
The *Illegal Migration Bill*

May 2023

Executive Summary

The *Illegal Migration Bill* has had its second reading in the House of Lords. Its Committee Stage in the House of Lords is scheduled to commence on 24th May 2023. The Bill would:

- Ban refugees from claiming asylum in most circumstances;
- Hugely expand the use of immigration detention; reduce oversight of detention; and reintroduce the indefinite detention of children of pregnant women.
- Strip modern slavery survivors of protection.
- Trap thousands in limbo, at risk of destitution and exploitation, with no way of resolving their status even when removing them proves impossible.

This Bill is cruel and unjust. It is a threat to human dignity and constitutes an attack on the principle and apparatus of asylum. **The *Illegal Migration Bill* must be abandoned.**

A default ban on asylum

Clause 2 of the Bill places a duty on the Secretary of State to make arrangements to remove any person who enters the UK without leave, or with leave obtained by deception, and has not come directly from a territory where their life and liberty was threatened. Clause 4 would mandate that protection claims made by people subject to clause 2 are automatically deemed inadmissible.

These clauses would block from protection the vast majority of those seeking sanctuary in the UK.

- **This legislation slams the door shut on people seeking a safe haven.** Most refugees have no choice of how they travel. To ban them from seeking asylum on this basis is unjust and dishonest. Additionally, it is important to be clear that this clause would affect asylum seekers arriving in a wide range of different ways, to the extent that it would act as a default ban on asylum. To enter the country with leave, one must obtain a visa or have the visa waived – for example, as the UK does for tourists from some foreign countries. But there is no asylum visa, and if one entered the UK on another visa and then claimed asylum, this would be deemed deception and render one inadmissible.ⁱ This would, for example, impact most people arriving by plane to seek asylum.
- **Global provision for refugees could not function if all refugees claimed asylum in the first safe country they came to.** Most refugees are hosted in developing countries, and the UK receives fewer asylum applications than most other European countries.ⁱⁱ
- **Non-penalisation of refugees who arrive irregularly is a central aim of the Refugee Convention.**ⁱⁱⁱ The Refugee Convention does not state that refugees must claim asylum in the first safe country they come to and permits refugees to cross borders irregularly to claim asylum. These principles were enshrined in the Convention in recognition of the realities of forced displacement – realities this Bill refuses to acknowledge.

Expansion of detention

- **The Bill would create sweeping new powers to detain people arbitrarily.** Clause 10 allows detention of anyone whom an immigration officer “suspects” may be subject to removal. This could play out as a broad power to indefinitely detain anyone subject to immigration control. Clause 12 allows the Secretary of State to detain someone even if there are barriers to progressing their removal or examination.^{iv} That is, barriers to the purpose of detention would not render detention illegal. This constitutes a significant move towards enshrining arbitrary detention in law.
- **The Bill allows both children and pregnant women to be detained indefinitely,** stripping away safeguards that have been put in place to protect them. It would place children at risk of profound, life-long trauma.
- **The Bill allows detention to occur “in any place that the Secretary of State considers appropriate.”^v** This poses an increased risk of detention in inhumane conditions, as detention will no longer be subject to clear guidelines. Furthermore, it risks elision between asylum accommodation and detention,^{vi} and could allow scenarios where people go to sleep in ‘accommodation’ to wake up and be told they are now in detention.
- **The Bill would further reduce oversight of detention,** preventing people from applying to the court for bail for the first 28 days^{vii} and overturning the principle that it is the court’s prerogative to decide whether detention is lawful.^{viii} Detention has serious and long-term human consequences, and, as an administrative process without time limit is already insufficiently subject to oversight. For this to be further reduced is deeply troubling.

This Bill is a key instrument in a growing presumption in favour of detention in an immigration context, whereas it was previously government policy to try to reduce the use detention.^{ix} Detention is profoundly traumatic. Torture survivors regularly compare it to torture and describe facing re-trauma from detention, and even for those without specific pre-existing vulnerabilities suffer serious deterioration in mental health in detention. Even a short period in detention can cause long-term trauma.^x Detention is a cruel practice which violates human dignity and its cavalier expansion through this Bill is a matter of deep concern.

Modern Slavery

The Bill would strip modern slavery survivors of support, including by disqualifying foreign national victims of modern slavery and human trafficking from support based on how they entered the UK. It is profoundly cruel to deny support to people subjected to modern slavery. Furthermore, many victims of trafficking are trafficked across borders either irregularly, by deception, or both.^{xi} That is, it is the very facts of their exploitation that would make them subject to removal and deny them support under this Bill. This basis for denying survivors of modern slavery support is therefore not only unjust, but also incoherent. The Bill would also remove support from survivors who have served a prison sentence. This is cruel in itself, and would deny support to people subjected to criminal exploitation – again, stripping modern slavery survivors of support for the facts of their exploitation.

Destitution and limbo

The majority of people whom the Secretary of State would be mandated to remove, under clause 2 of the Bill, may prove impossible to remove. They will then be indefinitely in limbo in the UK with no way to resolve their status, at long-term risk of destitution, which has serious negative consequences for physical and mental health, and similarly at risk of exploitation.^{xii}

Concluding Remarks

The 'Illegal Migration Bill' attempts to create a default ban on asylum. It would result in people arriving to seek asylum in the UK, including children, facing arbitrary and prolonged detention and being profoundly traumatised as a result; and it would strip most foreign national survivors of modern slavery of vital support. This Bill shows no regard for the duty that we owe to each other, and our particular duty to those who are vulnerable. Its purpose is to bar human persons in need from protection, and it would cause widespread suffering. **The Illegal Migration Bill must be abandoned in its entirety.**

About JRS UK

The Jesuit Refugee Service (JRS) is an international Catholic organisation at work in 50 countries around the world to accompany, serve and advocate on behalf of refugees and other forcibly displaced persons. JRS in the UK has a special ministry to those seeking asylum who are destitute as a consequence of government policies and those held in immigration detention. JRS UK runs a drop in, activities, hosting scheme (At Home), and legal advice project for destitute asylum seekers, most of whom are pursuing fresh claims, and destitute newly recognised refugees; and detention outreach services to Heathrow IRC. JRS UK ran an outreach service to Napier barracks for two years from Autumn 2020.

About St Vincent de Paul Society (England and Wales)

The St Vincent de Paul Society (England & Wales) is part of an international Christian voluntary network dedicated to tackling poverty in all its forms by providing practical assistance to people in need regardless of faith, gender, ethnicity, or sexual orientation. Our 10,000 members, motivated by their faith, visit vulnerable or isolated people across England and Wales and offer them friendship and practical support. We have worked and supported refugees, people seeking asylum and migrants for decades, providing advice, advocacy and essential support to thousands of people and families.

ⁱ For further analysis see Colin Yeo's Oral evidence to the Joint Committee on Human Rights, JCHR, Oral evidence: Legislative Scrutiny: Illegal Migration Bill, [HC 1241](#), p.5.

ⁱⁱ In 2022, France registered 137,510 asylum claims ([Eurostat](#)) whereas the UK received 74,751 (Home Office, Immigration [Statistics](#) year ending December 2022).

ⁱⁱⁱ Dr Cathryn Costello, "Article 31 of the 1951 Convention Relating to the Status of Refugees", UNHCR Legal and Protection Policy Research Series (July 2007), p.5.

^{iv} [Illegal Migration Bill](#), clause 12.

^v [Illegal Migration Bill](#), clause 11.

^{vi} This has occurred in several instances over the last few years. For instance, in 2021, Tinsley House IRC was briefly 'de-designated' as detention, and used ostensibly as asylum accommodation. However, when a JRS UK staff member attempted to visit men 'accommodated' there, she was initially told this was impossible because they were detained.

^{vii} [Illegal Migration Bill](#), clause 11.

^{viii} [Illegal Migration Bill](#), clause 12.

^{ix} "Government response to the review on welfare in detention of vulnerable persons" (14th January 2016).

^x See JRS UK, [Detained and Dehumanised: the impact of immigration detention](#) (2020).

^{xi} For examples see JRS UK's [Topical Briefing](#) "Survivors of Trafficking in Immigration Detention" (2019).

^{xii} See JRS UK, [Out in the Cold: homelessness among destitute refugee in London](#) (2018).