



Coalition for Asylum Rights and Justice Joint briefing

Border Security, Asylum and Immigration Bill: Report Stage (House of Commons)

The Coalition for Asylum Rights and Justice (CARJ) is a coalition of nine organisations in the legal and human rights sector, working for a fair and humane immigration system.

CARJ strongly supports the repeal of the Safety of Rwanda (Asylum and Immigration) Act 2024 (SoRA) and most of the Illegal Migration Act 2023 (IMA). However, CARJ also recommends the Bill is amended to:

- Protect refugees from being wrongly punished by the criminal offences in Clauses 13 to 18;
- Repeal the Illegal Migration Act 2023 (IMA) in full to prevent the retention of harmful provisions;
- Remove the retrospective effect of detention powers by deleting Clause 41(17);
- Repeal concerning provisions of the Nationality and Borders Act 2022 (NABA); and
- Remove the discriminatory power in new clause 43 to impose curfew and tagging requirements on anyone with limited leave to enter or remain in the UK.

Criminalising refugees:

Clauses 13 to 18 create three new immigration offences: supplying and handling articles for use in immigration crime; collecting information for use in immigration crime; and endangering another during a sea crossing to the UK. These clauses could be used to unfairly punish refugees and victims of modern slavery.

For example, Clause 18(2) concerning the offence of endangering another at sea, directly penalises people coming to the UK without leave who enter by water via France, Belgium or the Netherlands i.e. people in “small boats”. There is no stipulation in the Bill that to be guilty of this crime, the person must be a trafficker or smuggler, so refugees or victims of modern slavery could be unfairly prosecuted for behaviour committed due to coercion or exploitation.

Evidence suggests this is a real possibility. A 2023 Home Affairs Select Committee report found that victims of modern slavery continue to be wrongfully prosecuted for acts committed due to

coercion.¹ Moreover, under criminal offences expanded by NABA, there have been over 500 prosecutions,² including of children wrongly assessed as adults.³

CARJ recommendation: The offences should be amended to include an intention requirement in Clauses 13, 14, 16 and 18 and a requirement for financial gain in Clauses 13, 14 and 16.

Retaining harmful aspects of the Illegal Migration Act:

CARJ are concerned by three aspects of the IMA being retained by Clause 38 which result in:

1. Weakened legal safeguards for people in immigration detention (Section 12)

Current case law states that it is for a Court to objectively determine for itself the reasonableness of immigration detention. Section 12 seeks to reverse this, making the reasonableness of detention based on the Home Secretary's opinion. This seeks to weaken the function of judges to independently protect people from unreasonable detention. The UN High Commissioner for Refugees has also advised repealing section 12 for this reason.⁴

2. Reduced protections for victims of modern slavery (Section 29)

Section 63 of NABA allows for the disqualification of victims of trafficking from modern slavery protections on "bad faith" or "public order" grounds, including convictions which could have been a result of their exploitation. **Section 29**, if enacted, would make the disqualification of victims a *duty*, rather than a *discretion*, so that disqualification must happen unless there are compelling circumstances. It also extends the duty to offences of any length of imprisonment.⁵

Victims of modern slavery may commit offences due to coercion from traffickers, who often use violence and fear as a means of control. Dame Angela Eagle defended s.29 on the basis that individual circumstances will still be considered and that the CPS has a discretion not to prosecute victims. However, in a 2023 report the Home Affairs Committee concluded that victims continued to be prosecuted for offences they were compelled to commit.⁶ Restricting protections even further only to "compelling circumstances" under s.29 will seriously increase the risk of victims being wrongfully prosecuted.

In turn, due to s.29, victims of modern slavery coerced into offending will be unable to access financial support, housing and leave to remain, carrying with it the danger that they will be removed from the UK and re-trafficked in their home countries or face retribution.⁷ Consequently,

¹ [Home Office Committee Report December 2023.](#)

² [Criminalisation and the Border Security, Asylum and Immigration Bill 2025.](#)

³ [Refugee and Migrant Children's Consortium – Age Disputes 2024.](#)

⁴ [UNHCR Legal Observations on the Border Security, Asylum and Immigration Bill 2025.](#)

⁵ [Asylum Aid, Denying vital support to survivors of trafficking who are considered a threat to public order.](#)

⁶ [Home Affairs Select Committee Report 2023.](#)

⁷ [Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.](#)

the International Organization for Migration (IOM), the UN migration body, has called for the repeal of s.29.⁸

3. Rendering claims from unsafe countries inadmissible (Section 59)

This Bill also retains **section 59** of the IMA which makes asylum and human rights claims from a range of countries inadmissible, barring “exceptional circumstances”. These countries include Albania, India, and Georgia. Inadmissible asylum claims are not considered at all by the Home Office and there is no right of appeal against a decision to treat a claim as inadmissible. There is a real danger that people who need protection will be returned to their home country in breach of international law, and despite safety concerns. Given these risks, the UNHCR has also called for the repeal of section 59.⁹

Evidence suggests real safety concerns in India and Georgia, particularly in relation to minority communities such as LGBTQIA+ people.¹⁰ In addition, a recent PLP and MiCLU report evidenced safety concerns for Albanian nationals, including blood feuds, anti-LGBTQIA+ persecution, violence against women and girls, and endemic human trafficking.¹¹

CARJ recommendation: Repeal the Illegal Migration Act 2023 in full.

Retrospective powers of detention

Clause 41 creates new powers of executive detention which empower the Home Office to detain people earlier in the deportation process – when the Home Office is deciding merely *whether* to make a deportation order. Given that the Brook House Inquiry found 19 incidents capable of amounting to inhuman or degrading treatment against people in just a five-month period in one immigration detention centre,¹² any expansion of detention is very concerning.

Clause 41(17) gives this power retrospective effect and attempts to retrospectively validate the current questionable Home Office practice, which is to detain individuals before a deportation order is made.¹³ This will deny individuals who have been unlawfully detained a remedy. Retrospective legislation has also been deemed ‘unacceptable’ by the House of Lords Constitution Committee barring ‘very exceptional circumstances.’¹⁴

CARJ recommendation: Remove Clause 41(17).

⁸ [International Organization for Migration, Written evidence for the Border Security, Asylum and Immigration Bill Committee Stage.](#)

⁹ [UNHCR Legal Observations on the Border Security, Asylum and Immigration Bill 2025.](#)

¹⁰ [Joint briefing on Draft Nationality, Immigration and Asylum Act 2002 \(Amendment of List of Safe States\) Regulations 2024.](#)

¹¹ [Punishing the victim – How the UK’s broken asylum system fails the people it should protect.](#)

¹² [The Brook House Inquiry.](#)

¹³ [Public Bill Committee: Border Security, Asylum and Immigration Bill – 11 March 2025, Col. 235..](#)

¹⁴ [House of Lords Constitution Committee 11th Report of 2021-22, para. 22.](#)

Failure to repeal harmful aspects of NABA

The Nationality and Borders Act 2022 (NABA) laid the foundation for multiple unworkable and unfair immigration procedures. At a time when the number of asylum appeals has risen by 264%,¹⁵ it is critical to urgently remove unworkable provisions which as the Immigration Minister has stated, ‘clutter’ the statute book.¹⁶

These provisions include:

- Encouraging decision makers to negatively assess claimant credibility and give minimal weight to evidence when that evidence is submitted past a deadline, despite a claim’s merits (ss.20-22 and s.26);
- Unfairly rushing legal procedures (ss.23 and 24 and s.27);
- Creating complicated new legal tests which make it more difficult for the Home Office to decide that a person’s fear of persecution is “well-founded”, undermining UK compliance with international law (s.32); and
- Removing modern slavery protections, including for crimes committed under coercion (s.63).¹⁷

Most of NABA has not been brought into force or the implementation was paused by the previous Government.¹⁸ However, these harmful provisions add complexity, increase unfairness, and worsen the risk of violations of human rights, building further delays into the asylum system and increasing the likelihood of legal challenges and judicial reviews in future.

CARJ recommendation: Repeal sections 12 to 65 and sections 68 and 69 of the Nationality and Borders Act 2022.

New clause 43

New clause 43 grants the Home Secretary the power to impose electronic monitoring (“tagging”) and curfew conditions on anyone with limited leave to enter or remain in the UK. While the Minister has stated that the clause seeks to target individuals who cannot be deported but who are a danger to the public,¹⁹ there is nothing in the clause which limits the power in this way. It would be open to the Government, for example, to impose a tagging requirement on all individuals studying on student visas and all individuals visiting the UK via tourist or business visas. The power relies disproportionately on the benevolence of the Home Secretary not to misuse it. The power also discriminates against people based purely on their immigration status and lacks safeguards, such as the need for judicial approval.

CARJ recommendation: Clause 43 should be removed from the Bill.

¹⁵ [Why has there been a 264% increase in asylum appeals?](#)

¹⁶ [Border Security Asylum and Immigration Bill House of Commons Debate Mon 10th February: Col 130](#)

¹⁷ [Denying vital support to survivors of trafficking who are considered a threat to public order.](#)

¹⁸ [Statement of changes in Immigration Rules – 17 July 2023.](#)

¹⁹ [Dame Angela Eagle MP, Immigration Minister, Speech on New Clause 43 – Public Bill Committee.](#)