



Media Briefing for journalists

Border Security, Asylum and Immigration Bill 2025 – What does the Bill do?

Freedom from Torture, Helen Bamber Foundation and Refugee Action are calling for the repeal of the Safety of Rwanda (Immigration and Asylum) Act 2024 (SORA) and the repeal of most of the Illegal Migration Act 2023 (IMA).

The IMA should be repealed in its entirety. It's alarming that the Border Security, Asylum and Immigration Bill (henceforth the Bill) retains sections 59 and 29 of the IMA which make asylum and human rights claims from a raft of countries inadmissible, including Albania and India, and prevent some people from claiming modern slavery protections.

The Government has not taken the opportunity to repeal or reform elements of the Nationality and Borders Act 2022 (NABA) that inhibit access to justice, risk inherent unfairness and give rise to a significant risk of return to persecution.

It's concerning to see the introduction of yet further criminal offences and the proposal to use counter-terror-style powers that will likely be applied to almost everyone who arrives by small boat. That this Bill continues to treat the forced displacement of refugees as a national security rather than a human rights issue is extremely disappointing.

Ultimately, this Bill represents some progress towards a fairer asylum system, but further work is needed to prioritise the safety and access to protection of those seeking sanctuary in the UK.

Freedom from Torture, Helen Bamber Foundation and Refugee Action are calling on Members of Parliament to seek to significantly amend the Bill at Committee and Report Stage.

Repeal of the Safety of Rwanda Act 2024

Clause 37 of the Bill repeals SORA. Survivors of torture, trafficking and persecution have been living in terror of the cruel and unlawful scheme behind this deeply harmful piece of legislation for years; their despair and anxiety acting as an obstacle to rehabilitation and recovery.

The Government's swift action in ending the scheme is welcome, and, with this clause, they're removing a piece of legislation that continues to threaten the safety of survivors of torture and trafficking, as well as other refugees in the UK. This is a huge victory for all those who raised their voices against this cash-for-humans scheme.

Retaining elements of the Illegal Migration Act 2023

If the IMA were fully implemented it would prevent the Government from considering most claims by people who arrive on our shores seeking sanctuary, effectively stripping those fleeing war, persecution and torture of their right to seek safety in this country, threatening the rule of law and the UK's ability to comply with its international obligations.

During its passage through Parliament, the IMA was roundly condemned by cross-party parliamentarians, UNHCR, the Council of Europe, 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 current Home Secretary was scathing in her attacks on the legislation, stating that the Bill was "*an attempt to drag our whole country down*", which "*will not work to stop boat crossings*", and "*will stop children and trafficked people getting help and will pay into the hands of criminal gangs, and [...] undermine our reputation in the eyes of the world as a country that believes in the rule of law.*"

A Government that's focused on competence and with respect for international law should repeal this Act in its entirety.

It's particularly concerning that sections 59 and 29 of IMA are being kept:

- Section 59 makes asylum and human rights claims from a range of countries inadmissible and nationals from these countries would only be able to make asylum or human rights claims in "exceptional circumstances". The list includes countries, such as India and Albania, from which Freedom from Torture continues to receive clients in need of therapeutic treatment to recover from torture. A quarter of the Helen Bamber Foundation's clients are Albanian survivors of trafficking reliant on the asylum system for protection and security. While there are survivors of torture and trafficking reaching the UK and seeking sanctuary from these countries it cannot be considered that there is not and never will be a risk of persecution at all for nationals of those states.
- Section 29 expands the scope of section 63 of NABA and provides that the Government must disapply someone from modern slavery protections if they're deemed a threat to public order unless there are compelling circumstances. This poses a real risk that vulnerable individuals who've been exploited will be denied protections that should be afforded to them as survivors of trafficking, which is in potential breach of Article 4 of the European Convention on Human Rights (ECHR).

Retaining the Nationality and Borders Act 2022

The Government has an opportunity to demonstrate its commitment to human rights and the rule of law, and to '*modernise the asylum and immigration system*' [the Kings Speech 2024]. To do this will require repealing Parts 2 to 5 of NABA as well as schedules 3 and 4.

This Bill could help to restore order to the asylum system so that it operates fairly and efficiently, by removing laws that inhibit access to justice, risk inherent unfairness, are at odds with the ECHR and give rise to a significant risk of return to persecution. The Home Secretary herself recognised

that the “*Nationality and Borders Act 2022 makes it harder to prosecute people traffickers, and that in fact it is adding six-month delays to the asylum system and pushing up the costs.*”

Sections of NABA that make it harder for refugees who are admitted to the UK to access international protection, include:

- Creating accelerated and detained appeal procedures for reasons unrelated to the merits of the claim (sections 20-27) that deny access to justice and put the most vulnerable appellants at a serious disadvantage.
- Directing decision-makers (including judges) to consider giving “minimal weight” to evidence (section 26) or make adverse credibility findings under circumstances that carry a real risk of unfairness (sections 19 and 22).
- Departing from well-established principles of UK law by importing the higher standard of proof used in civil litigation into the refugee determination process (section 32).

An effective appeal process is fundamental to any system for determining protection needs and the consequences of depriving someone of these are potentially devastating. In the period from 2004 to 2021, around three-quarters (76%) of those refused asylum at initial decision lodged an appeal and just under one third (30%) of those appeals were allowed. This means that the asylum appeal is a vital safeguard as the Government often gets the decision wrong the first time.

The provisions relating to evidence punish the most vulnerable and those who’ve been failed by the system, by reducing the weight given to any evidence submitted after the applicant has been through a one-stop process. This could include independent expert medical evidence, such as the reports compiled by Freedom from Torture and Helen Bamber Foundation clinicians, that often proves determinative in asylum appeals involving survivors of torture.

The legal standard that previously applied to all parts of the protection test (‘reasonable degree of likelihood’) was grounded in an understanding of the nature of persecution for a Convention-based reason, the reality of a person seeking asylum’s experience of flight, and the serious implications of setting evidentiary expectations too high. In raising the standard of proof to ‘a balance of probabilities’, NABA built unnecessary complexity into the process and significantly increased the risk of refugees being wrongly sent back to face persecution in breach of Article 33 of the 1951 Refugee Convention.

New criminal offences that will penalise refugees

Clauses 13 to 17 criminalise supplying or handling articles or collecting information for use in immigration crime.

These new offences are drafted broadly and there is a risk that refugees themselves and individuals seeking only to assist them will be prosecuted. Clause 18 creates the criminal offence of endangering another during a sea crossing and is clearly aimed at those inside the boats, in a dangerous escalation of the criminalisation powers under NABA. With none of the safeguards that are included in the preceding provisions, this clause will likely result in the prosecution of vulnerable people acting out of desperation or under the coercive power of a smuggler.

This Government, like its recent predecessors, is seeking to address asylum through the prism of criminality and national security. We've seen how the use of legislation to curtail the rights of migrants and set higher criminal penalties for immigration offences results in the wrongful prosecution of vulnerable migrants, including unaccompanied children and people acting under duress.

The provisions in this Bill and the debate that will accompany it risks casting all those forced to move across borders in search of protection as being a threat to our national security. Such a framing will further undermine public confidence in the principle of refugee protection and the importance of UK compliance with obligations under the Refugee Convention, the UN Convention Against Torture and the ECHR. With an emboldened far right in the UK and elsewhere, such a step is particularly dangerous.

Further criminalisation, surveillance and state interference in the rights of vulnerable migrants will do nothing to address the causes of forced displacement and unauthorised movement through Europe to the UK. Such an approach will intensify the vulnerability of those who'll continue to rely on the services of smugglers in the absence of safe routes, and heightens the risk faced by marginalised and racialised communities in the UK.

Who we are

Freedom from Torture is the only UK-wide charity that exists specifically to support people who have survived torture to recover and rebuild their lives. Led by survivors of torture, we speak out to expose torture and defend the rights of survivors, nationally and globally.

Refugee Action exists to defend the right to safety that we all share. We're fighting the hostility that has a devastating, daily impact on refugees and our communities. We do this with life-changing support and system-changing campaigns that bring us all closer to safety, dignity and hope.

Helen Bamber Foundation is a specialist clinical and human rights charity that works with survivors of trafficking, torture and other forms of extreme human cruelty. Its multidisciplinary and clinical team provides a bespoke Model of Integrated Care for survivors.