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**Border Security, Asylum and Immigration Bill, HL Bill 101**

**House of Lords Committee, June 2025 – Part 1 of the Bill**

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Part 1 of the Border Security, Asylum and Immigration Bill is divided into two Chapters. This briefing considers these chapters in turn. It then separately addresses the most egregious of the several provisions of Chapter 2 (i.e., Clause 18).

**Part 1 has little to commend it. Amnesty's strongest recommendations are that:**

- **If the new Commander is to be placed on a statutory footing, the officer's remit should have express regard to the need to fulfilling and sharing international human rights commitments;**
- **If powers of enforcement, including more criminal offences, are to be yet again extended, there must be at least some safeguards for people seeking asylum and victims of human trafficking including removal of Clause 18;**
- **If there is to be continued, let alone increased, focus on preventing dangerous journeys, that must somewhere be balanced by real and safe alternatives for people who attempt these.**

Suggested questions to ministers:

- What difference, in purpose or principle, is there between the policy underpinning this bill and that which underpinned the Nationality and Borders Act 2022, the Illegal Migration Act 2023, and the Safety of Rwanda (Asylum and Immigration) Act 2024 of the last administration?
- Why does His Majesty's Government think that increasing powers to obstruct, penalise and prosecute people seeking asylum and victims of human trafficking, and offering no relief of their miserable circumstances, will reduce rather than maintain or even increase the power of criminal gangs to exploit them?
- How much more human misery and how many more people's deaths must be suffered before ministers alter their focus from avoiding responsibilities to provide asylum by preventing arrivals to relieving the plight of people with no choice but to risk their lives on dangerous journeys?

### **Chapter 1 of Part 1**

Amnesty's concern with Chapter 1 of Part 1 is generally one of context rather than substance. The content of this chapter has little of substance. It is formally about the functions of an official with the title of Border Security Commander. Yet, the provisions of this chapter reveal precious little of what are those functions.<sup>1</sup>

The establishment of a Border Security Commander bears all the hallmarks of the last administration's creation of a Clandestine Channel Threat Commander, albeit the latter was never placed on a statutory footing.<sup>2</sup> Those hallmarks are a preference for the appearance of authority over the harder work of engaging with human realities, and for exaggerating the illusion of threats and insecurity over maximising the fair and efficient delivery of responsibilities. Clause 3(1) frames the Commander's remit as "*maximising*" effectiveness in "*minimising*" real or perceived threats to "*border security*". There is an absence of care to acknowledge, still less fulfil, moral or legal obligations to people – including respect for their human of human rights and dignity in what is done to protect that border.

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<sup>1</sup> Amnesty International UK and Migrant Voice addressed this at paragraph 10 of our [joint submission to the Public Bill Committee](#) in the other place.

<sup>2</sup> The [appointment of a Clandestine Channel Threat Commander](#) was announced in August 2020.

The significance of Chapter 1 lies in what it reveals of Government purpose and analysis, which remains closely borrowed from its predecessors. Ministers are as doggedly committed to a soundbite of 'smashing the gangs' as the last administration was to 'stopping the boats'. The modest deviation in the language of the currently preferred slogan as for the currently preferred commander barely obscures that, at heart, this Government is committed to the same basic ambition of seeking public approval by avoiding responsibilities (by preventing and deterring people seeking asylum in the UK) rather than securing public understanding of the need to meet these (by receiving people as safely as possible into an asylum system that addresses their claims fairly and efficiently).

Governments of the UK – of contrasting political colour – have long made a mess of this country's asylum system by precisely such an agenda. The last administration left office having created a huge backlog of pending claims by the device of simply refusing to make decisions (and even legislating to make that refusal required by statute).<sup>3</sup> The last Labour administration left office with an even larger backlog of what it described as 'unresolved' or 'legacy' cases, which it created by years of refusing asylum to people it could neither safely nor in practice return to the places from where they had come.<sup>4</sup> At the heart of the disastrous policy of each was a determination that the asylum system should act as a deterrent to people seeking protection from the UK rather than delivering this country's share of responsibility for providing asylum while encouraging others to do likewise.<sup>5</sup>

Basic truths lie at the heart of why this approach keeps proving disastrous. Responsibilities not taken do not go away. Refusing shared responsibilities is an exercise in freeloading that encourages others to shun their responsibilities too. The overall impact for almost everyone is bad, save for those who continue to exploit it for financial, political, or other gain.

The irony is that government policy creates and maintains the very conditions in which the gangs thrive; the boats come; the suffering and sometimes death of the victims of these criminal organisations and dangerous journeys is increased; and members of the public are made ever more incensed at the widening gap between the command and control emphasised by the rhetoric and the chaos, cost and inhumanity that is delivered in practice.

## **Chapter 2 of Part 1**

What Chapter 1 heralds, Chapter 2 manifests. This chapter is concerned solely with powers of deterrence and prevention – notionally of criminal exploitation, but in practice of seeking asylum (and/or escape from human traffickers and other abusers) *in the UK*. The unpalatable truth is that the object of these provisions is to prevent or obstruct exploitation only insofar as it may otherwise result in people coming or being brought to the UK. There is nothing within Chapter 2, nor elsewhere in the Bill, nor to be found in Government policy and practice beyond this Bill that is concerned with what will then happen to any person who is prevented from reaching the UK by the impact or exercise of any of the powers of search, seizure, retention or prosecution that are to be found in this chapter.

If a journey is prevented with nothing done to alleviate the conditions compelling someone to attempt it, what then? If a smuggling operation is disrupted with nothing done to address the circumstances

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<sup>3</sup> Amnesty International UK traced the created and impact of this backlog in our February 2024 briefing, [Gambling with Lives: How a bad policy wrecked the UK asylum system](#).

<sup>4</sup> Amnesty International UK's April 2025 briefing, [Home Office backlogs: lessons to be learned](#), provides further background information and analysis.

<sup>5</sup> Such deterrence has been an explicit purpose of legislation advanced by successive Home Secretaries from the Nationality and Borders Act 2022 onwards; and is expressly stated in the very first provision of each of the following two immigration Acts of Parliament: section 1(1) of the Illegal Migration Act 2023 and Safety of Rwanda (Asylum and Immigration) Act 2024 respectively.

compelling someone to rely on it, what is to happen to that person? These are urgent questions that ministers appear – from this legislation and their wider policy – to have neither answer nor concern. No speculation about the miserable implications is needed. Government policy has maintained the same narrow, even sole, focus on deterring and preventing people seeking asylum in the UK for many years.<sup>6</sup> There are now more people in prison, many of whom the very people financially exploited by criminal gangs and now politically exploited by being labelled as smugglers. The profits made by organised crime continue to boom.<sup>7</sup> People continue to die in the Channel (and elsewhere).<sup>8</sup>

Worse, the political discourse is now so toxic here and across Europe that governments are falling over themselves and each other to persuade others to take responsibilities they would prefer to abandon.<sup>9</sup> These governments, including our own, are engaged in competitive freeloading oblivious to the harms they cause to refugees and others, oblivious to the succour they give to criminal enterprise that ‘controls’ what they refuse to take responsibility for, and oblivious to where their fears might more truly lie – the prospect that countries, long hosting far more of the world’s refugees despite having so much less resource to do so, will be more inclined to freeload too thereby prompting more sizeable movements of people in future.<sup>10</sup>

## Clause 18

Clause 18 is intended to enhance powers of prosecution and imprisonment of people seeking asylum. It is solely concerned with people who successfully complete a boat journey to the UK from France, Belgium or the Netherlands<sup>11</sup> and, by doing so, commit an existing offence of arriving or entering without permission in breach of section 24 of the Immigration Act 1971 (as that was amended by the Nationality and Borders Act 2022).<sup>12</sup>

Ministers have promoted this Bill with vivid accounts of the terrifying conditions on these boat journeys.<sup>13</sup> Yet, Clause 18 is to enable longer prison sentences for those subjected to these conditions, and no one else. These people may be prosecuted if “*at any time*” they should cause, or create a risk, of “*serious*” physical or mental injury to another person.<sup>14</sup> This may result from their mistake, their

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<sup>6</sup> Legislation and policy expressly seek to deter irregular migration. Since these also require claims for asylum in the UK must be made in the UK in person, and the rules provide no visa (or other permission) for anyone to come to the UK for that purpose, deterrence of irregular migration to the UK is deterrence of seeking asylum. This is further explained in Amnesty International UK’s 2021 briefing, *Safe and Legal Routes*, since which the policy of requiring claims be made in the UK in person has been made statute law: section 14, Nationality and Borders Act 2022.

<sup>7</sup> At Second Reading in the other place, the Home Secretary identified profits of “*hundreds of millions of pounds*”: *Hansard* HC, 10 February 2025 : Col 60.

<sup>8</sup> 2024 saw a dramatic spike in deaths (85) recorded by the International Organization for Migration (IOM) of people on journeys from mainland Europe to the UK compared to 2019 (50), 2020 (13), 2021 (45), 2022 (16), 2023 (24) and thus far in 2025 (19): <https://missingmigrants.iom.int/>.

<sup>9</sup> Much of the current focus in the EU is on [so-called ‘returns hubs’](#), third countries to which people refused asylum may be ‘temporarily’ expelled pending their return to their country of origin.

<sup>10</sup> Currently, millions of Afghan refugees in Pakistan are under threat of expulsion to a human rights and humanitarian crisis in Afghanistan, to which [several hundreds of thousands have already been returned](#).

<sup>11</sup> See subsection (E1A)(b) to be added to section 24 by Clause 18(2).

<sup>12</sup> See subsection (E1A)(a) to be added to section 24 by Clause 18(2).

<sup>13</sup> At Second Reading in the other place, the Home Secretary referred to the “*increasingly violent*” control over people put in overcrowded “*flimsy boats*”, in which all are at risk of suffering “*horrific burns*” from fuel leaked from “*flimsy containers*” and women and children face most risk of being drowned or crushed: *Hansard* HC, 10 February 2025 : Col 61. In Committee in the other place, the Minister for Border Security and Asylum reminded members of how treacherously distinct from the warmth of the committee room were Channel waters in which one might “*easily have a heart attack... and not be resuscitated*”: *Hansard* HC, Committee, 6 March 2025 : Col 155.

<sup>14</sup> The offence is not endangering life but risking serious injury, as provided by subsections (E1A)(c) and E1B)(a) to be added to section 24 by Clause 18(2).

panic, or even their attempt to save life or injury (whether of the person said to be put at some risk of harm or to another person). Given the conditions to which even ministers attest, the prospect of avoiding risk to at least fellow passengers may be extremely hard to avoid.

Ministers have sought to justify Clause 18 with accounts of extremely disturbing acts by some people on these boats.<sup>15</sup> Yet, they have not explained why there is a need for any new offence concerning dangerous action *solely by a person who completes a boat journey from France, Belgium or the Netherlands to the UK* and why the offence is so widely drawn. What other offences are available? Why is prosecution for these insufficient? And why is the offence constructed so it can only be committed by a person who completes the boat journey – not the person who arranges the journey, not the person who puts people on the boat, not a person who intercepts or interferes with the boat? Is this to ensure actions at sea by border officials that cause or create a risk of serious injury are immune? Why should they be immune? Is it because the offence is so widely drawn that the prospect of committing the offence is simply too great in what are chaotic, panic-stricken, and unsafe conditions? But if so, why is the offence appropriate for the people most at risk and least able to control or mitigate that risk?

Clause 18 is emblematic of the Bill and wider policy. At the heart of the matter are people whose deaths, injuries, suffering, and exploitation scream out for human compassion and care. Yet, the response of governments is not to relieve their pain, hardship, and vulnerability, but rather to intensify these; and to present that which demands compassion as justification for delivering its opposite. Legislating for a further device to imprison people exploited on dangerous, sometimes fatal, journeys and summoning the dire conditions of those same people is cruelty masquerading as kindness. If that was not clear when it was done by successive Home Secretaries in support of the same general policy in 2022,<sup>16</sup> in 2023,<sup>17</sup> and again in 2024,<sup>18</sup> how can it be unclear now?

A suitable amendment for probing on Clause 18 would be:

Clause 18, page 11, line 26, at end, insert –

“, and

*(d) the act to which subsection (E1A)(c) refers was intentional and done for, or done in connection with another act done for, the person’s financial gain.”*

**Purpose**

To probe ministers about who will be put at risk of prosecution and imprisonment, and in what circumstances, by Clause 18.

<sup>15</sup> *Hansard* HC, Committee, 6 March 2025 : Col 158 *per* Minister for Border Security and Asylum.

<sup>16</sup> At Second Reading of the Nationality and Borders Act 2022 in the other place, then Home Secretary, Rt Hon Priti Patel, summoned in support the – “*sickening*” and “*heartbreaking*” – “*anguish and distress*”, “*excruciatingly painful*” deaths by suffocation, drownings, and violence, intimidation and exploitation of the people whom she identified as controlled by gangs that she too would “*smash*”: *Hansard* HC, 19 July 2021 : Cols 712-713.

<sup>17</sup> At Second Reading of the Illegal Migration Act 2023 in the other place, then Home Secretary, Rt Hon Suella Braverman, issued her own exhortation – “*People are dying in the Channel*” – alongside her own insistence that British people (and by extension and context that she) was “*fair, compassionate and generous*” : *Hansard* HC, 13 March 2023 : Cols 575 & 573 respectively.

<sup>18</sup> At Second Reading of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2024, then Home Secretary, Rt Hon James Cleverly, began by announcing a tragic fatality and offering his thoughts in comfort to those affected, and then summoned the “*human misery*” of those exploited by gangs whose business model he would break to “*save lives*” and save the “*vulnerable people*” used as trade: *Hansard* HC, 12 December 2023 : Cols 747 & 753-754 respectively.