistics, February 2023

^{viii} See Amnesty UK correspondence and warning to Home Office in December 2020:

<https://www.amnesty.org.uk/resources/amnesty-uk-letter-immigration-minister-ministers-reply-regarding-immigration-rules>

^{ix} Nationality and Borders Act 2022, section 16

^x Clause 4 bars consideration of a claim (so removing any possibility of the Home Secretary ever admitting it to her decision-making process).

^{xi} As indeed, Rt Hon Theresa May explained at Second Reading: *Hansard* HC, 13 Mar 2022 : Col 592

^{xii} Rt Hon Sajid Javid referred to the arrival of a small number of people by boat as a major incident in December 2018:

<https://news.sky.com/story/english-channel-migrant-crossings-a-major-incident-sajid-javid-11593555>

^{xiii} E.g. the PM was formally rebuked over this, see: <https://www.theguardian.com/uk-news/2023/mar/25/sunak-used-incorrect-asylum-backlog-figures-statistics-watchdog-says>

^{xiv} *Hansard* HC, 31 October 2022 : Col 641

^{xv} As reported by *The Independent*: <https://www.independent.co.uk/news/uk/politics/suella-braverman-rwanda-dream-obsession-b2195296.html>

^{xvi} As reported by *BBC News*: <https://www.bbc.co.uk/news/uk-politics-65153807>

^{xvii} As reported by *The Guardian*: <https://www.theguardian.com/world/2023/apr/13/senior-conservatives-hit-out-at-suella-bravermans-racist-rhetoric>

^{xviii} See our joint briefing on asylum with Migrant Voice for Committee stage: <https://www.amnesty.org.uk/resources/amnesty-international-uk-and-migrant-voice-asylum-briefing-house-commons-committee>

^{xix} See our briefing on access to justice for Committee stage: <https://www.amnesty.org.uk/resources/amnesty-international-uk-access-justice-briefing-house-commons-committee-government-bill>

^{xx} See our briefing on legal proceedings for Committee stage: <https://www.amnesty.org.uk/resources/amnesty-international-uk-legal-proceedings-briefing-house-commons-committee-government>

^{xxi} See our joint briefing on modern slavery with Migrant Voice for Committee stage:

<https://www.amnesty.org.uk/resources/amnesty-international-uk-and-migrant-voice-modern-slavery-briefing-house-commons>

^{xxii} See our joint briefing on citizenship rights with Project for the Registration of Children as British Citizens (PRCBC) and Coram Children’s Legal Centre (CCLC) for Committee stage: <https://www.amnesty.org.uk/resources/amnesty-international-uk-prcbc-cclc-citizenship-briefing-house-commons-committee-1>