



Joint briefing on the Illegal Migration Bill for Commons consideration of Lords amendments, July 2023 – Amendment on compliance with international obligations

1. The Illegal Migration Bill poses a singular and catastrophic threat, not only to the rights of migrants, including refugees and survivors of trafficking and modern slavery, but to the rule of law, the UK's continued ability to comply with its international obligations, and its very ability to provide international protection. Roundly condemned by cross-party parliamentarians, the UNHCR, the Council of Europe, numerous UN Special Rapporteurs, the governments of the devolved nations, the Children's Commissioner for England and Wales, faith leaders, and countless civil society groups, the Bill embodies the UK Government turning its back on those in search of safety, protection and a better life.
2. As a coalition of more than 60 organisations working across the UK, we reject the Illegal Migration Bill – and its fundamental assault on human rights – in its entirety. **We urge Parliamentarians to support the following Lords Amendment to mitigate its worst effects.**

Lords Amendment tabled by cross-party peers Baroness Chakrabarti (Labour), Lord Paddick (Liberal Democrat), Lord Etherton (Crossbench), and Lord Kirkhope of Harrogate (Conservative):

Leave out Clause 1 and insert the following new Clause—

“Introduction
 Nothing in this Act shall require any act or omission that conflicts with the obligations of the United Kingdom under—

- (a) the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms;
- (b) the 1951 UN Convention relating to the Status of Refugees including the Protocol to that Convention;
- (c) the 1954 and 1961 UN Conventions on the Reduction of Statelessness;
- (d) the 1989 UN Convention on the Rights of the Child;
- (e) the 2005 Council of Europe Convention on Action against Trafficking Human Beings.”

Briefing

3. **Clause 1 of the Illegal Migration Bill is an extreme, provocative, and highly unusual interpretative provision.** It requires any and all measures in the Bill, and secondary legislation made under it, to be interpreted and applied in light of the requirement placed on the Home Secretary to remove people, including children and victims of trafficking. This is the case even where removal violates human rights and international law.
4. **Clause 1 also disapplies section 3 of the Human Rights Act 1998 (HRA).** Section 3 of the HRA places a duty on courts and public bodies to interpret laws where possible in ways that respect human rights – it is an essential tool for the legal protection of human rights in the UK.¹ Disapplying section 3 HRA for those affected by the Bill is an unprecedented and alarming proposal that would undermine the universality of human rights. It would create a two-tiered system of human rights protection, whereby laws will not be required to be read compatibly with human rights for people impacted by this Bill.
5. The cross-party Lords Amendment on international compliance would remove and replace clause 1. **Removing clause 1 is a necessary condition for making other positive amendments to the Bill.** If other amendments to the Bill are made without also removing clause 1, clause 1 will likely require such amendments to be read in a way which prioritises the Home Secretary's powers of removal above all else. Clause 1 may thus render ineffective the intended positive impact of any such amendments.
6. **The replacement proposed for clause 1 will ensure that the Bill would not require the UK to renege on its international obligations** under the European Convention on Human Rights (ECHR), the Refugee Convention, the UN Conventions on Statelessness, the UN Convention on the Rights of the Child, and the Council of Europe Convention on Action against Trafficking. Established in the aftermath of the Second World War, these conventions are the cornerstone of our domestic and global protections for human rights and specifically for refugees, stateless people, children, and victims and survivors of trafficking.
7. **Compliance with international obligations is a fundamental requirement of any state seeking to uphold the rule of law.**² However, the UK Government has made a section 19(1)(b) HRA statement, stating that it cannot confirm if the Illegal Migration Bill is compatible with the ECHR. Numerous legal experts, parliamentary committees, and academics have further illustrated the myriad ways the Illegal Migration Bill will put the UK in breach of its international obligations under the conventions listed in the Lords Amendment as well as many others as a result of its treatment of refugees, migrants, victims and survivors of trafficking and modern slavery, and British people,³ and its erosion of access to justice (including giving Ministers the power to ignore interim measures of the European Court of Human Rights). The UK signed up to the aforementioned international

¹ Paragraph 90, JCHR, Legislative Scrutiny: Illegal Migration Bill, 6 June 2023:

<https://committees.parliament.uk/publications/40298/documents/196781/default/>

² Tom Bingham, *The Rule of Law* (Penguin, 2010).

³ PRCBC and Amnesty International, *Government Immigration Bill, Session 2022-23 (HL Bill 133) House of Lords Committee (June 2023) British citizenship*: <https://www.amnesty.org.uk/files/2023-06/Final%20Briefing%20-%20Lords%20Committee%20Citizenship%20Bill%20Final%20%20June%202023.pdf?VersionId=.NKHGKHiDSIWGI4xt5pcSZNFUV9Q2.rk>

conventions freely, in recognition of its role in the international rules-based system and its responsibility to protect human rights. In supporting this Amendment, Parliament would be reaffirming this important, historic position.

8. It is important to note that simply reinstating section 3 HRA for the purpose of the Bill is not enough to mitigate the harms of clause 1. This is because, regardless of whether clause 1(5) is removed, the overriding express statutory purpose of removal in clause 1(1) would still apply, with the potential to result in widespread and severe violations of human rights and international law. Therefore, clause 1 must be removed in its entirety.
9. **For the above reasons, we urge Parliamentarians to support the cross-party Lords Amendment on compliance with international obligations.**

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