



Border Security, Asylum and Immigration Bill: briefing on the expansion of criminal offences relating to irregular arrival to the UK

This briefing was prepared at pace by NGOs and researchers who have been working on the issue of people criminalised for their irregular arrival to the UK since 2022. We are concerned by the criminalisation provisions within the new Border Security, Asylum and Immigration Bill. We wanted to provide you with information about the current situation, and outline our concerns.

If you wish to discuss this briefing further, please contact:

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Top lines

- The Border Security Bill includes a range of new criminal offences which the government argue will a) target people smugglers, and b) deter irregular arrival.
- These new offences are an extension of offences expanded in the Nationality and Borders Act 2022 (NABA 2022), which created a new offence of 'illegal arrival' to enable the prosecution of people who make asylum claims upon arrival. This offence also expanded the scope of the offence of 'facilitating a breach of immigration law', which through the NABA now has a maximum sentence of life imprisonment.
- Since coming into force on 28th June 2022, these NABA offences have been used routinely against people on the move themselves, including people seeking asylum, victims of trafficking and torture, and age disputed children. While rhetorically justified as 'targeting smugglers', in reality, it is those seeking safety who are imprisoned.
- The best available data suggests 556 people were charged with 'illegal arrival' having arrived on 'small boats', and 455 convicted, from June 2022 until the end of 2024. Mostly, these people are part of one or both of two groups: those identified as having an 'immigration history' in the UK, or those accused of steering the dinghy. Many of those arrested come from high asylum grant rate nationalities, including from Sudan, South Sudan, and Afghanistan.



- Included in this figure are at least 26 children with ongoing age disputes, arrested as *adults* for how they arrived to the UK after a cursory age enquiry in Dover¹. At least 6 of these individuals were arrested and charged since Labour came into power in July 2024. At least 16 of these children have spent time in adult prisons, sharing cells with adults.
- Those accused of steering dinghies are rarely successfully prosecuted with ‘facilitation’ as there is usually no further evidence of their involvement in the organisation of crossings. They are instead imprisoned for ‘illegal arrival’. This group are among the most vulnerable in Northern France, and are often coerced or compelled to steer due to not being able to afford the crossing otherwise.
- The new offences proposed in the Border Security Bill provide the government with more tools to arrest and imprison people on the move themselves, in an expansion of the current practice. Just as people have continued to cross since the introduction of the NABA offences, there is no evidence that these offences will deter people from seeking safety in the UK.
- Penalising people for the necessary actions they take to enter a country to seek asylum is contrary to the Refugee Convention, and the Palermo Protocol on Smuggling.

Background: the current picture on criminalising people crossing the Channel

Since late 2022, we have been supporting people charged and convicted with the offence of ‘illegal arrival’ introduced by the Nationality and Borders Act (2022). This offence was introduced following a series of successful appeals in 2021 which found that people steering dinghies across the Channel could not be prosecuted with ‘illegal entry’ if both they, and the others in the dinghy, made asylum claims. This is because while you might *arrive* contrary to the immigration rules, your *entry* is regularised through your asylum claim (see the cases of [Kakaei](#) and [Bani](#)).

Since 28th June 2022, when ‘illegal arrival’ became an offence, people - including asylum seekers, victims of modern slavery, trafficking, and age disputed children - have been prosecuted having arrived on a ‘small boat’ to the UK.

While the new offence of ‘illegal arrival’ could be applied to anyone arriving, in practice, usually only two groups of people are selected for prosecution: First, those with a ‘immigration history’ with the UK, including having been identified as being in the country, or having attempted to arrive

¹ All of these children were charged with the offences of ‘illegal arrival’ or ‘facilitation’ having arrived on a ‘small boat’.



previously (for example, through making a visa application). Second, those accused of steering the dinghy.

This second group are also commonly arrested and charged with the offence of 'facilitating a breach of immigration law' (Section 25 IA 1971). The Nationality and Borders Act increased the maximum sentence for this offence to life imprisonment. In most cases, this second charge is dropped due to lack of evidence if the person pleads not guilty. There have, however, been some successful Section 25 prosecutions, for example, if the person pleads guilty to the offence at the first opportunity before it is dropped.

In February 2024, a young person from Senegal, Ibrahima Bah, was convicted by jury of 'facilitation' and manslaughter by gross negligence, after the boat he was steering to the UK broke apart in the Channel. Four people are confirmed to have drowned, and five still missing at sea. Ibrahima is currently serving a 9.5 year sentence for these offences, [despite the acknowledged failures](#) of both the UK and French authorities, as well as the boat that took on the survivors.

The scale of prosecutions

Through [quarterly FOI requests](#), we have pieced together the scale of criminal prosecutions against people for arriving on 'small boat':

- From 28th June 2022 until the end of that year, 162 people were charged with 'illegal arrival' having arrived on a small boat, [79](#) of which were arrested due to having been identified steering the dinghy.
- In 2023, [244](#) people were charged with 'illegal arrival' having arriving on a small boat, [88](#) of whom were identified as steering.
- Over the first six months of 2024, [64](#) people were charged with 'illegal arrival', including 38 after being identified as steering.

This data shows [an overrepresentation of certain nationalities](#) among those arrested for steering, including most notably people from Sudan and South Sudan, as they are less likely to have the resources to pay to travel. Those identified as steering are rarely convicted of the higher 'facilitation' offence, due to lack of evidence that they were involved any further in organising the journey. Instead, they are convicted of 'illegal arrival'.

Labour has continued this pursuit. The [latest data shows that](#), in the first six months of their leadership, 86 people arriving on 'small boats' were charged with 'illegal arrival', including 48 people identified as 'piloting' the dinghy.

Overall, from the introduction of the NABA offences on 28th June 2022 until the end of 2024, the best available data suggests 556 people were charged with 'illegal arrival' having arrived on 'small boats', and 455 convicted.



The prosecution of children in adult courts

Through casework with individuals imprisoned for these offences, we have identified at least 26 age-disputed children who had raised their age as under 18, but were arrested and charged in the adult criminal justice system due to how they entered the UK to seek safety. This includes at least 16 who spent time in adult prison while either on remand or convicted of these offences. This is likely to be an underestimate as support organisations have no comprehensive mechanism to identify these children prior to arrest, and the Home Office has, to date, refused FOI requests on this issue.

Many unaccompanied children arriving in the UK find it difficult to 'prove' their age, particularly if they arrive without documentation. When children arrive in Dover, if Border Force officials doubt the age they say they are, they are often subject to an initial 'age interview', hours after surviving the journey across the Channel. According to those who have experienced them, these inquiries are brief, lasting between 10 and 40 minutes. They are experienced as hostile and confusing, as children are not provided with in-person translation, legal advice, or an accompanying adult.

From these enquiries, arbitrary decisions are frequently made about the age of the child based solely on limited assessment of their physical appearance and demeanour. If disbelieved, they are assigned a new date of birth which would make them over 18.

Children are then referred for prosecution as adults based on these cursory assessments. For those arrested for criminal offences relating to their arrival, this 'adult' label has significant implications for their ongoing treatment and lack of safeguarding, including throughout the criminal investigation, court proceedings, and their incarceration in adult prisons. For further information on the issue of children being wrongly assessed as adults in Dover, see [Forced Adulthood](#) and [No Such Thing as Justice Here](#).

The legal and evidential position

These prosecutions - originally justified as 'targeting smugglers' - target people on the move themselves, including those attempting to make protection claims in the UK.

Through targeting those identified as steering, the government selects for prosecution those who are among the most vulnerable in Northern France. They may not have enough money to cross in another way, and hence may be more easily coerced or compelled into steering in order to cross. This includes asylum seekers, victims of trafficking and torture, and, as above, age disputed children.

Research on the criminalisation of boat steering from jurisdictions doing so (e.g. [Greece](#), [Italy](#), [Spain](#), [Indonesia](#)) agrees that these prosecutions do not act as an effective 'deterrent', as people



remain motivated to seek safety. Those steering the dinghies are rarely those benefiting significantly from the organisation of smuggling.

The Refugee Convention is clear that refugees should not be penalised for how they enter a country in order to claim asylum. This practice breaches these obligations (see [Tara Wolfe](#) on this issue).

The Palermo Protocol on Smuggling, too, prohibits the prosecution of those acting for humanitarian motives, including to support family members, and those in situations of mutual assistance (as with those steering dinghies). It also requires states not to subject migrants to criminal prosecution for being the object of smuggling (Article 5). This practice also clearly breaches these obligations.

The Border Security, Asylum and Immigration Bill

The new Bill seeks to expand the government's powers to criminalise people arriving irregularly to the UK. While couched in humanitarian language, these provisions will not prevent deaths and harm at sea. Instead, they will criminalise people on the move themselves, who have no alternative route to the UK.

New offences include:

- 1) **The supplying, offering to supply, and handling “articles for use in immigration crime”, with maximum sentences of 14 years imprisonment.** While some (limited) humanitarian exemptions are listed (e.g. the provision of food and drink), and a defence is provided for those acting on behalf of an organisation which assists asylum seekers for free, these clauses considerably broaden the potential prosecution of migrant assistance and support. Importantly, as with all these proposed offences, there appears to be no explicit defence legislated for those on the move themselves.
- 2) **‘Collecting information for use in immigration crime’, including where that information was collected abroad.** Such information includes “arranging departure points, dates and times”, or, in other words, information that would be necessary to gather if you were attempting to make such a journey yourself. The Bill makes clear that evidence could include someone's internet history and downloads. We are concerned that, for example, even evidence of someone looking up the weather could be used as part of the case against them. The collection of this data from people's phones is facilitated by the new Bill, which creates new, broad powers to enable the search and seizure of electronic devices.



- 3) **The Bill also proposes a new criminal offence of “endangering another during a sea crossing”, with a proposed maximum sentence of six years imprisonment.** [The Home Secretary defended this offence](#) using humanitarian logic, arguing it would be “a deterrent to boat overcrowding ... those involved in physical aggression, intimidation or coercive behaviour, including preventing offers of rescue while at sea, will face prosecution”. This offence is concerningly broad, and explicitly aimed at people on the move, who may understandably refuse rescue by French authorities to make it into British waters.

Overall, these offences target people seeking asylum themselves, rather than those financially benefiting from the organisation of migrant smuggling across the Channel. There is no evidence that the expansion of criminal offences will deter people from crossing.

For further information see:

- Research report, February 2024: [No Such Thing as Justice Here: The criminalisation of people arriving to the UK on ‘small boats’](#), including a report [summary](#)
- Taylor and Gotz (2025) “Security at the heart”: Criminalisation and Labour’s Border Security, Asylum and Immigration Bill 2025, *Border Criminologies*, Available here: <https://blogs.law.ox.ac.uk/border-criminologies-blog/blog-post/2025/02/security-heart-criminalisation-and-labours-border>