

Written evidence submitted by the Jesuit Refugee Service (JRS UK) to the Bill Committee (BSAIB17)

Border Security, Asylum and Immigration Bill

About JRS UK

1. The Jesuit Refugee Service (JRS) works in over 50 countries worldwide to accompany, serve and advocate on behalf of refugees and forcibly displaced people. JRS in the UK works with destitute people seeking asylum and people held in immigration detention. JRS UK provides practical support, accommodation, classes and activities, expert advice and legal assistance for destitute asylum seekers, most of whom are pursuing fresh claims; and detention outreach services to Heathrow Immigration Removal Centre. We also ran an outreach service to the asylum camp at Napier barracks, for two years from autumn 2020.

Executive Summary

2. The repeal of the Safety of Rwanda Act 2024 and large parts of the Illegal Migration Act 2023 (IMA) is very welcome. However, the Bill in its current form leaves in place very damaging pieces of legislation passed by the last government. The IMA must be repealed in its entirety. Harmful provisions of the IMA kept in place include expanded detention powers, reduced protections for victims of modern slavery, and automatic inadmissibility for asylum and human rights claims from certain countries. It is also deeply troubling that the Bill keeps in place all of the Nationality and Borders Act 2022 (NABA), despite the harm this Act has already and continues to cause. These pieces of legislation are at odds with international law, including the Refugee Convention and European Convention on Human Rights (ECHR).
3. The Bill contains provisions that continue and deepen damaging trends from the policy of the previous government. Key issues include:

- 3.1. Proposed new criminal offences surrounding immigration could easily be applied to refugees themselves. They risk obstructing efforts to tackle people smugglers and human traffickers and pushing people to take even more dangerous journeys, putting lives at further risk.
 - 3.2. By creating powers to detain someone when merely *considering* whether to deport them, the Bill significantly expands the way in which detention can be used. It fails to treat deprivation of liberty seriously and creates a fresh risk of arbitrary detention.
 - 3.3. New powers to seize electronic devices risk depriving people seeking asylum of the means of keeping in touch with friends and family, and of contacting support networks or legal advisors, as JRS UK has witnessed previously. These powers are disproportionate to any possible benefit and risk making it much more difficult to navigate the asylum system.
4. The Nationality and Borders Act 2022 and the Illegal Migration Act 2023 both punish refugees for the realities of forced migration. This Bill is an opportunity to take a fresh approach to asylum that is both fairer and more efficacious. As the Bill is drafted, it is missing that opportunity. It must be very significantly amended.

Repeal of the Safety of Rwanda Act

5. Clause 37, repealing the Safety of Rwanda Act 2024, is very welcome. JRS UK's detention outreach team previously supported people who were told that they were going to be sent to Rwanda. They were from countries with high grant rates – i.e., they were very likely to be recognised as refugees if their claims were considered in the UK – and many were survivors of torture and other profound trauma. Even the prospect of the Rwanda scheme had a horrendous impact.

The Illegal Migration Act in the Border Security, Asylum and Immigration Bill

6. Repealed parts of the IMA: Clauses 38 and 39 repeal aspects of the IMA that are damaging, unworkable and in contravention of international law. This is very welcome.

7. Retained parts of the IMA: by failing to repeal all of the IMA, this Bill currently leaves in place very harmful legislation, which was widely condemned during its passage through parliament, including by the current Home Secretary. Key parts of the IMA left in place by the Bill and of concern to JRS UK include:

7.1. *Expanded and broad detention powers.* Section 12 allows the Secretary of State to detain “for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the examination or removal to be carried out, the decision to be made, or the directions to be given” and also, importantly “regardless of whether there is anything that for the time being prevents the examination or removal from being carried out, the decision from being made, or the directions from being given.”¹ This has created a serious risk of widespread arbitrary detention.

7.2. *Excluding victims of modern slavery from protection.*² Section 29 extends the already harmful public order disqualification of victims of modern slavery from protection and support. It provides that the government must exclude someone from modern slavery protections if they are deemed a threat to public order unless there are “compelling circumstances”.³ Under section 29, one is deemed a threat to public order simply if one has been convicted of an offence and sentenced to a period of imprisonment. This denies vulnerable people protection that should be afforded to them as survivors of trafficking, in potential breach of Article 4 of the ECHR. This is cruel and its blanket application to anyone who has served a prison sentence is wildly disproportionate to any public order concerns. Furthermore, excluding victims of modern slavery from protection and support on grounds connected to criminality overlooks the reality that many modern slavery victims have criminal convictions directly resulting from their exploitation. JRS UK often supports victims of trafficking who have been trafficked to the UK for exploitation on cannabis farms. Following police raids, they have been

¹ Illegal Migration Act, Section 12, subsection 1b.

² For further details see the submission to the Bill Committee of the Taskforce for Survivors of Trafficking in Immigration Detention, of which JRS UK is a member.

³ This section expands an already harmful provision under section 63 of NABA.

mistakenly charged with offences related to cannabis production, advised to plead guilty by duty solicitors, and ultimately imprisoned.⁴ They should not be denied protection.

- 7.3. *Blanket refusals of asylum.* Section 59 makes asylum and human rights claims from a range of countries inadmissible so that nationals of these countries can only make asylum or human rights claims in “exceptional circumstances”. Rejecting asylum and human rights claims without meaningful consideration is dangerous. The list includes India, Albania, and Georgia, countries in which there are serious human rights problems, including violence against LGBTQI+ people.⁵

The Nationality and Borders Act 2022

8. JRS UK highlighted evidence of profound problems with NABA during its passage through parliament, including through evidence submitted to the Joint Committee on Human Rights.⁶ This remains relevant. Since its passage, NABA has caused much damage. Here, we focus on some especially harmful aspects.
9. NABA created new offences under which people seeking asylum are criminalised based on their mode of arrival. This includes the offence of “illegal arrival” and the expansion of the offence of “facilitating arrival” so that it occurs even if the facilitation has not been for gain. During the first year of implementation, 240 people were charged with “illegal arrival”. 49 people were additionally charged with “facilitation” primarily after allegedly being identified as having their ‘hand on the tiller’ at some point during the journey, though someone may have their hand the tiller because they had previous maritime experience, because they were under duress, or for a number of other reasons. Having one’s hand on the tiller typically does not indicate involvement in smuggling.⁷ The creation of these offences has not reduced boat crossings or done anything to stop people smuggling or

⁴ For examples, see JRS UK, Topical Briefing “[Survivors of Trafficking in Immigration Detention](#)” (updated June 2019). We continue to see cases like this frequently.

⁵ See ILPA and Rainbow Migration, “[Joint Briefing on Draft Nationality, Immigration and Asylum Act 2002 \(Amendment of List of Safe Routes\) Regulations 2024](#)” (December 2023). JRS UK regularly support Albanian survivors and trafficking and other human rights abuse, many of whom have ongoing protection needs.

⁶ See Joint Committee on Human Rights, Legislative Scrutiny, Nationality and Borders Bill, Jesuit Refugee Service UK (NBB0055), published 3rd November 2021, available for download [here](#).

⁷ Humans for Rights Network, Captain Support UK, Refugee Legal Support and Border Criminologies, University of Oxford, [No Such Thing as Justice Here: The criminalisation of people arriving to the UK on ‘small boats’](#) (February 2024), pp.8-9.

trafficking across the Channel; it has punished people seeking asylum and put their lives at further risk.

10. We remain concerned that, by criminalising refugees based on their mode of arrival, NABA contravenes Article 31 of the Refugee Convention.

11. **The overwhelming majority of the Nationality and Borders Act should be repealed.**⁸

New Criminal Offences will further criminalise individuals seeking asylum

12. Clauses 13 to 17 introduce specific offences criminalising supplying or handling articles, or collecting information, for use in “illegal entry” or “unlawful immigration”. These create a risk that people will be prosecuted simply for trying to assist refugees, that refugees will be prosecuted for trying to assist each other, and that, where refugees are travelling in a group, one or several group members is prosecuted.

13. Although there is a defence of having a reasonable excuse, this is an insufficient safeguard, and these new offences are drafted very broadly. For example:

13.1. In clause 13, it appears that an ‘article’ could be any object other than those on the very short list of exclusions.

13.2. Though clause 13 subsection 3 excludes “organisations” assisting asylum seekers for free from committing a criminal offence, it does not exclude *individuals* assisting asylum seekers for free. This runs the risk both that refugees helping each other could be criminalised, and that individuals volunteering to help asylum seekers without a formal organisational tie could be criminalised.

14. Clause 18 creates the offence of endangering another during a sea crossing. It is evidently aimed at individuals inside boats – who are overwhelmingly seeking sanctuary (see below) – and deepens the trend of criminalising people crossing the Channel in boats, despite the fact that this approach, significantly developed by NABA, has failed. This clause contains no safeguards limiting its application, and so is especially likely to result in criminalisation

⁸ Exceptions are NABA sections 1-9, which contain nationality law provisions, and sections 66-67, which bring advice on referral as a potential victim of modern slavery into scope for legal aid.

of vulnerable people under coercion from smugglers or traffickers, or simply from desperation.⁹

15. **Clauses 13 to 18 should be scrapped.**

Powers to detain someone whilst considering deportation

16. Clause 41 allows the Secretary of State to detain someone “while the Secretary of State *considers whether* to make a deportation order” [emphasis added] and “pending the making of a deportation order”. This would vastly broaden the basis on which detention can be used, and appears to allow for detention for convenience when deportation is possible, rather than actually to facilitate deportation. This clause creates a fresh risk of arbitrary detention in breach of Article 5 of ECHR.
17. Already, the UK has very few safeguards on detention under immigration powers. It has no time limit on immigration detention and treats detention as a purely administrative process – the decision to detain does not go before a judge.
18. Given that deportation routinely follows prison sentences, it is doubly unclear what practical purpose this clause could serve. It should be possible to make any decisions about deportation prior to the end of an individual’s custodial sentence. This would be fairer to the individuals concerned, and save public money and Home Office time and resources.
19. Already under the existing legislative framework, ex-offenders are frequently detained for extended periods of months or even years, often far exceeding the length of the sentence they previously served. In Heathrow IRC, JRS UK often encounter ex-offenders in this situation. Many are eventually released back into the community. Their extended detention is cruel, expensive, and does not achieve anything. Furthermore, such a lengthy period of detention is unjust, and incarceration far beyond the length of an individual’s criminal sentence erodes the integrity of the criminal justice system. For example, an ex-offender explained to JRS UK: “It was just one punishment, but I’ve done it about five times.”¹⁰

⁹ For related points see also Refugee Action, Helen Bamber Foundation, Freedom from Torture, [“Border Security, Asylum and Immigration Bill 2025: Briefing for Commons Second Reading”](#) (2025).

¹⁰ JRS UK, [“Detained and Dehumanised: the impact of immigration detention”](#) (2020), p.26.

20. It is noteworthy that many ex-offenders detained under immigration powers have spent all or most of their lives in Britain and know no other home, as JRS UK regularly observes and has been noted in expert reports.¹¹ Others, as noted above, are victims of trafficking who have been criminally exploited and erroneously criminalised and are retraumatised by being detained.
21. Ex-offenders are regularly held in extended limbo in immigration detention, and this is bad for everyone involved. Legislation should seek to fix this problem, including by introducing a time limit on detention (see below). Instead, clause 41 would make it worse.
- 22. Clause 41 should be scrapped.**

New Powers to seize electronic devices

23. Clauses 21-26 contain provisions allowing for, and appear intended to facilitate, the routine seizure of mobile phones from people arriving in the UK to claim asylum. The previous government practised the blanket seizure of mobile phones from people arriving in small boats in 2020 and beyond, and this practice was then ruled unlawful by the High Court.¹² These clauses could reestablish this deeply harmful practice. JRS UK previously supported numerous individuals whose phones were seized and observed this had a hugely negative impact, as we relayed in evidence to the High Court:

23.1. Removal of the phones meant people were unable to contact friends and family. Many young people arrive in the UK alone after a traumatising journey, and losing their connection to family and friends was a cause of significant distress. At the time, Social Services expressed concern about children in their care who could not contact family and friends after their phones had been seized on arrival in the UK.

23.2. People lost the contact details of friends and family, in many cases permanently.

¹¹ See e.g. Stephen Shaw, "[Welfare in detention of vulnerable persons review: progress report](#)" (July 2018), paragraphs 4.93-4.94: "a significant proportion of those deemed FNOs had grown up in the UK, some having been born here but the majority having arrived in very early childhood. These detainees often had strong UK accents, had been to UK schools, and all of their close family and friends were based in the UK. Many had no command of the language of the country to which they were to be 'returned', or any remaining family ties there."

¹² [High Court finds Home Office policy of blanket seizures of migrants' mobile phones unlawful - DPG Law.](#)

23.3. The seizure of mobile phones made it much more difficult for people to contact and engage with essential services and to navigate their asylum claim. It thereby contributed to the poor working of the asylum process.

24. Clauses 21 to 26 should be scrapped.

Greater securitisation of routes between France and the UK¹³

25. The Bill as a whole focuses heavily on securitisation of the Channel and a punitive approach to informal arrivals, closely following the policy of the previous government. There is strong evidence that such securitisation has repeatedly pushed people seeking asylum to take more and more dangerous journeys and thereby endangered lives. Notably, making other routes more difficult has pushed people into small boats. Increased securitisation of lorry crossings and the Channel Tunnel have been a key factor in forcing people seeking asylum to take small boats,¹⁴ as has widely been acknowledged, and even promoted, by previous government officials.¹⁵ The marked increase in small boat crossings in 2018 followed a concerted UK-French enforcement effort on the Eurotunnel.¹⁶

26. Importantly, the overwhelming majority of those attempting to cross the Channel informally are seeking sanctuary, and the large majority come from countries with a high asylum grant rate in the UK.¹⁷ To punish people crossing the Channel informally is to punish refugees for travelling in the only way available to them.

27. A punitive approach to informal Channel crossings also plays into the hands of traffickers, as it makes it more difficult for victims to seek help from authorities.¹⁸

28. This should be set in the further context that family ties are a key reason motivating those people seeking asylum who try to come to the UK specifically: in 2019, the Foreign Affairs Select Committee found that approximately half of those attempting to travel informally

¹³ Some of this section draws on material JRS UK submitted to the UN Special Rapporteur on the human rights of migrants in December 2024.

¹⁴ Institute for Public Policy Research, [Understanding the rise in Channel crossings](#) (October 2022), pp.16-18.

¹⁵ Home Office, Policy Paper, "[Joint action plan by the UK and France on combating illegal migration involving small boats in the English Channel](#)" (2019).

¹⁶ Home Affairs Select Committee, *Channel Crossings, migration and asylum*, First report of session 2022-2023 (18 July 2022), Chapter 2 "Channel Crossings", paragraphs 20-21.

¹⁷ Refugee Council Briefing, "[The Truth About Channel Crossings](#)" (March 2023).

¹⁸ For further details see the submission to the Bill Committee of the Taskforce for Survivors of Trafficking in Immigration Detention.

from France to the UK had family in the UK.¹⁹ Notably, under the EU's Dublin Regulation, asylum seekers who had reached one EU country were able to apply to go to another to reunite with family. Accordingly, safe routes for people seeking asylum to reunite with family in the UK have reduced since the UK withdrew from the EU's Dublin Regulation.²⁰ To reduce dangerous journeys, reliance on people smuggling gangs, and vulnerability to traffickers, the government should address this.

Positive recommendations

29. Key changes that should be made to build a better and fairer asylum system include:
30. **Create safe routes for refugees to come to the UK**, alongside ending penalties for refugees arriving informally. This would reduce reliance on small boats and other dangerous modes of travel. Safe routes should include a simple mechanism enabling asylum seekers with family in the UK to safely travel to the UK from elsewhere in Europe and have their asylum claims processed in the UK.
31. **Give people seeking asylum the right to work**. Most people seeking asylum are not permitted to work, and where they are, they can only work in very specific professions. The inability to work consigns them to deep poverty,²¹ obliges them to be reliant on Home Office support to meet their basic needs, and makes it harder for them to take up work when they are recognised as refugees. Most people seeking asylum desperately want the opportunity to work and contribute to society. Giving asylum seekers full access to the labour market would be good for asylum seekers' mental health, support integration, and save public money.²²

¹⁹ Foreign Affairs Select Committee, [Responding to Irregular Migration: a diplomatic route](#) (2019), Chapter 2 "The UK and Europe", paragraph 10.

²⁰ Institute for Public Policy Research, [Understanding the rise in Channel crossings](#) (October 2022), p.18.

²¹ See e.g. Asylum Matters, [Surviving in Poverty: a new report documenting life on asylum support](#) (December 2023); Sustain, JRS UK, and Life Seekers Aid, [Food experiences of people seeking asylum in London: areas for local action](#) (March 2024).

²² For more details about the benefits of giving asylum seekers the right to work, see Refugee Action, [Lift the ban: why giving people seeking asylum the right to work is common sense](#) (2020).

Recommendations relating to immigration detention

32. It is well-established that detention routinely does long-term damage to mental health and is especially harmful to vulnerable people.²³ Furthermore, there are clear indications that, across the UK's detention estate, there are basic failures in safeguarding. The Brook House Inquiry report, published in September 2023 examined abuse at Brook House Immigration Removal Centre (IRC) occurring over several months in 2017.²⁴ It found numerous instances of violent abuse against detained people, and routine failures to safeguard them, rooted in systemic and cultural issues.²⁵ It noted that these problems were not anomalous or confined to Brook House, and persisted. JRS UK's subsequent report, [*After Brook House*](#) correspondingly demonstrated that the issues identified continue across the UK's detention estate.²⁶ This has itself been followed by excoriating reports from His Majesty's Inspectorate of Prisons (HMIP) on Harmondsworth and Brook House IRCs respectively. The first found that "the outcomes at Harmondsworth were the worst that HMI Prisons has found in its IRC inspections";²⁷ the second a "concerning and substantial rise in violence and self-harm" with 35% of people surveyed saying they had felt suicidal at some point in the IRC.²⁸ Connectedly, some people are detained for very extended periods, as noted above. This is especially detrimental to mental health.

33. **Urgent action is required to prevent a recurrence of the horrific events that came to light in Brook House IRC.** As long as immigration detention exists, the following steps can limit its harm:

- 33.1. **Introduce a 28-day time limit on immigration detention**, as recommended by the Brook House Inquiry.
- 33.2. **Introduce judicial oversight of the decision to detain.**

²³ See e.g. Helen Bamber Foundation, ATLEU, Focus on Labour Exploitation, Medical Justice, [*Abuse by the system: survivors of trafficking in immigration detention*](#) (2022); JRS UK, [*Detained and Dehumanised: the impact of immigration detention*](#) (2020); Professor Mary Bosworth, *The impact of immigration detention on mental health: a literature review*, Appendix 5 in Stephen Shaw, [*Review into the welfare in detention of vulnerable persons*](#) (2016).

²⁴ [*The Brook House Inquiry Report: a public inquiry into the mistreatment of individuals detained at Brook House immigration removal centre*](#), Kate Eves, chair of the Brook House inquiry (September 2023).

²⁵ [*The Brook House Inquiry Report: a public inquiry into the mistreatment of individuals detained at Brook House immigration removal centre*](#), Kate Eves, chair of the Brook House inquiry (September 2023), volume II, chapter D.9, paragraph 3.

²⁶ In [*After Brook House: continued abuses in immigration detention*](#) (May 2024). This is also corroborated by Medical Justice, [*"If he dies, he dies": what has changed since the Brook House Inquiry?*](#) (December 2023).

²⁷ HM Chief Inspector of Prisons, [*Report on an unannounced inspection of Harmondsworth Immigration Removal Centre, 12-29th February 2024*](#) (published 9th July 2024), p.3.

²⁸ HM Chief Inspector of Prisons, [*Report on an unannounced inspection of Brook House Immigration Removal Centre, 5-22 August*](#) (published 18th November 2024), p.3.

33.3. Implement the recommendations of the Brook House Inquiry.

Concluding Remarks

34. Whilst the repeal of some especially damaging recent legislation is welcome, very significant amendment of the Bill is otherwise needed, to: fully repeal the Illegal Migration Act and the overwhelming majority of the Nationality and Borders Act; remove the clauses introducing new criminal offences that will target refugees; and fix longstanding problems with the asylum and immigration system. Fundamentally, it is troubling that this Bill follows in the footsteps of the previous government by treating asylum as a border security issue, rather than a protection issue. This approach is cruel, destructive, and counterproductive to the government's wider aims, including tackling human trafficking. We badly need a new approach that does not follow in the footsteps of previous failed policy and legislation.

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