

Rainbow Migration Joint Committee on Human Rights submission

Legislative Scrutiny of the Border Security, Asylum and Immigration Bill

1. Rainbow Migration supports lesbian, gay, bisexual, trans, queer and intersex (LGBTQI+) people through the asylum and immigration system and works to influence policy and practice. Our vision is to ensure LGBTQI+ people can settle safely in the UK and lead fulfilling lives. This includes ensuring that the UK has an asylum and immigration system that treats LGBTQI+ people fairly and with dignity.
2. We welcome the opportunity presented by the Joint Committee on Human Rights (JCHR) to inform its legislative scrutiny of the Border Security, Asylum and Immigration Bill. We respond in particular to its question regarding the retention of section 59 of the Illegal Migration Act 2023 (IMA), which makes asylum and human rights claims by people from certain states automatically inadmissible. We do not believe that the retention of s.59 of the IMA is compatible with the rights of people from those states who seek asylum in the UK.
3. For several years, Rainbow Migration has been campaigning against the use of blanket inadmissibility provisions in our asylum system. In 2023 we published a joint briefing with the Immigration Law Practitioners' Association (ILPA) highlighting to MPs our concerns around the 'Safe States' designations.¹ Having for many years supported LGBTQI+ people seeking asylum from Albania, Georgia and India, we are deeply concerned the designation of these nations as 'safe', as enabled by the IMA for Albania, and through additional regulations for India and Georgia. It is concerning that that legislation now allows for Albanian, Georgian or Indian nationals to be removed to their country of origin without any individualised assessment of that state's safety for the particular individual, including the state's ability and willingness to provide protection.
4. We consider the blanket inadmissibility of asylum claims to be highly problematic. We note that the Home Office accepts Indian and Georgian asylum claims not to be 'unfounded', with the Secondary Legislation Scrutiny Committee noting that:

'The Home Office stated that of the applications from Georgian nationals that had been decided, asylum had been granted in 29% of cases in the year to September

¹ Rainbow Migration and the Immigration Law Practitioners' Association, *Joint Briefing on Draft Nationality, Immigration and Asylum Act 2002 (Amendment of List of Safe States; proposal to add India and Georgia) Regulations 2024* (London, 2023). Available at: <https://www.rainbowmigration.org.uk/publications/joint-briefing-on-draft-nationality-immigration-and-asylum-act-2002-amendment-of-list-of-safe-states-regulations-2024/>

2022 and 16% in the year to September 2023. For Indian nationals, 4% of applications were granted in the year to September 2022 and 7% in the year to September 2023. These figures suggest that, for Georgia in particular, a significant percentage of claims that would previously have been granted would be ruled inadmissible under the Regulations (barring exceptional circumstances).²

5. The regulations mean that those Indian and Georgian nationals, who are in fact refugees, would not (other than in exceptional circumstances³) have the opportunity to have their entitlement to protection considered in the UK and could face unlawful *refoulement* to India or Georgia respectively, in breach of the UK's commitments under both the Refugee Convention and the European Convention on Human Rights.
6. Despite parliamentary scrutiny and opposition, particularly in the House of Lords, the provision to apply inadmissibility provisions to Albania, India and Georgia have been passed into legislation.
7. We welcome that the provisions have not been commenced. It would be deeply inappropriate to commence these provisions in future. We believe that the extension of inadmissibility provisions would be unlawful, discriminatory and likely unworkable in practice, and would lead to significant breaches of international law, including the Refugee Convention, the Human Rights Convention, and the Convention on Action Against Trafficking in Human Beings.⁴
8. The effect of making a person's asylum and human rights claim inadmissible under section 80A is that there would be no substantive consideration of their asylum or human rights claim. Making human rights claims from nationals of these countries inadmissible would therefore include claims made by people in the UK whose removal would breach their human rights, including the prohibition on torture, inhuman or degrading treatment and the prohibition of slavery. For LGBTQI+ people seeking safety from persecution in Albania, Georgia or India, there would be evident risk of *refoulement* and harm.
9. In 2024 we worked in partnership with Asylos to support a commentary on the UK Home Office's *Country Policy and information Note: Georgia: SOGIE*.⁵ This commentary

² <https://committees.parliament.uk/publications/42383/documents/210594/default/>

³ We note that there has been limited explanation of what constitutes 'exceptional circumstances', with a non-exhaustively defined list in section 80A(5). Current caseworker guidance on inadmissibility under section 80A also does not give any further guidance on what circumstances might be covered beyond these. The guidance can be accessed on pg. 10 at:

<https://assets.publishing.service.gov.uk/media/66a1219849b9c0597fdb044d/EEA+and+EU+asylum+claims.pdf>

⁴ <https://www.rainbowmigration.org.uk/wp-content/uploads/2025/03/Border-Security-Asylum-and-Immigration-Bill-Committee-Submission.pdf>

⁵ Rainbow Migration and Asylos, *A Commentary on the UK Home Office's Country Policy and Information Note: Georgia: SOGIE* (London, 2024). Available at: <https://www.rainbowmigration.org.uk/news/in-depth-analysis-raises-concern-that-georgia-is-not-safe-for-lgbtqi-people/>

identified key omissions and inconsistencies between available country of origin information on the situation of LGBTQI+ individuals in Georgia, and conclusions reached in the December 2023 Georgia: SOGIE CPIN. These included that the Home Office's assessment of the situation of LGBTQI+ people in Georgia:

- a. Failed to fully reflect the normalised role of hostile rhetoric in encouraging societal violence towards LGBTQI+ people, not only 'occasionally' or in the context of Pride events, but in everyday life;
- b. Risked minimising the existence of entrenched negative societal attitudes, and consistent reports of societal violence directed towards LGBTQI+ people;
- c. Failed to fully consider failures in Georgian authorities' ability to protect LGBTQI+ persons and hold perpetrators of violence to account - including, but not limited to, the context of Pride events held in Tbilisi.

10. We have significant concerns about the retention of s. 59 of the IMA, and that regulations enabling blanket inadmissibility have not been altered when states have been shown to be increasingly unsafe. Within the last year the Georgian government has introduced repressive new laws to restrict the rights of LGBTQI+ people, including a ban on same-sex marriage, gender-affirming care, and on sharing information that could be perceived as "LGBTQI+ propaganda" in schools and in the media.⁶ The Foreign, Commonwealth and Development Office Minister of State for Europe, North America and Overseas Territories, Stephen Doughty MP, recognised this threat and has stated that Georgia's new laws 'undermine fundamental rights of freedom of expression and assembly, and risk discriminating against and stigmatising Georgia's LGBT+ groups.'⁷ The British Embassy in Georgia has gone further still, telling the Georgia government that its anti-LGBT legislation 'calls into question the long-standing relations between Britain and Georgia.'⁸ Home Office Minister, Dame Angela Eagle MP, similarly identified the 'troubling new law' passed in Georgia, when questioned by MPs about the persecution of certain minorities in Georgia and India.⁹

11. Despite the British government's recognition of the backlash against LGBTQI+ people and their rights in Georgia, the retention of Georgia on the 'safe states' list raises serious concerns about their continued use.

12. The retention of s. 59 fundamentally undermines the rights of people from so-called 'safe' states, fails to recognise the risk of persecution due to homophobia and transphobia in those countries, and risks sending people to countries where they will be harmed because of their sexual orientation or gender identity. UNCHR have noted that

⁶ <https://civil.ge/archives/624795>

⁷ <https://questions-statements.parliament.uk/written-questions/detail/2024-10-09/8246/>

⁸ <https://www.interpressnews.ge/en/article/133407-british-embassy-family-values-and-minors-protection-package-undermines-fundamental-human-rights-including-freedom-of-expression-and-assembly/>

⁹ <https://hansard.parliament.uk/Commons/2024-10-21/debates/D69DCEEA-3EC7-4C95-9CFD-ADE950C222BF/details#contribution-E671C711-BC1E-45AC-92EA-AE3E38403842>

while the ‘designation of safe countries may be used as a procedural tool to prioritise or accelerate the examination of applications in carefully circumscribed situations, it does not displace the requirement for an individualised assessment of an asylum claim.’¹⁰

They have therefore said that as legislated s. 59 gives rise ‘to a risk of refoulement’, and encourage its repeal.

13. Below are some case studies of former Rainbow Migration service users from India and Georgia who have since been granted asylum:

- a. A gay man from Georgia said that ‘no one can know that you are gay in Georgia’, and if people find out ‘homophobic people will try to attack you.’ He said that he would rather take his own life than go back to Georgia and continue facing the same persecution he previously experienced there.
- b. A trans woman from India came out to her parents at age fourteen. They reacted very negatively, locking her in the house and refusing to let her out. They forced her to undergo harmful conversion practices, which the UN rightly identify as “degrading” and “inhumane”.
- c. A lesbian woman from India had an engagement arranged for her against her will. She told her fiancé about her sexuality and managed to get the engagement called off. However, her family later found out that the reason he had called off the wedding was because she was a lesbian, and she knew that her only option was to flee the country so that her family would not kill or seriously hurt her. After arriving in the UK and being granted asylum, she was informed by a family member in India that another family member said that if she were to return to India, they would ‘try to kill me, but even if they could not capture me or kill me, they would still throw acid on [my] face as a punishment for dishonouring the family.’

14. If s.59 provisions are applied, these individuals would risk being returned to the persecution and violence they have fled, posing a risk to their right to life, liberty and security.

15. We therefore urge JCHR to give specific consideration to the Government’s intention to retain section 59 of the Illegal Migration Act.

For more information on the issues raised in this briefing please contact
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¹⁰ UNCHR, *Observations on the Border Security, Asylum and Immigration Bill*. Available at : <https://www.unhcr.org/uk/media/observations-border-security-asylum-and-immigration-bill-march-2025-pdf>