Amnesty International UK

BRIEFING

Border Security, Asylum and Immigration Bill, HL Bill 101

House of Lords Committee, June 2025 – Clauses 37-39 (Repeals)

Part 2 begins with three Clauses concerned with repealing recent immigration legislation. Clause 37 will repeal the Safety of Rwanda (Asylum and Immigration) Act 2024 in its entirety. Clause 38 will repeal much of, but not all, the Illegal Migration Act 2023. Clause 39 makes consequential amendments arising from these repeals. Amnesty supports these repeals.

However, we are alarmed that the Illegal Migration Act 2023 ("IMA 2023") is not to be fully repealed and none of the Nationality and Borders Act 2022 ("NABA 2022") will be.[1] **Amnesty supports amendments tabled by Baroness Hamwee and Lord German (amendments 103, 116 & 117), and that by Lord Browne of Ladyton (amendment 104), to repeal further provisions of the IMA 2023 and the NABA 2022 relating to asylum and modern slavery. Additionally, we support motivations behind amendments to**:

- establish a time limit on immigration detention (amendments **132-135** & **210**);
- ensure legal aid for detained people is effective (amendment **137**);
- permit people seeking asylum to work (amendment **151**);
- empower domestic workers to avoid or escape abuse (amendment **153**);
- safeguard children against incorrect age assessment (amendment **162**);
- better protect victims of slavery or human trafficking (amendments **172**, **182** & **205**);
- oppose unreasonable and unjust barring of citizenship (amendment **186**);[2] and
- improve respect for family life (amendment **187**).

Notwithstanding our support for the above, this Briefing's focus (under distinct subheadings) is on what we consider to be the most urgent matters that relate to Part 2:

(1) the inadequacy of the limited repeal of the previous administration's legislation;
(2) the absence of any safe routes in this Bill and wider policy;
(3) that Clause 43 should not stand part; and
(4) respect for the Refugee Convention in the UK.

We address the above four matters under distinct subheadings below.

1. Inadequacy of limited repeal of previous administration's legislation:

The extent to which the NABA 2022 broke with legal commitments to refugees and victims of modern slavery seems to have been forgotten. This may be because of the shock of how far the legislation that followed – the IMA 2023 and Safety of Rwanda (Asylum and Immigration)

[1] Amnesty supported and continues to support sections 1-9 of the NABA 2022, which amended British nationality law to promote justice and equality. Otherwise, the NABA 2022 and all the IMA 2023 should be repealed.

[2] Amnesty supports motivations that lie behind this amendment, including concerns about the injustice and impropriety of excluding refugees from the possibility of naturalisation for reasons of the manner of their arrival to the UK. There are further profound objections to the policy guidance with which this amendment is concerned on which the Project for the Registration of Children as British Citizens (PRCBC) and Amnesty have produced a joint briefing.

Act 2024 – went in not only breaking these commitments but also in undermining basic legal and constitutional principle. It is necessary, therefore, to recall that at the immediate passing of the NABA 2022, the UN High Commissioner for Refugees took the unusual step of issuing a public condemnation (albeit in typically diplomatic language):[3]

> "*UNHCR, the UN Refugee Agency, regrets that the British government's proposals for a new approach to asylum that undermines established international refugee protection law and practices has been approved.*
>
> *…*
>
> *This latest UK Government decision risks dramatically weakening a system that has for decades provided protection and the chance of a new life to so many desperate people. UNHCR has outlined its concerns and objections to the Nationality and Borders Bill on several occasions and has offered advice on how to implement a more effective and fairer asylum procedure, followed by speedy integration of refugees and return of those not in need of international protection…*"

The impact of the NABA 2022 was delayed by the previous administration's decision to pursue its attack upon the dignity and rights of people seeking asylum and victims of human trafficking even more forcefully by the Acts that followed; and by that administration's refusal to process any of the asylum claims to which the NABA 2022 applied.[4] This Government has rightly rescinded that refusal to process claims. However, it is now implementing the NABA 2022. As a result, thousands of refugees in the UK are being refused asylum in circumstances where they should and would previously have been granted it. **Amnesty's briefing on Lord German's New Clause (Determination on Asylum Claims) (amendment 118) provides further information. We urge peers to support that New Clause and further repeals of the NABA 2022 and IMA 2023 (amendments 103, 104, 117 & 118).**

As regards further repeals, there is really nothing that commends itself in either the NABA 2022 or the IMA 2023 save for certain (not all) of the nationality provisions of the former. Amnesty made clear its support for sections 1 to 9 of the NABA 2022 during its passage through Parliament[5] and our support for provisions that remove injustice and inequality remains. Save for these provisions, we are alarmed that what the current administration rightly opposed when in Opposition, for reasons of principle and practice,[6] is now regarded as 'useful'[7] notwithstanding the absence of any evidence to support that, let alone any answer being provided to the principled objections that also remain. Indeed, the Government's assessment of 'usefulness' is, for example, exposed by the immediate impact of wrongly refusing asylum

[3] Statement of Filippo Grandi, United Nations High Commissioner for Refugees, 27 April 2022

[4] In 2023, the previous Government conducted a one-off exercise of clearing what it had designated as 'the legacy backlog', which was made up of asylum claims made before 28 June 2022 (the date on which relevant provisions of the NABA 2022 took effect). For claims made on or after that date, it maintained its policy of not deciding claims and, that year, introduced and secured legislation for the purpose of requiring that it must not decide claims.

[5] Amnesty briefings on the passage of that Act remain available.

[6] e.g., *Hansard* HL, Ping Pong, 27 April 2022 : Col 308 (with a stirring commitment to continue the fight against this)

[7] e.g., *Hansard* HC, Committee, 18 March 2025 : Col 372 (where the minister spoke of the practical benefits of this Act)

to thousands of refugees – moving a backlog of people from initial decision-making to the appeals system, attracting new costs and prolonging their limbo.[8]

2. Absence of any safe routes:

There are several New Clauses tabled in favour of various forms of safe routes. **Amnesty supports the motivations behind these New Clauses.**

There are broadly four reasons for that support:

- First, the UK must fulfil its international obligations to share responsibility for providing asylum.[9] Providing safe routes for refugees – particularly those with significant connection to the UK, such as with close family here – to seek and secure asylum is a means to achieve that.
- Second, as has been widely identified for at least over a decade, measures to combat the organised crime that profits from people smuggling are half-baked when the policy remains that so many of the people in need of seeking asylum are made dependent on people-smuggling for want of any alternative.[10]
- Third, providing safe routes saves lives. People enabled to travel safely avoid dangerous journeys on which many suffer serious harms including death.[11]
- Fourth, providing safe routes is a means to encourage others to also fulfil their international obligations. These routes require international cooperation because they concern people's travel from one country to another. Willingness to provide safe routes gives encouragement to others to do likewise. Moreover, making agreements with other countries to operate safe routes is an opportunity to encourage good practice on their part, enabled by the UK demonstrating its shared commitment to this.[12]

Accordingly, Amnesty urges all governments to develop safe routes for refugees. There are – as the breadth of amendments indicates – many possibilities. Ultimately what matters is that asylum responsibilities should be shared by means that better protect refugees from harm and exploitation. Nonetheless, three considerations deserve particular attention:

- As a matter of principle, family unity should be promoted.
- As a matter of practicality, refugees with strong connection to the UK should be supported.
- As a matter of fairness, resettlement should enable refugees with especially acute needs to move from countries where their needs cannot be met to countries where their needs can be.

3. Clause 43 should not stand part:

Ministers' decision to introduce this provision into the Bill indicates, at best, an alarming misunderstanding of the immigration system for which they are responsible and an equally

[8] This is further discussed in Amnesty's briefing to Lord German's New Clause (amendment 118).
[9] This is further discussed in Amnesty's November 2024 briefing on Responsibility-sharing and the right to asylum.
[10] This was, for example, a significant consideration of the 2015 House of Lords EU Home Affairs Sub-Committee *EU Action Plan against migrant smuggling inquiry* and expressly recognised in that action plan.
[11] The IOM Missing Migrants Project provides relevant data including numbers of recorded deaths.
[12] An example was the agreement between the UK and France to share responsibility for people who had gathered at Sangatte, see fn. xvii in Amnesty's November 2024 briefing on Responsibility-sharing and the right to asylum.

alarming outlook on the accumulation of power at the Home Office. **For reasons more fully explained in our separate briefing on Clause 43, Amnesty supports the opposition of Lord Anderson of Ipswich, Lord Kirkhope of Harrowgate and Baroness Hamwee to its standing part**.

In short, it is wholly improper for the Home Office to seek the power to impose severe restrictions of a counter-terror nature upon every migrant to the UK (other than persons granted permission to settle or since naturalised) as if a matter of general regulation of immigration.[13] Doing so in this way is improper as a matter of both principle and practice. It effectively transfers extreme powers to officials who are unsuited to have them. It does this without any of the statutory safeguards and oversight that applies where such powers are exercised by other authorities with significantly greater claim to have need and competence to do so.[14]

4. Respect for the Refugee Convention:

The last three Acts of Parliament relating to asylum have each done grave damage to the Refugee Convention by signalling the UK's stark rejection of its shared asylum responsibilities. This Bill, and the continuing wider policy that it serves, threatens to do likewise notwithstanding the welcome but inadequate repeal of some of that previous legislation. This situation is bad both as a matter of principle and practice.

Here we say more about why this is bad as a matter of practice. We anticipate that the matter of principle is well-known though sadly not equally well-respected. As for the practical, it is alarming how much damage has already been caused by unwillingness to fulfil responsibilities under the Convention. That damage can be measured in human lives lost and harmed, costs to public funds, administrative dysfunction, opportunity and gain enjoyed by organised crime, increases of hate and lack of confidence in government (in both that term's narrow and broad senses),[15] and reduced commitment to asylum duties elsewhere (with all the risk and reality of more people in need of making more dangerous journeys).[16]

These dismal conditions are not going to improve if Government persists with its predecessor's general policy to prioritise avoiding rather than taking and sharing responsibility for refugee protection. If there is anything to be grateful for from the previous administration, it can only be the stark demonstration it provided of how calamitous – in every measurable way – is simply trying to avoid responsibilities.[17] Merely abandoning one discrete means or another by which that general policy was pursued cannot solve the problems that ministers have inherited.

This Government was undoubtedly right to scrap the plan to expel people seeking asylum to Rwanda,[18] to abandon use of a barge off the south coast as accommodation for people seeking

[13] Clause 43 is to extend conditions that may be set for the purpose of general regulation of immigration under section 3(1), Immigration Act 1971.
[14] Clause 43 and the provisions it amends stand in stark contrast, for example, to similar powers given within the Terrorism Prevention and Investigation Measures Act 2011.
[15] i.e., lack of confidence in the government of the day (the executive), the Home Office more generally, and in the wider constitutional system of government in this country including Parliament and courts.
[16] Much of this is addressed in Amnesty's February 2024 briefing, *Gambling with Lives*.
[17] *ibid*
[18] The Government's reasons for abandoning its predecessor's Rwanda plan were set out by the Home Secretary in a statement on 'Border Security and Asylum': Hansard HC, 22 July 2024 : Col 385. These are essentially ones of cost.

asylum,[19] and to end the moratorium on deciding asylum claims made.[20] But simply replacing these with alternative means by which to refuse or fail to meet legal and moral obligations that derive from the Refugee Convention (and other international human rights law) is already doing harm. Moreover, as can be seen by the nature of amendments tabled in this House and the other place by the official Opposition,[21] it is also prolonging the delusion that further wreckage of lives, principle and public finances can somehow transport the UK to some new corner of the world immune to the reality of people fleeing persecution and suffering human trafficking.

This Government – if ministers' statements are to be believed – prides itself on pragmatism and efficiency.[22] If so, it should need no encouragement to restore this country's commitment to the Refugee Convention. Anything short of that will further weaken the international refugee system, which can profit nobody save those who exploit – financially, politically, sexually or otherwise – the people whose basic human rights and dignity depend on that system.

Amnesty therefore supports the following amendments, each of which would strengthen refugee protection and help reassert the UK as a defender of human rights and law-abiding member of the international community:

- Amendments **35**, **44**, **57** and **203** tabled by Lord Alton of Liverpool. These seek to give real effect to Article 31 of the Refugee Convention, which prohibits the penalisation of a refugee for crossing borders without permission to seek asylum.
- Amendments **50** & **62** tabled by Lord Browne of Ladyton. These seek to give effect to Article 33(1) of the Refugee Convention, the prohibition of *refoulement* (i.e., sending someone to face persecution). They do so only to the modest extent of clearly dispelling any notion that offences under Clauses 14 or 16 of this Bill could provide reason for excluding a refugee from that most basic safeguard on the ground that the offence was so "*particularly serious*" as to justify such a draconian penalty.
- Amendment **184** tabled by Baroness Chakrabarti. This seeks to strengthen existing legislation by which Parliament had intended "*primacy*" for the Refugee Convention in domestic law.[23] The amendment is calculated to not interfere with parliamentary sovereignty,[24] but enable the courts to aid Parliament's original purpose in passing the Asylum and Immigration Appeals Act 1993[25] and provide further support to Parliament by doing no more than identifying – by non-binding declaration – any subsequent legislative departure from that purpose.[26]

[19] The decision to end use of the Bibby Stockholm was also explained in terms of cost.
[20] See e.g., the Home Secretary's statement on 'Border Security and Asylum', *op cit*.
[21] These extend to attempting to reinstate the Rwanda plan and the statutory bar on ever deciding asylum claims that was to be introduced by the Illegal Migration Act 2023.
[22] Consider how it has explained the discrete departures from the measures of the previous administration for pursuing the underlying asylum policy that each administration shares – e.g. the Home Secretary's statement*, op cit*.
[23] Section 2, Asylum and Immigration Appeals Act 1993
[24] See, in particular, subsection (2) of what it would substitute for section 2 of the 1993 Act.
[25] Section 2 of the 1993 was expressly entitled '*Primacy of Convention*' and sought to preclude any practice of the UK immigration system that would contravene the Refugee Convention.
[26] See, in particular, section 2A that it would introduce to the 1993 Act and the express preservation of parliamentary sovereignty by subsection (6).