



## Government Immigration Bill, Session 2022-23 (HL Bill 133)

### British citizenship

The Bill seeks to remove citizenship rights of people whose identity and connection as British is established by Act of Parliament.<sup>1</sup> The people it will deprive of their citizenship rights are all children. The rights to citizenship that this Bill is to take away are provided by the British Nationality Act 1981 for the purpose of making this nation's citizenship the possession of all British people connected to the United Kingdom. Disenfranchising British children in the way this Bill intends is, therefore, an affront to any true notion of citizenship and to any constitutional, democratic or political legitimacy that depends upon it.<sup>2</sup>

**At Report stage in the other place, the Bill was amended to take out a provision that would have deprived children born in the UK, on or after 7 March 2023, of their citizenship rights if a parent had arrived or entered the UK in a way that is targeted by this Bill. Taking out that provision was important recognition that sacrificing the citizenship rights of children, who are British by connection to the UK, for any purpose pursued by this Bill is wholly illegitimate. Nonetheless, for reasons explained in this briefing, the provision that was removed was only one example of that illegitimacy. The Bill still seeks to arbitrarily and wrongly deprive British children of their rights to citizenship of the UK.**

We emphasise citizenship rights. Whereas we do not underestimate the harm that the Bill intends for people who would wish to naturalise as British citizens, naturalisation is a separate matter that we do not address in this briefing.<sup>3</sup>

### Children born overseas to British citizen parents

The first group of people the Bill would deprive of their entitlement to citizenship is solely made up of people born overseas to British citizen parents. This group is solely

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<sup>1</sup> Many of the relevant citizenship rights are explained in the PRCBC booklet *Children and their Rights to British Citizenship*, which is available [HERE](#):

<sup>2</sup> More is available from our joint submission to the Joint Committee on Human Rights for its legislative scrutiny of this bill (but we note that this submission pre-dates the amendment of the Bill at Commons' Report): <https://committees.parliament.uk/writtenevidence/120012/pdf/>

<sup>3</sup> Registration concerns the right to citizenship of a British person as identified by the British Nationality Act 1981. Naturalisation, by contrast, concerns the way in which a non-British person of full age and capacity may, if the Home Secretary thinks fit, be permitted to become a British citizen and thereby make their connection with this country.

comprised of children. The deprivation of the child's citizenship rights is to be done by the Bill *because* of the actions of someone else (the adult that sent or brought the child to the United Kingdom, including where that was done for purposes of exploiting the child). The child's identity, personhood and rights are effectively ignored.

The deprivation of the child's citizenship rights is to be done by the combined effect of clauses 30(3) and 31(1)(a).<sup>4</sup> Every child caught by the joint operation of these two provisions must be someone, who at the time of their birth had at least one British citizen parent.<sup>5</sup> They must also be children who are entitled by the British Nationality Act 1981 to be registered as British citizens.

### **Children brought to the United Kingdom**

This second group of people the Bill would deprive of their citizenship rights is also solely comprised of children brought to the United Kingdom. The British Nationality Act 1981 provides the Secretary of State with an unfettered discretion to register any child as a British citizen.<sup>6</sup> A vital purpose of this is to ensure that children who are British by identity and connection are not excluded from citizenship merely because Parliament has been unable to precisely specify every single situation in which that identity and connection is established.

As with the previous examples, the deprivation of the child's citizenship rights is to be done by the Bill *because* of the actions of someone else (the adult that sent or brought the child to the United Kingdom, including where that was done for the purposes of exploiting the child). Again, the child's identity, personhood and rights are effectively ignored.

The deprivation of the child's citizenship rights is to be done by the combined effect of clauses 30(3) and 31(2)(a)(i).<sup>7</sup> The only children caught by the joint operation of these two provisions are children who, but for the Bill, would have established that their connection is clearly to the United Kingdom, generally on the basis that the child's future clearly lies in the United Kingdom. This is, therefore, yet further example of an offensive and dangerous attitude underpinning this Bill to citizenship and rights to it, not to mention to children.

### **Other British nationalities**

There are similar provisions relating to people who are British by reason of connection to other British territories and with entitlements to citizenship of those British territories – particularly British overseas territories citizenship and British overseas citizenship. Although we have not addressed these directly, the inclusion of these entitlements within the scope of the Bill's provisions for depriving people of citizenship rights is offensive for the same or similar reasons described in relation to British citizenship.

### **Conclusion**

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<sup>4</sup> These provisions combined relate solely to section 3(2) and (5), British Nationality Act 1981

<sup>5</sup> A requirement of both section 3(2) and (5), British Nationality Act 1981

<sup>6</sup> Section 3(1), British Nationality Act 1981

<sup>7</sup> These provisions combined relate solely to section 3(1), British Nationality Act 1981

With all due respect to ministers, the inclusion of citizenship rights within the scope of this Bill is profoundly misconceived and harmful. It is especially harmful to children. However, it is equally harmful to British citizenship and the very purpose of that citizenship.<sup>8</sup> The relevant provisions in this Bill ought to be swiftly abandoned. Moreover, the fact of their ever having been included ought to emphasise the urgent need for Parliament and Government to radically review and revise their understanding and treatment of rights to British citizenship more generally – for the good not only of individual people but for the legitimacy and purpose of the citizenship of this country.

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<sup>8</sup> That purpose is more fully discussed in the PRCBC commentary on the *Hansard* record of the parliamentary debates on the bill that became the British Nationality Act 1981, which is available here: [https://prcbc.files.wordpress.com/2019/07/commentary\\_-hansard-bna-1981- registration aug-2018-2.pdf](https://prcbc.files.wordpress.com/2019/07/commentary_-hansard-bna-1981- registration aug-2018-2.pdf)