

# The Anti Trafficking Monitoring Group

## Anti Trafficking Monitoring Group (ATMG) 'Illegal Migration' Bill briefing – Committee Stage

[The Anti Trafficking Monitoring Group \(ATMG\)](#)<sup>1</sup> is a coalition established in 2009 to monitor the UK's implementation of the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT). We are deeply concerned about the government's proposed 'Illegal Migration Bill', which is unlawful, unworkable, costly and inhumane and will put the lives of victims of modern slavery and human trafficking and the wider migrant community at further risk. **We reject this Bill and we urge the parliament to reject it in its entirety. Please read our full analyses and briefing [here](#).**

If the new legislation is enacted, many victims will not be identified and therefore supported under the National Referral Mechanism (NRM). **Victims being trapped in exploitation will be denied their right to seek justice for the crimes they have endured and they will instead be criminalised, detained and will be under threat of being removed.**

It is clear that the Bill is incompatible with the Human Rights Act (HRA), the European Convention on Human Rights (ECHR) including Article 4 ECHR and the Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT).

The Council of Europe Commissioner for Human Rights in a letter to all MPs and peers warned that *"the Bill's provisions create clear and direct tension with well-established and fundamental human rights standards"*.

**We also endorse the refugee sector's concerns on the Bill, including the statement released by the UNHCR on 7 March 2023, saying that the legislation would amount to an asylum ban and is a breach of the Refugee Convention. This Bill poses a risk to everyone that comes to the UK to seek protection, victims and survivors of trafficking and modern slavery, to the wider migrant community, their families and to everyone's human rights in general.**

We endorse ILPA's in-depth [briefing](#) ahead of the Bill's second reading, analysing the repercussions of the Bill on anyone affected by it. We also endorse the Detention Task Force [briefing](#) and the Refugee and Migrant Children's Consortium [briefing](#).

**This Bill does not provide a solution to the current backlog in asylum and NRM decisions or to people being forced to undertake dangerous journeys to avail of their right of seeking asylum.** Instead, these provisions will put more people in danger, will create a considerable risk of suffering

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<sup>1</sup> The ATMG consists of: Anti-Slavery International, Ashiana Sheffield, Bawso, ECPAT UK, Focus on Labour Exploitation (FLEX), Helen Bamber Foundation, Kalayaan, Law Centre (NI), the Snowdrop Project, the TARA service, Just Right Scotland, UNICEF UK, the Children's Law Centre (CLC), Flourish Northern Ireland, the East European Resource Centre, the Scottish Refugee Council and Hope for Justice

and death, and will continue to harm those more vulnerable in our society by laying the ground for their exploitation and re-trafficking

### **The Bill will unlawfully:**

- Remove ECAT protections for victims of trafficking and modern slavery who are subject to removal and detention arrangements.
- Prevent critical and effective access to identification procedures under the NRM and deprive victims of support and protection.
- Fuel trafficking and organised crime by driving anyone that is liable to be detained and/or removed underground and trap them in exploitation. The Government must offer victims and survivors a humane rhetoric and functioning support and protection system. This will disenfranchise the traffickers' hold on victims, which in turn will offer them a better incentive to approach authorities.
- Contravene the ECAT non-punishment and penalisation principle by targeting victims for removal because of the way they arrived in the UK, including where they had no choice as a result of having been trafficked and therefore entering irregularly. They and their children will be banned from settling in the UK, undermining the ECAT obligations regarding the grant of leave to remain.
- Allow traffickers to go unpunished by removing victims and survivors who are witnesses or by not identifying or supporting them so that they are not able to cooperate with investigations and prosecutions.
- Increase the power to detain vulnerable groups, indefinitely, including victims and unaccompanied children, facilitating trafficking and restricting access to support and legal advice.
- Create a group of vulnerable people left in limbo, with no right to work, study or regularise their immigration status. People will be pushed into destitution, which will exponentially increase the risk of trafficking/re-trafficking.
- Remove effective access to judicial review and legal challenge, which essentially places unlawful decisions affecting victims and survivors beyond judicial scrutiny and the rule of law.

### **Conclusion**

The Bill is in clear breach of ECAT, HRA and ECHR as well as many other international human rights treaties. In striking contrast with domestic and international law, **the Bill will fuel trafficking and organised crime by driving anyone that is liable to be detained and removed underground and trap them in exploitation.** The threat of criminalisation to victims and survivors by means of disqualification from support and subsequent detention and removal will be used as leverage by traffickers to coerce and control people and prevent them from escaping or reporting their trafficking experience. The Bill will not prevent trafficking and prosecute traffickers as suggested by the Government, but rather, it will instead increase the number of victims and reduce the number of prosecutions against traffickers.

### **Instead of pursuing this dangerous legislation, the United Kingdom, should:**

- Scrap the 'Illegal Migration' Bill in its entirety
- The Government and all political parties should commit to improve the identification, support and protection of victims and survivors of trafficking and modern slavery.
- Clear the asylum and NRM backlog by redirecting resources to develop a more efficient and functional decision-making system.

- The Government must commit to ending their practice of accommodating unaccompanied children and ensure children's services have sufficient resources for their care.
- Create and expand workable 'safe and legal' routes, including the expansion of family reunion routes
- Reform the Legal Aid provision to ensure early access to specialist legal advice.
- Enable access to work for people seeking asylum and victims of trafficking and modern slavery while in the NRM to decrease dependency on state support and incentivise integration.