



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

**House of Lords Committee, June 2025 – Determination of Asylum Claims**

LORD GERMAN

118

After Clause 39, insert the following new Clause—

**“Determination of asylum claims**

- (1) Within six months of the passing of this Act, the Secretary of State must publish an assessment of the impact of the Nationality and Borders Act 2022 on the determination of claims to asylum, on other functions of the Secretary of State relating to immigration and asylum, and on the courts and tribunals in relation to cases involving immigration or asylum.
- (2) An assessment under subsection (1) must include an evaluation of that Act’s impact on numbers and proportions of grants and refusal of asylum broken down into detail including specific consideration of the claims of—
  - (a) Afghan, Iranian and Eritrean nationals,
  - (b) women and girls, including main applicants and dependants, and
  - (c) children, including unaccompanied children.
- (3) A report of the assessment under subsection (1) must be laid before Parliament.”

*Member’s explanatory statement*

*This is a probing amendment to explore the rise in rates of refusal of asylum, which is particularly marked in relation to Afghan, Iranian and Eritrean people claiming asylum.*

**Background**

Since the present administration took office, there have been two immediate impacts upon asylum decision-making. First, the Government has reversed its predecessor’s policy of not deciding claims to asylum. Asylum decisions are now being made and in greatly increased number. Second, there has been a dramatic decline in the grant rate on these claims. There is, therefore, a substantial increase in the number of people refused asylum and a large rise in appeals to the First-tier Tribunal (Immigration and Asylum Chamber).<sup>1</sup>

Home Office officials explain the fallen grant rate as, in significant part, a result of asylum provisions of the Nationality and Borders Act 2022,<sup>2</sup> which were condemned by the UN High Commissioner for Refugees,<sup>3</sup> Amnesty International and others as incompatible with that

<sup>1</sup> On data referred to in this paragraph, see the [Immigration system statistics](#) and [Tribunal statistics](#) (and further below).

<sup>2</sup> The matter has, e.g., been raised with officials at the Home Office asylum stakeholder forum (Asylum Strategic Engagement Group).

<sup>3</sup> More information is available from [UNHCR’s UK website](#).

Convention. They were also condemned, including for those reasons, by the front bench of the party that is now in office,<sup>4</sup> implementing these provisions, and intent on retaining them.<sup>5</sup>

Other amendments would repeal these and several other provisions of the Nationality and Borders Act 2022 (“the NABA 2022”). Amnesty International supports those amendments.

**This New Clause is a probing amendment, and we urge peers to make use of the opportunity it provides to raise concerns at the Government’s asylum policy, management of the asylum system, and its impact.** Questions that may be raised include:

- What impact assessments have been made of the effect of NABA 2022 in refusing asylum to large number of Afghans, Iranians, Eritreans and others who but for that Act would now be granted asylum?
- Does His Majesty’s Government consider there is any change for the better in the human rights conditions in Afghanistan, Iran or Eritrea since it took office?
- What is the projected cost of increased appeals, increased legal aid provision, fresh claims, judicial review applications, and further support required for people in limbo who but for that Act would now be granted asylum?
- How is His Majesty’s Government to avoid moving a large backlog of initial claims, inherited from the previous administration, onto backlogs in the appeal system and at the end of the asylum process if it does not repeal the provisions of NABA 2022 that now cause people, who would previously have been granted asylum, to now be refused?

### **New Clause (118)**

This new Clause provides opportunity to reflect on the impact of the NABA 2022 – including sections 30 to 38, which are collectively entitled *Interpretation of the Refugee Convention*. These sections are designed to change the meaning of the Refugee Convention in ways that exclude significant numbers of people fleeing persecution from the right to asylum. The changes are mostly done by reinterpretation of the Convention definition of who is a refugee. The illegitimacy of unilaterally redesigning an international agreement – or indeed any contract – to suit oneself may, therefore, be debated on other amendments. The practical effect changes nothing of people’s actual circumstances other than increasing the prospect they will not find safety in the UK and suffer more harm and exploitation as a consequence.

### **Impact on Home Office decisions**

The experience of Afghans in the UK’s asylum system has been most dramatic. In the last two years of the previous administration, the grant rate on Afghan asylum claims – unaffected by NABA 2022 – stood at 98%, reflecting the human rights crisis occasioned by the return of the Taliban to Kabul and control throughout the country in August 2021. In the first year of this Government, that grant rate has more than halved to 44%. In the last two quarters for which data is available, there are hundreds more Afghan nationals are refused asylum than granted it. Even women are not spared. Dozens of Afghan women are now refused asylum, both those dependent on their husband’s claim and those claiming in their own right. The experience of other nationals is similar if less marked. For example, Eritrean grant rates are down by 13% and those for Iranians reduced by 26%.<sup>6</sup>

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<sup>4</sup> e.g., *Hansard* HL, Ping Pong, 27 April 2022 : Col 308 (with a stirring commitment to continue the fight against this)

<sup>5</sup> e.g., *Hansard* HC, Committee, 18 March 2025 : Col 372 (where the minister spoke of the practical benefits of this Act)

<sup>6</sup> The relevant data is provided by Table Asy\_D02: Asylum initial decisions and the [Immigration system statistics](#), last published on 3 June 2025.

### **Impact on appeals**

Inevitably, a large ‘backlog’ of work has been shifted to the First-tier Tribunal (Immigration and Asylum Chamber). It received 40,667 asylum appeals in the year 2024/25 – roughly the same period to which the asylum statistics relate. That is more than 10,000 above the number received in the previous year when the last administration had conducted its one-off exercise to rapidly decide older claims to reduce the overall cost of a backlog created by its policy and legislation. It is more than double the number of asylum appeals in any other year for which the current tribunal appeals dataset provides any figures (going back to 2007/08).<sup>7</sup> The tribunal had 50,976 outstanding appeals before it at the end of March 2025, almost double the number 12 months ago. Previously, in only one of the years going back to 2016 has the number of outstanding appeals been above 10,000.<sup>8</sup>

### **Ultimate impact – shifting backlogs not resolving them**

It remains to be seen how much impact the tribunal may have for thousands of refugees now being refused asylum. The tribunal’s decision-making is constrained by the same provisions of the NABA 2022 that apply to the Home Office. Ultimately, therefore, it must be anticipated that the Government is putting into effect an expensive transfer of the backlog it inherited, via the appeals system, from that of people awaiting decision to that of people refused with appeal rights exhausted. The human impact for thousands of people will be as miserable as before. The financial costs will perhaps shift over time – e.g., from the Home Office asylum support and accommodation budget to the Ministry of Justice’s legal aid, courts and tribunals budget.

There is precedent for what is now taking place. In 2006, a Labour Home Secretary announced a backlog – he called it a ‘legacy’ – of unresolved asylum cases, many of people refused long ago but who could not be returned. He gave an estimate of its number as between 400-450,000, though that proved to include wrong and duplicate records. Years earlier, the Home Office had significantly reduced its asylum grant rate as part of measures attempting a similar ambition of deterring and preventing people seeking asylum here. That backlog was not resolved before the last Labour administration left office in 2010.<sup>9</sup>

### **Conclusion**

Successive governments have consistently found ways of harming both people and effective administration by failing or refusing to deal with every claim for asylum on its true merits.<sup>10</sup> Administrations have howled at the backlogs created by their predecessors, promised to deliver greater efficiency, and promptly created their own backlogs. The reality is that efficiency and fairness must go hand in hand.<sup>11</sup> Each person’s claim must be properly decided on the strength of the evidence, not the hope of deterring somebody else. People who cannot and should not be returned should be permitted to stay and get on with their lives. If not, the system can be neither fair nor efficient. The NABA 2022 provides only the latest example of this.

This New Clause would not repeal harmful asylum measures of the NABA 2022 but would, at least, require some evaluation and reporting to Parliament of their consequences.

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<sup>7</sup> Table FIA\_1 of [Tribunal Statistics Quarterly, January to March 2025](#), 12 June 2025

<sup>8</sup> Table FIA\_4 of [Tribunal Statistics Quarterly, January to March 2025](#), 12 June 2025

<sup>9</sup> Further information is available from Amnesty’s April 2025 briefing on [Home Office backlogs: lessons to be learnt](#).

<sup>10</sup> As discussed in the Amnesty April 2025 briefing, *op cit*.

<sup>11</sup> Further information is available from Amnesty’s October 2024 briefing on [A fair and efficient process for making asylum decisions](#).