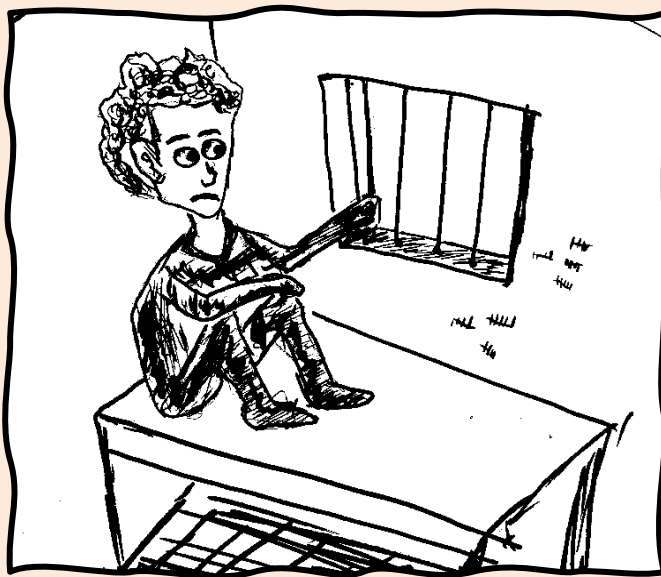


# **“I TOLD THEM THE TRUTH”**

**AN UPDATE ON THE CRIMINALISATION OF PEOPLE  
ARRIVING TO THE UK ON ‘SMALL BOATS’**

**FEBRUARY 2024 TO APRIL 2025**



***I spent 3 days in a police station which is dark days that I spend in all my life, in the police station. One room, without nothing, dark place, nobody talk to you, nobody answer to you. Stress. The words are not enough to explain those days. They were bad days, the worst that I have ever had in my life.***

*Yassin, aged 17 at the time of his arrest and conviction*

# Authors and Acknowledgements

This report was written and edited by Vicky Taylor (University of Oxford and Border Criminologies), Maddie Harris (Humans for Rights Network), Basma Kamel and Francesca Parkes (Refugee Legal Support).

This report is informed by the collective work of several organisations. These key contributors are:



## **Captain Support UK**

Captain Support UK is a grassroots organisation which works in solidarity with all people criminalised for crossing borders or facilitating freedom of movement. The collective provides practical solidarity to people in prison and post-release as well as campaigning for systemic change against criminalisation of migration in the UK, alongside Captain Support International.



## **Humans for Rights Network**

Humans for Rights Network is a needs led Human Rights organisation, established to facilitate safety and dignity for people forced to migrate, to advocate for a rights-based approach to the movement of people throughout Northern Europe, and to represent humans whose rights are violated. We are led and informed by the Migrants we work with and collaborate to address mistreatment and challenge systemic and structural racism and discrimination, and the harmful impact of these.



## **Refugee Legal Support**

Refugee Legal Support works in solidarity with people who migrate. We advocate for the promotion and protection of people's rights throughout the migration process. We provide legal support, casework, strategic litigation, outreach, training and partnerships. Our approach is inclusive, sustainable and participatory. Our work is directly informed by those with lived migration experience.

We would like to express our gratitude and solidarity with the people who contributed to this report, including those who spoke to the researchers about their experiences being arrested and imprisoned for arriving to the UK. We are grateful for comments from reviewers also.

This report was translated into French by Elise Amal Connor, with the support of the Cross Border Forum.

The cover artwork is by Solomon Mojowk.

This report has been published by Border Criminologies and the Centre for Criminology at the University of Oxford. Border Criminologies is an international network of researchers, practitioners, and those who have experienced border control.

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# Key findings

- In June 2022, the Nationality and Borders Act (NABA) introduced the new criminal offence of 'illegal arrival', effectively criminalising seeking asylum in the UK. This offence has since been used against people arriving on 'small boats'. Those selected for prosecution are usually either a) those accused of piloting the dinghy, or b) those with a 'previous immigration history' in the UK. However, the offence is so broad as to enable prosecutions to be brought against anyone arriving.
- Overall, from the introduction of the NABA offences on 28th June 2022 until the end of 2024, the best available data suggests that 556 people were charged with 'illegal arrival' having arrived on 'small boats', and 455 convicted. Approximately half were convicted after being identified with their 'hand on the tiller' of the dinghy.
- Almost all those imprisoned having arrived on a 'small boat' will have claimed asylum in the hours before their arrest. UN bodies have criticised these prosecutions as breaching the UK's obligations under the Refugee Convention, and in particular Article 31, which is intended to protect refugees from penalisation for how they arrive to a country to seek asylum.<sup>1</sup>
- Potential victims of trafficking are regularly being convicted for 'illegal arrival' and imprisoned without ever being referred into the National Referral Mechanism (NRM), or having the circumstances of their potential trafficking and the link between this and their alleged offence considered.
- The criminalisation of people crossing the channel persists under the Labour Government, with those most at risk of exploitation continuing to be targeted. Those prosecuted include people seeking asylum, victims of trafficking, torture, modern slavery, and children.
- Children continue to be arrested and charged with these offences. Upon arrest they are detained in cells in police stations, including overnight, where they are treated as adults and denied access to necessary safeguards.
- Since our last report in February 2024, we have identified 14 more children with ongoing age disputes who have been charged with immigration offences. At least six were arrested and charged since the new Labour government was elected. To date, this means that at least 29 children with ongoing age disputes have been arrested for immigration offences'.<sup>2</sup> At least 18 of these children spent time in adult prison, sharing cells with adults.
- Of the 29 children with age disputes identified, 17<sup>3</sup> have now subsequently had their ages accepted as under 18 at the time of their arrival by local authorities or independent social workers. Others continue to undergo Merton compliant age assessments and dispute their ages in the courts.

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<sup>1</sup> For example, see written evidence submitted by the UNHCR regarding both the [Nationality and Borders Act 2022](#) and [Border Security Bill 2025](#); [IOM](#), and [Liberty](#), as well as [communications](#) from the Special Rapporteur on the human rights of migrants to the UK Government in relation to prosecutions of age disputed children for immigration offences in the UK.

<sup>2</sup> 15 of these were identified before February 2024. All of these children were charged with the offences of 'illegal arrival' or 'facilitation' having arrived on a 'small boat', except one who arrived on a small boat before the Nationality and Borders Act', and one who was convicted of an ID document offence.

<sup>3</sup> One individual was assessed to be a child at the time of arrival by an independent social worker led age assessment, however, he turned 18 before this was conducted and remains detained in an adult prison awaiting extradition.

# Recommendations

Prosecutions have continued since the Labour Government was elected in July 2024. We call on the new Government to:

1. **Put an end to these offences:** the Labour Government should repeal the Nationality and Borders Act 2022 and end the practice of criminalising people for arriving at the border. This practice contravenes the UK's obligations under international law, and does not have the purported 'deterrence' effect.
2. In the meantime, a direction to the **CPS should be made to stop bringing charges against people arriving with immediate effect**, and anyone currently being prosecuted should have the charges dropped.
3. **End the Home Office practice of referring potential victims of trafficking for prosecution without referring them into the National Referral Mechanism** and before a Reasonable Grounds decision has been made. The CPS should be alive to indicators of trafficking in individuals who have crossed the channel, to ensure they consider applying the statutory defence and CPS policy on the non-prosecution of suspects who may be victims of trafficking.
4. **End the Home Office practice of arresting and referring children for prosecution on the basis of an initial Home Office 'age assessment'** and prior to an adequate, lawful determination of these children's ages. This must happen in both policy and practice.
5. **The CPS should be directed to make proper enquiries about someone's age before bringing charges**, and should be making child safeguarding referrals in each case to the relevant local authority.
6. **No child should be incarcerated in an adult prison**; however, in order to safeguard those who are under the current framework, a clear policy for prisons across England and Wales should be devised to ensure best practice to promptly identify, protect the welfare and secure the safety of these children.
7. **As part of ongoing sentencing reviews, including for immigration offences**, the situations of those charged (as described in both our reports<sup>4</sup>) should be properly considered. Judges should, at a minimum, hand down non-custodial sentences to those prosecuted.
8. **Overturn historical convictions of all those who have been prosecuted since 28th June 2022**, as well as those charged as 'boat pilots' before this date.
9. **Expand Section 31 of the Immigration and Asylum Act 1999** (entitled "Defences based on Article 31(1) of the Refugee Convention") to include all immigration-related offences, including Section 24 'illegal arrival' and 'entry', and Section 25 'facilitation'. This has been recommended by the UNHCR to better ensure compatibility with the Refugee Convention.<sup>5</sup>

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<sup>4</sup> See our first report, dated February 2024, [No Such Thing as Justice Here](#)

<sup>5</sup> [UNHCR Updated Observations on the Nationality and Borders Bill](#), as amended, January 2022

# Introduction

In February 2024, we published the report “*No Such Thing as Justice Here*”: *The Criminalisation of People Arriving to the UK on ‘small boats’*” which detailed for the first time how people seeking asylum in the UK are being arrested and imprisoned for their arrival under new criminal offences introduced in 2022. It covered the period June 2022 to January 2024.<sup>6</sup>

Despite this published evidence that people seeking asylum, victims of trafficking, torture, modern slavery, and age disputed children, are being routinely prosecuted for seeking safety via the only route available to them, and the incompatibility of this with international law, no action has been taken by either the previous or current Governments. People continue to be prosecuted for seeking safety.

**This report provides updated recent evidence and analysis of how people are being criminalised for seeking safety in the UK. It covers from February 2024 until April 2025.** The updated information in this report has been obtained through casework conducted with the children and adults affected, FOI responses, and interviews with seven adults and one young person - we refer to as Yassin - who was under 18 at the time he was imprisoned for seeking safety.

## Overview of the criminalisation of seeking asylum

In June 2022, the Nationality and Borders Act (NABA 2022) expanded the scope of immigration crimes in the UK in response to people arriving to the UK on ‘small boats’. The Act made two key changes to the Immigration Act 1971:

- introduced the offence of ‘illegal arrival’ (Section 24) and increased the maximum penalty to 4 years imprisonment,
- expanded the scope of the more serious offence of ‘facilitating arrival’ (Section 25) and increased the maximum penalty to life imprisonment.

**These changes mean that anyone arriving irregularly to the UK could be prosecuted with the criminal offence of ‘illegal arrival’. It effectively criminalised seeking asylum in the UK.**

In practice, however, the CPS acknowledged that it would not be in the public interest to prosecute every adult arriving irregularly to the UK given capacity constraints in the court and prison systems.<sup>7</sup> Instead, it published guidance on “factors tending in favour of prosecution (aggravating factors)” to support operational decision making.<sup>8</sup> Our evidence shows that those prosecuted after their arrival on a ‘small boat’ usually fit into one (or both) of two groups:

- 1) **The person identified as steering the dinghy**, who are charged with their own illegal arrival (Section 24), and sometimes also for facilitating the arrival of the others on the dinghy (Section 25); or,
- 2) Those with a **previous immigration history** in the UK, who are charged with their own illegal arrival (Section 24). This included people who have been identified as being in the UK previously, or having attempted to arrive (for example, through making a visa application).

While the vast majority of prosecutions of people who arrived on ‘small boats’ for ‘illegal arrival’ fit into these categories, we are also concerned by how the breadth of the offence enables the government to target anyone it chooses to and disagrees with. This report provides further evidence of this.

The new offences were defended in Parliament through two main arguments:

### **Myth 1: These offences target the ‘criminal gangs’ organising Channel crossings.**

Research on the application of such ‘crimmigration’ offences globally shows that, while often justified as targeting only the ‘most evil’ of people smugglers, in reality, they are used routinely and predictably against a wider range of actors, including most often, people seeking protection themselves.<sup>9</sup> Smuggling networks will remain ‘in business’ as long as there remains no other route to get to the UK to seek safety. Our previous report provided clear evidence that those imprisoned for steering dinghies to the UK did so either under duress, because they do not have enough money to pay for a full fare, as a volunteer to mutually assist others seeking asylum in the UK, or under threat of violence.

<sup>6</sup> The report was based on observations of over 100 court hearings; data collected through Freedom of Information (FOI) requests; interviews with people directly affected, and lawyers; analysis of case law; and the case work of Humans for Rights Network and Captain Support UK. It was produced through a collaboration between Captain Support UK, Humans for Rights Network, Border Criminologies, and Refugee Legal Support. It can be accessed on the Border Criminologies website here: <https://www.law.ox.ac.uk/content/news/report-launch-no-such-thing-justice-here>

<sup>7</sup> (R vs Mohamed, Preparatory hearing, 5 Dec 2022)

<sup>8</sup> <https://www.cps.gov.uk/legal-guidance/immigration>

<sup>9</sup> See, for example, the work of [Borderline Europe](#), [Arci Porco Rosso](#), [Captain Support](#), [El Hiblu 3 Campaign](#), and [Free Ibrahima Campaign](#).

**Myth 2: These offences are necessary to deter people from making the dangerous crossing across the Channel.**

There is no evidence, from the UK or elsewhere,<sup>10</sup> that prosecution and prison sentences for arrival or steering dinghies 'deter' people from making irregular journeys to seek asylum. This is because, for the vast majority of those crossing the Channel, there is no other way, for example, to reach the UK to seek asylum or reunion with other family members.

These offences were introduced by the previous Conservative Government as part of a package of measures designed to be 'tough' on people arriving to seek asylum, reliant on the unsubstantiated logic of 'deterrence'. In practice, these offences have no other effects except to cause human misery distress and damage to people asking for safety in this country.

## **More of the same: criminalisation under Labour**

**Since the Labour Government came into power in July 2024, the practice of arresting people off 'small boats' for 'illegal arrival' has continued.** The new Prime Minister, Keir Starmer, has announced it is his "personal mission to smash the people-smuggling gangs". Yet, the number of people dying in pursuit of safety in the UK has continued to rise. As Calais-based researchers have documented, joint British and French efforts to 'stop the boats' have played a significant role in the increase in deaths close to the French coast (for example, due to French police puncturing boats on the beaches and the shallows), challenging the notion that increased policing necessarily results in a reduction of border-related harms.<sup>11</sup>

**The Labour government are attempting to broaden the range of criminal offences for use against people crossing the Channel.** In January 2025, the Government published its proposed Border Security, Asylum and Immigration Bill, which proposes several new criminal offences for use against both those it decides to label as 'smugglers', but also against people on the move seeking protection themselves. Just as with the offence of 'illegal arrival', the proposed offences are deliberately broad, granting considerable discretion over who charges are brought against.

**Several UN bodies have raised concerns around the lawfulness, both of the current prosecutions and of the proposed new offences within the Border Security Bill.**<sup>12</sup>

They point out that the UK's obligations under international human rights law, including, as enshrined in Article 14 of the

Universal Declaration of Human Rights, requires states to enable the right to seek and enjoy in other countries asylum from persecution.

**The UNHCR has argued that the practice of prosecuting people for 'illegal arrival' (regardless of age) contravenes both the spirit and the letter of the 1951 Refugee Convention.** Article 31 requires that signatory states do not impose penalties on refugees on account of their illegal entry or presence, recognising that irregular entry is often the only way to make an asylum claim. The UNHCR argues that these offences rely on a "misconstruction" of Article 31, which is "not meant to suggest that an asylum-seeker must claim asylum in the first country that could be reached without passing through another". They are clear that the new offences "should not improperly target asylum-seekers and refugees", yet, our evidence shows that this is precisely what is happening.

**The proposed Bill is a further step in the criminalisation of asylum seeking. We call on this Government to change its approach to 'small boats'. In particular, we implore this Government to repeal the Nationality and Borders Act 2022 and its criminalisation of asylum seeking, and stop the practice of arresting people for seeking safety.**

<sup>10</sup> See, for example, Missbach (2023) The Criminalisation of people smuggling in Indonesia and Australia: asylum out of reach; Weber (2012) Criminalizing People Smuggling: Preventing or Globalizing Harm?, The Routledge Handbook of Transnational Organised Crime, p. 379.; Patane et al. (2020) Asylum-Seekers Prosecuted for Human Smuggling: A Case Study of Scafisti in Italy, Refugee Survey Quarterly, 123-152

<sup>11</sup> [https://alarmphone.org/en/2024/01/28/the-deadly-consequences-of-the-new-deal-to-stop-the-boats/?post\\_type\\_release\\_type=post](https://alarmphone.org/en/2024/01/28/the-deadly-consequences-of-the-new-deal-to-stop-the-boats/?post_type_release_type=post)

<sup>12</sup> For example, see written evidence submitted by the [UNHCR](#), [IOM](#), [Liberty](#), and [Humans for Rights Network and Border Criminologies](#).



# Methodology

## Research Design

**This report is informed by the collective work of a network of organisations operating in the UK from October 2022 to April 2025.** We specifically focus on things that have changed since our last report in February 2024. Therefore, they should be read together to get a full picture.

This report combines data from casework by Humans for Rights Network, Captain Support UK, and Refugee Legal Support, as well as from court observation, analysis of data collected via Freedom of Information Requests, and interviews with 8 people with lived experience of imprisonment for arriving to the UK on a 'small boat' to seek asylum. One of these children, we call Yassin, was under 18 at the time of his arrest and imprisonment in adult prison.

Taken together, these organisations have experience of supporting over 300 people criminalised for seeking safety in the UK, including via 'small boat'. Humans for Rights Network has supported 29 children in this situation.

We continue to collect quantitative data about the number of people criminalised for 'illegal arrival' and 'facilitation' having arrived on a 'small boat'. These FOI requests are publicly available here:

[https://www.whatdotheyknow.com/user/victoria\\_taylor\\_5/](https://www.whatdotheyknow.com/user/victoria_taylor_5/)

## Research interviews

**For this report, we conducted qualitative interviews with eight people with lived experience of criminalisation upon their arrival to the UK.** These interviews focused on their experiences within the prison system and their interaction with the legal process and system. The objective was to capture the complexity of the participants' journeys through the criminal justice system, their insights into the challenges they encountered, as well as how these experiences shaped their lives after being released from prison.

**Seven of these interviews were with adults (people over 18) who had experienced criminalisation after arriving in the UK and were imprisoned between August 2023 to January 2025.** These participants were invited based on their direct experience with the criminal justice system, specifically regarding the prison process and post-release reintegration.

### Interviews included questions on:

- Arriving in the UK: Participants were questioned about their experiences upon arrival in the UK, and their understandings of the risk of being arrested;
- Experience in Prison: Participants were asked about their time in prison, including their awareness of the conditions, support services in prison, and challenges they faced during imprisonment.
- Clarity of the Legal Process: Questions were designed to explore how participants understood the legal procedures that led to their imprisonment;
- Post-Release Life: Finally, the interviews focused on the participants' lives post release, including their access to support services; understanding of bail conditions; and relationships with their probation officers.

The interviews were conducted remotely by phone calls, as after prison people are generally dispersed to asylum accommodation across the UK. Each interview lasted approximately 30-60 minutes, and participants were given the opportunity to ask questions or clarify their concerns at any point. All interviews but one were audio-recorded with participant consent and transcribed for analysis.

Most of the interviews for this report were conducted in Arabic. To represent people's exact words, while also making them accessible to an English speaking audience, we have included some quotes in both the original Arabic and English translation. All participants have been anonymised and are given pseudonyms throughout this report. To protect their anonymity, we do not provide further demographic details of each individual. However, the 7 adults interviewed included people from Sudan, Egypt and Libya.

A further interview was conducted in person with a young person who was imprisoned when they were under 18. This is the first time someone in this position has spoken publicly about their experiences in prison for steering a dinghy across the Channel. He has also been anonymised.

# Section 1: Criminalising ‘illegal arrival’ to the UK, February 2024 - April 2025

**This section provides an update on developments in the prosecution of people arriving on ‘small boats’ since February 2024 (the date of our last research report).<sup>13</sup>**

Unfortunately, despite a new Labour Government in July 2024, the practice of imprisoning people for their arrival to the UK on a ‘small boat’ has continued. All of the issues identified in *No Such Thing as Justice Here* remain. For example, we reached out to one man - Sabit<sup>14</sup> - who pleaded guilty and was convicted of both ‘illegal arrival’ and ‘facilitation’, having steered a dinghy to reach the UK to claim asylum in 2024, to ask if he would like to contribute to this ‘update’ report. He replied, referencing our previous report:

*To be honest with you, it looks like the person who has written this has been having a conversation with me. I have read the link, some of the paragraphs that have been mentioned in here are in my book that I am writing. [...] But I hope there is someone that is out there somewhere, maybe has something to say. Hopefully you will find him or her. You know a lot more than me. And you do always do your best to check on the people that are the victim to this system that is underneath the shadow.*

Many people we have spoken to echo this sentiment that the systematic prosecution of some small boat arrivals is ‘underneath the shadow’ or unknown. Nevertheless, it affected hundreds of people in 2024.

## How many people have been prosecuted?

Compiling data from FOI requests made to the Home Office, we are able to give an estimate of the number of people prosecuted for ‘illegal arrival’ and ‘facilitation’ having arrived on a ‘small boat’. This is only an estimate, given the poor quality of data provided by the Home Office.

The vast majority, if not all, of those prosecuted have made and have ongoing asylum claims, and many are also victims of trafficking, torture, and modern slavery. Charges are also brought against children with ongoing age disputes.

### The most up-to-date data we have obtained shows:

- 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.<sup>15</sup>
- In 2023, 244 people were charged with ‘illegal arrival’ having arrived on a small boat, and 200 convicted.<sup>16</sup> 88 of those charged were identified as steering.<sup>17</sup> 17 of these were also charged with ‘facilitation’, and 6 convicted of ‘facilitation’ in this year.<sup>18</sup>
- In 2024, 155 people were charged with ‘illegal arrival’ having arrived on a ‘small boat’, and 127 convicted. Of those charged, 88 were identified as steering, and 62 of these convicted. While 101 people were arrested for ‘facilitation’ having been identified as a ‘pilot’ in 2024, only 27 were charged, and fewer than 5 people were convicted.<sup>19</sup>

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

**In the first quarter of 2025 (1<sup>st</sup> January – 31<sup>st</sup> March), 14 people were charged with ‘illegal arrival’ having arrived on a ‘small boat’, including 8 for piloting. 36 were convicted during this period for ‘illegal arrival’, including 18 for steering the dinghy. No one was convicted of ‘facilitation’ for piloting a dinghy in this period.<sup>20</sup>**

<sup>13</sup> See [No Such Thing as Justice Here](#) for developments before February 2024.

<sup>14</sup> All names relating to interviews or people imprisoned have been changed.

<sup>15</sup> [FOI response, 11 March 2024](#)

<sup>16</sup> [FOI response, 25 June 2024](#)

<sup>17</sup> [FOI response, 11 March 2024](#)

<sup>18</sup> [FOI response, 25 June 2024](#)

<sup>19</sup> [FOI response, 3 February 2025](#)

<sup>20</sup> [FOI response 30 April 2025](#)

**Each person we know of who has been convicted of ‘illegal arrival’ for arriving on a ‘small boat’ claimed asylum when they arrived in the UK.** Many of those convicted are from countries with a high likelihood of being granted asylum in the UK, including Sudan, South Sudan, Libya and Syria.<sup>21</sup> While they should have been taken to asylum accommodation awaiting the outcome of their claims, instead they were taken to prison.

## Who is selected for prosecution?

### “Hands on the tiller”

**Each dinghy which crosses the Channel must have at least one person steering it, to help it to travel safely.** Many people take up this role in exchange for a reduced fare, as otherwise they could not afford to travel. Others are forced under duress to take up this role. In our experience, some people are arrested even though they have taken no part in the steering of the dinghy, they were merely photographed being close to the motor.

**In the past year, we have observed how sometimes more than one person from the same dinghy is accused of having their hand on the tiller.** This can happen where two people take it in turns to steer, or if someone takes over if the first is no longer able to manage, for example, due to tiredness or a deterioration in weather conditions.

**In many cases, it could be argued that those steering the boats were coerced or compelled into doing so due to their situations of vulnerability (e.g. not having enough money to cross or facing threats of physical harm). However, we are aware of no cases in which lawyers have advised their client that they might benefit from a defence to ‘illegal arrival’ as a victim of trafficking/modern slavery under Section 45 of the Modern Slavery Act 2015.** This act provides a statutory defence to those compelled to commit some criminal offences because of slavery, trafficking, or relevant exploitation. While many accused of ‘illegal arrival’ could have benefitted from this defence, usually, they are advised that they have no defence in law.<sup>22</sup>

**Potential victims of trafficking are regularly being convicted for ‘illegal arrival’ and imprisoned without ever being referred into the National Referral Mechanism, or having the circumstances of their potential trafficking and its**

link with the alleged offence ever being considered. This is despite the findings of the European Court of Human Rights in *VCL v United Kingdom* 77587/12 (16 February 2021) that *“given that an individual’s status as a victim of trafficking may affect whether there is sufficient evidence to prosecute and whether it is in the public interest to do so, any decision on whether or not to prosecute a potential victim of trafficking should – insofar as possible – only be taken once a trafficking assessment has been made by a qualified person”* (§161).<sup>23</sup>

**Statutory agencies such as the police, Border Force and Immigration Enforcement are designated First-Responders and they have a statutory duty (under Section 52 of the Modern Slavery Act) to notify the Home Office when they come across potential victims of modern slavery.**<sup>24</sup> The UK Government’s Modern Slavery Act Guidance also draws the Border Force’s attention to the need to *“be alert to all possible signs”* of trafficking at ports of entry, particularly as victims may not self-identify. Despite this, inspection and UNHCR reports have continually noted that screening processes upon arrival are inadequate, and often result in late identification of trafficking measures, if at all.<sup>25</sup>

**The CPS, too, has obligations to properly consider whether there are any indicators of trafficking.**<sup>26</sup> While those prosecuted for ‘facilitation’ are unable to raise the defence under Section 45 of the Modern Slavery Act 2015, CPS guidance still sets out a four-stage approach which must be followed when making a decision to prosecute, including a mandatory requirement to consider whether it is in the public interest to prosecute on the basis of specific considerations including *“whether the force of compulsion from the trafficking/slavery or past trafficking/slavery acting on the suspect is enough to remove their culpability/criminality or reduce their culpability/criminality to a point where it is not in the public interest to prosecute them”*.

As we have previously documented, in the vast majority of cases, **the CPS discontinues the charge of ‘facilitation’ for the vast majority of those accused of steering boats across the Channel.** This is usually because there is no evidence the person with his ‘hand on the tiller’ was involved in the organisation of the crossing. However, some prosecutions succeed, for example, if the accused is confused or ill-advised and pleads guilty at the magistrates before the CPS drops the charge.

<sup>21</sup> [FOI response 25 June 2024](#)

<sup>22</sup> The Section 45 defence can be applied to the offence of ‘illegal arrival’, but not of ‘facilitation’.

<sup>23</sup> *CASE OF V.C.L. AND A.N. v. THE UNITED KINGDOM*, Accessible at: <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%22001-207927%22%7D>

<sup>24</sup> Modern Slavery Act Guidance §4.10: <https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims/modern-slavery-statutory-guidance-for-england-and-wales-under-s49-of-the-modern-slavery-act-2015-and-non-statutory-guidance-for-scotland-and-northern-ireland>

<sup>25</sup> <https://www.unhcr.org/uk/publications/asylum-screening-uk>

<sup>26</sup> Part 2 of the CPS Guidance on ‘Modern Slavery and human trafficking’

## Notes from court: 'small boat pilots' prosecuted in 2025

On 6th January 2025, two cases of people accused of 'steering dinghies' were heard before Canterbury Crown Court. One of the men was from Sudan, and the other from Eritrea. Both had been observed by Border Force officers with their 'hand on the tiller' in English waters.

Both men had been charged with both 'illegal arrival' and 'facilitation' at Margate Magistrates court, before being denied bail and remanded to prison. As is commonly the case, however, the prosecution were unable to provide evidence that these men were involved any further in the 'facilitation' of people arriving. In the Crown Court in January, therefore, the CPS informed the court that the 'facilitation' charges would be discontinued for both men.

The court therefore turned to sentencing the two men for 'illegal arrival'. The first man had pleaded guilty to 'illegal arrival', but 'not guilty' to facilitation, at the magistrates court. He was sentenced to 8 months (reduced from 12 months due to his early guilty plea.)

The second man was sentenced to 9 months imprisonment because his solicitor had advised him to plead 'not guilty' to both offences at the magistrates. He was entitled to only 25% off his sentence, rather than 1/3 as with the first man.

## 'Previous immigration history'

**Many of those who are charged with 'illegal arrival', who were not accused of 'piloting', were arrested due to having a 'previous immigration history' in the UK.** This is a broad group, encompassing a range of situations, as we describe in more detail in our first report.

We know of at least one person arrested because they fled the UK back to France, scared of being arrested and sent to 'Rwanda' in 2024. They then returned again on a 'small boat' and were arrested for 'illegal arrival' due to having been in the UK previously. We include this example to emphasise that the fear produced by policies, such as the threat of being removed to Rwanda, can create demand for 'dangerous journeys', rather than reducing them.

In another 2024 case, an Afghan man was convicted of 'illegal arrival'. He had spent time in the UK as an 'unaccompanied asylum seeking child', before being removed back to Afghanistan when it was deemed safe for him to return. However, given the Taliban's more recent re-control of the country, a decade later he fled the country again back to the UK. When he returned in 2024, the fact he had been in the UK as a child was used against him, and this was the reason he was arrested. Despite the previous government's refrain that 'illegal arrival' would only be used against asylum seekers in the most 'egregious' cases, the reality is that these offences are being routinely used against people seeking asylum, safety, and a better life in the UK.

## 'Illegal arrival': politically motivated prosecutions

**The breadth of the offence of 'illegal arrival' provides the state with powers to arrest anyone arriving on a 'dinghy' that it wishes to target.** While the vast majority of those arrested for 'illegal arrival' of 'small boats' fit into the above two categories, we have identified a small number of cases that are neither 'pilot' nor have a 'previous immigration history'. For example, our previous report detailed how several fathers have been arrested for 'facilitation', having brought their own children with them on a dinghy to the UK.<sup>27</sup>

**In September 2023, two men were convicted of 'illegal arrival', with the aggravating factor being that they had been identified trying to protect the dinghy from police destruction on the beaches in Calais.** In footage used by the government in court to support the prosecutions, French police were seen using tear gas indiscriminately against people trying to launch a dinghy, making the situation much more dangerous. While the French police say this is to save lives and stop crossing, evidence from NGOs shows that, in fact, police violence is behind the rising number of deaths in the French shallows.<sup>28</sup> In sentencing the two men, the Judge at Canterbury Crown Court said he took into account the sentencing guidelines for 'assault', even though this charge was never brought against the two men by either the British or French authorities.

<sup>27</sup> [https://blogs.law.ox.ac.uk/sites/default/files/2024-02/No%20such%20thing%20as%20justice%20here\\_for%20publication.pdf](https://blogs.law.ox.ac.uk/sites/default/files/2024-02/No%20such%20thing%20as%20justice%20here_for%20publication.pdf) p. 9

<sup>28</sup> <https://alarmphone.org/en/2024/01/28/the-deadly-consequences-of-the-new-deal-to-stop-the-boats/>



**The most recent example is a Palestinian man, who was charged in March 2025 of ‘illegal entry’, having arrived on a ‘small boat’ after pressure from right-wing media outlets.** We understand he was neither the ‘pilot’ nor had an ‘immigration history’ but instead was selected because of political views he expressed on social media. His case is ongoing. This example most clearly shows the politicised nature of the use of this offence, which provides the state with the power to select anyone who arrives on a ‘small boat’ for prosecution. **These cases show how the government can use the breadth of the ‘illegal arrival’ offence as a tool to penalise through prosecution, imprisonment, and attempt to remove, those it disagrees with, regardless of their claims to protection.**<sup>29</sup>

## Arrival in Dover

As we have previously documented, **the moment of ‘rescue’ at sea is also a policing encounter.** Drones follow dinghies at sea to both locate and observe ‘small boats’, as well as capturing evidence for the purpose of prosecuting the person, or people, with their ‘hand on the tiller’. Hamza explained:

*“When I saw the rescue team coming to rescue us from the sea, I had an unforgettable happy feeling... after the cold weather in Calais I felt now it’s safe. I had no fears at this specific moment and wasn’t thinking about anything.”*

In our collective casework experience, **most people arrested for ‘illegal arrival’ from a ‘small boat’ did not know this could happen to them, and had no knowledge that, for example, steering the dinghy could result in their arrest.** None of the eight people interviewed for this report knew they would be put in prison. Given this lack of knowledge, this clearly undermines the previous government’s argument that ‘illegal arrival’ would act as a ‘deterrent’. According to Walid:

*“I did not know that it was possible I could be arrested when I arrived in the UK. I was arrested in Dover. They just told me come with us, he showed me the handcuffs and put them on me. I asked him why he said just come with us we need to ask you some questions. I asked him to give me a reason but he did not speak to me any more.”*

For the most part, throughout 2024 people continued to be arrested from the ex-RAF barracks at Manston Short-term Holding Facility (STHF), shortly after their arrival. Here, their fingerprints were taken, and used to identify whether they had a ‘previous immigration history’ which could lead to their arrest.

In the hours after their arrival, officers also analysed images from drones, and officers on rescue boats. The person ‘at the

tiller’ was sometimes identified for arrest. Within 48 hours of arriving to the UK, all seven adults we interviewed were arrested from Manston STHF and taken to a police station in Kent. Ashraf recalled:

*“All the people with me got called and left from there. I was the only person waiting and tried to ask them if there was something wrong! They said “no no but just wait”. An officer came later with an interpreter and told me that we are going to the police station for routine procedure and you will go.”*

As we have previously documented, although the crime of ‘illegal arrival’ is broad and could be applied to anyone arriving irregularly to the UK, including to seek asylum, only some people are arrested. People, including those we interviewed, were confused why they were the only ones arrested from the boat, and experienced their arrest as arbitrary and unjust:

*“When they told me at the police station that I committed a crime of arriving illegally to the UK on a small boat, I was shocked and I asked if I committed a crime where everyone else was with me on the boat. But I did not find a response. [...] I did not know but I said if this is the law then no problem, I respect the law, but why are the rest of the people with me not arrested too?” Samuel*

Once arrested, people are taken to a police station where they are questioned and often held overnight. Ashraf explained:

*“في لحظة اول يوم في قسم الشرطة كان احساس الظلام واليأس.. احساس انك مش عارف ايه ممكن يحصل وامتي هتخرج من ده وايه اللي هيجصل بكرة في المحكمة وايه القانون اصلا .. وفجأة حسيت اني رجعت تاني للحظة السجن في مصر... يعني احنا سيبنا هناك عشان مندخلش الحبس جيت هنا عشان ادخل الحبس”*

*“I stayed one night at the police station. This was the hardest night I can not forget. I did not know that I would be arrested and accused of driving. I felt hopeless. Hopeless because the moment I arrived I was facing the unknown and darkness. I did not know what I would say to the judge or what the law was.”*

**Increasingly, people are arrested up to months after their arrival from their dispersed asylum accommodation, with their cases heard in courts outside Kent.** For example, one man we supported in 2024 was arrested three months after arriving and taken to a prison in the North of England. People are also arrested for ‘illegal arrival’ having arrived via other means (e.g. by plane, or by lorry) to the UK. Unfortunately, given they could be held in any prison across the country, it is much harder for our organisations to identify these people and offer support. We are concerned that these people are also likely not to have access to appropriate support, advice, and information to adequately understand their situation.

<sup>29</sup> See also, Parkes (2025) Crimes of arrival: an entirely arbitrary approach to prosecution, ILPA, accessible: <https://ilpa.org.uk/crimes-of-arrival-an-entirely-arbitrary-approach-to-prosecution/>

## What about the Refugee Convention?

According to Home Office statistics, 99% of people arriving on 'small boats' in the year ending June 2024 make asylum claims on arrival. In all cases we are aware of, those arrested for 'illegal arrival' made asylum claims once they arrived in the UK.

Article 31 of the Refugee Convention prohibits Contracting States from imposing "penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened [...], enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."

People who cross the Channel in dinghies have inevitably travelled from France or Belgium after leaving the country where their life or freedom was threatened. The Government therefore argues that they have not 'come directly' and therefore are not entitled to the protection from prosecution afforded by Article 31. However, the UN body responsible for monitoring the implementation of the Refugee Convention - the UNHCR - has strongly criticised this narrow interpretation, saying that this is not the intended meaning of the article in international law. The organisation's latest guidance to interpreting Article 31 (from September 2024) is clear:

*"Refugees 'coming directly' include those who come straight from such territory, but may also include those who have merely transited through an intermediate country or countries, as well as those who have stayed in an intermediate country or countries."*

## Prosecuting Arrival in the Courts

### Decision to charge and pleas

**Most people arrested with 'illegal arrival' or 'facilitation' having arrived on a 'small boat' appear before magistrates courts in Kent soon after their arrival to the UK.** From February 2024 until 18th November 2024, people generally indicated their 'plea' in this initial hearing, before being remanded to custody to await a second 'sentencing' hearing at the Crown Court in Canterbury. As our previous report covered in more detail, bail was invariably denied to people in this situation, and rarely challenged by their lawyers.

**The vast majority of those arrested for 'illegal arrival' off 'small boats' continue to plead guilty at the initial magistrates hearing under the advice of their lawyers.** The Nationality and Borders Act (2022) increased the maximum sentence of 'illegal arrival' to 4 years imprisonment, and 'facilitation' to life imprisonment. While, to date, the Sentencing Council has not issued any guidance on sentencing for these offences, in 2023, in the case of *Ginar*, the Court of Appeal stated that 12 months imprisonment was an appropriate starting point for those convicted of 'illegal arrival' after arriving on a dinghy, before taking into account any additional aggravating or mitigating factors, and any credit for a guilty plea.<sup>30</sup>

Receiving a sentence of at least 12 months triggers 'automatic deportation' procedures for foreign nationals. In order to avoid meeting this threshold, duty solicitors in Kent routinely advise their clients to plead guilty to these offences. This is usually without an individualised assessment as to the likelihood of removal based on their clients' individual circumstances. The vast majority therefore plead guilty at the magistrates courts very soon after their arrival, reducing the avenues for legal challenge.

There therefore remain some, as yet untested, avenues to pursue, based on the fact that most (if not all) of those convicted have come to the UK to claim asylum and were not able to come to the UK by any other route, and that many could be considered victims of trafficking.

<sup>30</sup> R v. Ginar [2023] EWCA Crim 1121 (26 September 2023)

## Abuse of process on trial: Case study

One man arrived over the summer of 2024 on a 'small boat' and was sent to accommodation in the north of England. Three months later, however, he was arrested and charged with both 'illegal arrival' and 'facilitation', as photo evidence suggested he had his 'hand on the tiller' during the journey. Unusually, he pleaded 'not guilty' to both offences. As with most cases, after the CPS reviewed the evidence further, they decided not to pursue the charge of 'facilitation'.

For the first time that we are aware of, his criminal barrister began to argue that there had been an 'abuse of process', as the defendant was a Sudanese Darfuri who had no other route to travel to the UK to make an asylum claim. The argument was that the CPS had not adequately considered its duties under the Refugee Convention (and Article 31).

However, the day before this argument could be made in Canterbury Crown Court, the Judge issued a note indicating that if the defendant was to change his plea to guilty, he would reinstate full sentencing credit (as if he had pleaded guilty in the magistrates, which would result in a sentence reduction of 33%). As the defendant had already spent several months in prison, he would likely be released imminently if he changed his plea to guilty.

To avoid spending any more days in custody, the defendant understandably changed his plea and was sentenced to 6 months custody. This was lower than the usual 8 or 9 months. He was released three days later and is now awaiting determination of his asylum claim.

This example shows the barriers lawyers continue to face in challenging these cases, and the pressures that can be brought to bear on defendants to agree to secure earlier release from prison and shorter sentence. However, importantly, it points to the availability of potential avenues to future challenge.

## Sentencing

- **Pilots:** Those who are convicted of 'illegal arrival' having been identified as steering the dinghy are usually sentenced to 8- or 9-months imprisonment, if they plead guilty at the earliest opportunity.
- **Immigration History:** Those who are convicted of 'illegal arrival' due to a 'previous immigration history' often receive sentences of over 12 months, especially if they have a history of being convicted of offences previously in the UK.
- **Facilitation:** Those convicted of the most serious 'facilitation' offence after steering a dinghy have, in our observations, received sentences of between 38 months and 18 months.

**For those convicted at the magistrates and remanded to prison awaiting sentencing, the nationwide backlog in criminal courts had a significant impact on the length of this waiting period.** During this period, they did not know how long they would be in prison. Walid described his experience waiting for a sentencing hearing:

*I spoke with the solicitor, he sent me a message to say I had court. The day came and I didn't go. I called my solicitor but he did not answer. I stayed there longer. Too much stress. I lost my hair. I didn't have anything to do; no work, just gym once per day. Sometimes I lose my mind, I dream too much, I wake up and scream.*

Despite being arrested and remanded to prison in June 2024, Walid waited six months until January 2025 before he was finally seen before the Crown Court for his sentencing hearing. He was sentenced to 8 months imprisonment (reduced from 12 months due to an early guilty plea). He was immediately eligible for release as he had been in custody for 6 months, meaning he had spent two months longer than 'necessary' in prison.

In March 2024, the Sentencing Council published its proposals for guidelines on 'immigration offences', including those relevant here. We are concerned that these guidelines take an overly punitive approach to sentencing these offences, failing to take into account the reality of the situations many of those convicted are in, as well as the UK's obligations under international law.

**As the Court of Appeal acknowledged, there is no evidence to support the argument that tougher sentences deter people from crossing the Channel.** In *R v Ginar* (2023) the Judge recognised that:

*"Deterrence can, in our view, carry only limited weight as a distinct aim in the sentencing ... The circumstances of those who commit offences of that kind, as opposed to those who organise them, will usually be such that they are unlikely to be deterred by the prospect of a custodial sentence if caught. We know of no evidence or research which indicates the contrary."*<sup>31</sup>

**Nevertheless, people arrested on arrival are routinely imprisoned and sentenced to custodial sentences.**

On 18 November 2024 magistrates' sentencing powers increased from 6 months to 12 months. From this date, until the time of writing (March 2025), those who plead guilty in their initial hearing in the magistrates court are also sentenced the same day. While this means they should know how long they will be imprisoned for from the start of their sentence, this quick sentencing further restricts the ability for legal challenges to be made.

## Surviving in prison

*"I went to Elmley prison and I spent there 114 days.. I was counting them day by day"*

Ashraf "لا مش تقريبا.. قعدت ١١٤ يوم .. عديتهم يوم بيوم

**Carceral environments, including and especially prisons, have often difficult and long lasting consequences for the health and lives of those detained within them.** We recognise that this is the case for people in prisons across the country, whatever their circumstance. This section focuses on the specific experiences of people imprisoned for their arrival in a country which they thought would provide them safety. Samuel explained his experience in HMP Elmley:

*"In the prison, you feel estranged. I came here with hope and future plans, but in the prison I felt scared and hopeless."*

**The issue of prison overcrowding reached headlines in 2024 across the UK.** This forced the government to issue a nationwide order to reduce the automatic release point of a criminal sentence of under four years from 50% of their sentence, to 40%, on 10th September 2024. While acknowledged by our previous report, conditions in the prison continue to negatively affect those we are in contact with.

**The vast majority we support are detained in HMP Elmley, a prison on the Isle of Sheppey.** In 2025, the Independent Monitoring Board published the results of their latest inspection of this prison (for the reporting year 1 November 2023 - 31 October 2024). This report raised many concerns about the prison, including about the quality of the accommodation (it noted that *"access to clean, working showers and reliable heating are insufficient"*, particularly in the cold winter), the quality and nutritional value of the food, levels of attendance to education, levels of self harm, and the 'use of force' against prisoners. Of particular concern, the report showed how *"black prisoners [were] more than twice as likely to be restrained than white prisoners"*.

**Among those we work with, people often report being provided with very little information about why they are in prison, including how long they will be imprisoned.** This lack of information causes significant confusion and distress. As these crimes are still relatively new, and little is known about them by the general population, misinformation is easily spread in the custodial environment. One man interviewed told us he believed he was going to be sentenced to five years, as that is what his roommate told him. He believed this for five weeks before he was able to meet people in the same situation through the prison mosque, who informed him that it was likely his sentence would be 8 months, of which he would likely serve less than half.

**The problem of confusion and lack of information was compounded by difficulties accessing and communicating with their lawyers.** Ashraf, for example, explained:

*I was not able to speak to my lawyer. He was not reachable, and this was so depressing to me. It took more than one month to get a phone and add numbers to it. Anything in the prison takes a long time to get approved. If they cared about it.*

While all charged with these offences are eligible for a duty solicitor, these lawyers often have limited capacity due to the constraints of legal aid. Issues with capacity, as well as difficulties organising legal visits in prisons, means that in our experience criminal solicitors rarely, if ever, visit these clients in prisons in Kent. For the most part, their interactions with lawyers are limited to short meetings: 1) in the police station; 2) before their initial hearing in the magistrates court where they enter their plea; and 3) before their sentencing hearing. Often, each of these meetings are carried out by a new lawyer and interpreter each time.

<sup>31</sup> *R v Ginar* [2023] EWCA 1121



**The result is that people in prison for these offences are often confused about what is happening to them, their rights, and their eligibility for other forms of support and legal advice.** In particular, people are often confused and worried about the potential impact of their criminal offence on their ongoing immigration status. In some cases, we have been made aware that criminal solicitors have provided wrong information to their client about the impact (for example, that they will definitely or likely be deported after the end of their sentence, despite an ongoing asylum claim). This adds to the confusion, which is exacerbated further by the lack of access to immigration solicitors in prisons in the UK.

## **Release from prison and the ongoing impacts of imprisonment**

**Being imprisoned in the UK for arriving to seek safety has significant, long-lasting effects on people's lives.**

**Since February 2024, we have witnessed more people being released from prisons without any address, and being forced into street homelessness.** This is despite the fact that most are eligible for asylum accommodation from the Home Office. We understand that this is due to administrative failure by the Home Office, to ensure that, once someone claims asylum, their 'Port Reference Number' is uploaded to the files accessible to Migrant Help, the charity contracted to run emergency asylum accommodation. Without access to this number, Migrant Help cannot identify whether the person is eligible for accommodation support. This administrative effort is routinely forcing people into homelessness.

**Many people are released without sufficient, accessible (including in a language the person understands) information as to their a) immigration and b) criminal reporting conditions.** This leads to further confusion, and sometimes to people failing to adhere to their requirements, risking further imprisonment.

**Nour explained what happened when he was released:**

*"The day of release I was guided by the reception team in the prison who explained to me that I need to go to Croydon to sign, giving me a piece of paper with directions to Croydon... I did not have a phone but I managed to arrive there. I expected that the immigration team will send me a taxi. I was so exhausted and wanted to go somewhere to sleep."*

*I was not correctly informed that I need to go and see my probation officer, they only given me many papers and the paper of directions to go to Croydon, I only realised that I have an appointment with the probation a week after my release."*

*When I went to the Home office for signing I asked them where I am going after, they said it's not our specialty, you need to call Migrant Help. I went in the street and tried to find someone with a phone, called Migrant Help and it was Sunday, so they said, "you need to call next week. We don't work on Sundays". I was in this limbo for 8 days homeless in the street."*

**The interplay between the criminal justice system and Home Office immigration systems means people often fall through the gaps.** For example, we are aware of at least two people who have had their asylum claims 'withdrawn' while they were in prison, meaning they were unable to access asylum support on release, and were told that they were liable to be removed. Despite being continuously held by either Border Force, the police, or the prison since their arrival to the UK, the Home Office had decided that they had 'absconded' as they had not provided any address on their asylum file. While the Home Office reinstated one of the man's claims within one day after this was raised to them, for the other it took a month before they accepted the error. During this month he was unable to access accommodation or healthcare.

**As we previously documented, imprisonment in the UK has longer term impacts on the physical and mental health of those affected.** They can be subject to arduous reporting conditions after prison, which are often explained poorly and not in a language the person is able to understand. They can require travelling many miles every week, as well as being tagged with an electronic monitoring device.

**The impact of having a criminal record causes stress and uncertainty, including on job prospects, and the longer impact on their immigration status.** Many people have told us they feel a strong sense of stigma and shame even after they have been released:

*"It was not easy even after release... I felt scared to go outside my room.. Even people and workers in the hotel are avoiding me because, you know, I was in prison and people think I am a criminal... but they really don't know that I am not..." Hamza*

*"It's not easy to go out. I did not have a phone, my English is poor, I also took almost one week to start to go outside and see how i can find help..." Ashraf*

**Many people who were imprisoned for the crime of arriving without a valid entry clearance have since been granted refugee status or humanitarian protection.** However, none of the 8 people we are in contact with who were convicted of both s.24 and s.25 have received an answer on their asylum claim, despite some having completed their substantive interview over 12 months ago. We hope to publish a future report on outcomes of the immigration claims for those affected by these prosecutions later this year.

## Ibrahima Bah: scapegoated for deaths in the Channel

Ibrahima Bah, a teenager from Senegal, is one of the few of those labelled as 'boat pilots' who has been convicted of 'facilitation'. At the time of writing, he remains imprisoned.

In December 2022, Ibrahima was threatened into steering a dinghy across the Channel from France. He wished to seek safety in the UK, along with others. The date of birth on his birth certificate would have made him 16 at the time.

At sea, the dinghy began to take on water due to its poor construction. Ibrahima saw lights in the distance and steered the dinghy towards what happened to be a fishing trawler, the Arcturus. Once they were close to the trawler, however, those in the dinghy panicked and stood up, causing its floor to collapse. Some people were trapped inside the folded structure, others fell into the sea. Four men are known to have drowned, and up to five were never found at sea.

A report by [Alarm Phone and LIMINAL](#) raised questions about the lack of aerial surveillance, the failure of the French to launch a search and rescue operation, and the Arcturus's delay in informing Dover coastguard. These questions remain unresolved, even after the conclusion of an investigation by the Marine Accident Investigation Branch.<sup>1</sup>

Ibrahima was arrested and charged with his own 'illegal arrival', 'facilitating' the arrival of survivors, and four counts of manslaughter. He was subjected to a trial in July 2023, in which both himself and other survivors recounted the events of that night. However, the jury could not come to a verdict. In February 2024, again, Ibrahima was tried by jury. In court, one survivor described Ibrahima as 'an angel' who did his best to save them, including holding a rope to keep the collapsed dinghy alongside the Arcturus so that others could save themselves while he remained on the dinghy.

Following this three-week trial, Ibrahima was found guilty, both of his own 'illegal arrival' and of 'facilitation', but also of four counts of manslaughter by gross negligence. He was sentenced to 9.5 years imprisonment. This was despite the court's acceptance that he was forced to drive the boat, and that he had tried to save those on board. He was convicted and sentenced as if he were 20 years old, following a Home Office age assessment.

Ibrahima's prosecution has set a dangerous precedent for the scapegoating of migrants who agree to, or are forced to, steer dinghies as the only way to reach the UK. He was refused permission to appeal against his conviction and sentence after an oral hearing at the Court of Appeal in December 2024.

## Section 2: Prosecuting age-disputed children

### Issues with age determination processes in Dover

**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. These initial 'age interviews' are known to be unreliable. Reports by NGOs in the UK working with unaccompanied children subjected to this process and obtained recent evidence to confirm this.<sup>32</sup> Previous research has demonstrated that the Home Office does not know just how inaccurate these assessments are, nor how many of them are overturned when a full 'Merton compliant' assessment is undertaken. The department also fails to properly monitor its own policy.<sup>33</sup>

A 'Merton compliant' assessment is different from the initial interview at Dover, as it is undertaken over a longer period of time, seen as more holistic, and takes into consideration observations from staff who have worked with the young person.

Data previously obtained by FOI requests to Local Authorities found that from January 2022 – June 2023 over 1,300 children were wrongly 'assessed' by the Home Office in these initial enquiries to be adults, having subsequently been recognised to be children by Local Authorities.<sup>34</sup> This is likely to be a significant undercount as not all Local Authorities responded to the request.

This continued in 2024. The most recent data shows that in the 6 months, January and June 2024, 63 local authorities in England and Scotland received 603 referrals of young people wrongly placed in adult accommodation or detention. Of the 493 cases where age was determined, 53% were found to be children. **This means that at least 262 children were misclassified as adults in just six months<sup>35</sup>.**

Once labelled as 'adult', these children are transferred to Manston STHF, before being housed in adult Home Office accommodation (such as hotels and former military sites). They are not provided with accessible information or assistance about how to challenge this age decision. Instead, they are frequently told they can 'fix this when they get to the hotel'. In reality, evidence suggests that staff within hotels have been instructed not to make referrals to Local Authorities regarding age assessments.<sup>36</sup> For those arrested for criminal offences relating to their arrival, this 'adult' label has significant implications for their ongoing treatment and lack of safeguarding throughout the criminal investigation and proceedings.

**Yassin, a child arrested, charged and convicted of 'illegal arrival', spoke to Humans for Rights Network after his release from an adult prison.** He describes the reality of the 'age determination' process he was subjected to after arrival on a small boat, he was 17 at the time of this interview:

*"When I arrived, I told them that's my age. This man, he asked me one question, and from the one question he said "that's not my age!" He just asked me "when did you start studying in school?" So I told him when I was 6 or 7. In my village there, if you are studying, they will put you, even if you are 5 or 4, they will put you in Qu'ran school. I didn't know exactly what age I was when I started school. They considered my age from this question. They said that "we know that people start school when they are 7 or above 7". I said for Qu'ran school, I go to school with my siblings, my brothers, it is easier for me to be with them. I didn't study at a public school or government school.*

<sup>32</sup> For example, Humans for Rights Network has extensive direct casework experience with over 1,800 children disbelieved by the Home Office. See also, Young Roots and Helen Bamber Foundation, ["They Made me Feel like Myself"](#) and Young Roots, ISWS and Public Law Project, ["Good Decision Making in Age Assessments"](#).

<sup>33</sup> Helen Bamber Foundation and Humans for Rights Network (2023) [Disbelieved and denied](#)

<sup>34</sup> Helen Bamber Foundation, Humans for Rights Network and Refugee Council (2024) [Forced Adulthood: The Home Office's incorrect determination of age and how this leaves child refugees at risk](#)

<sup>35</sup> Refugee and Migrant Children's Consortium - ["Lost Childhoods"](#) - March 2025.

<sup>36</sup> Helen Bamber Foundation, Humans for Rights Network and Refugee Council (2024) [Forced Adulthood: The Home Office's incorrect determination of age and how this leaves child refugees at risk](#)

*They told me also that my shoulders are big. I told them maybe I'm bigger than the bodies that you know. They told me "no". I told him "that's ok, I don't mind, I cannot force you to do something". I thought that after I get outside I will call my family and get the papers [about my age] to give to them.*

*But after I get outside that room, I go outside, then they arrest me. I didn't get the chance to bring the paper." (Yassin, 17).*

## How many age disputed children have been criminalised for seeking safety?

"No Such Thing as Justice Here" reported that, as of February 2024, at least 15 children with ongoing age disputes had been identified as prosecuted for immigration related offences. 13 of these were for 'illegal arrival' or 'facilitation' off 'small boats', one was for 'illegal entry' pre-June 2023 off a 'small boat', and one was for an ID document offence.<sup>37</sup>

Since February 2024, Humans for Rights Network has identified a further fourteen age-disputed children arrested after their arrival to the UK on a 'small boat'. **Therefore, to date, a total of at least 29 children have been identified as having been prosecuted with immigration related offences.** 28 of these individuals were arrested after arriving on a dinghy.

**Of these 29 individuals, 17 have subsequently had their stated age (as under 18) accepted by the relevant local authority.**<sup>38</sup> Five are still engaged in either age assessments or age dispute litigation. Five individuals have decided not to pursue their age dispute challenges due to the impact on their well being and quality of life. We are unsure of the whereabouts and subsequent outcomes of one individual, and one individual was not able to access an adequate determination of his age, as he turned 18 before we could access an age assessment.

All but one of these 29 individuals are of Black, African origin. 22 of them are Sudanese or South Sudanese. Due to the migratory routes often used by people from these countries, these young people are also very likely to have experienced trafficking, torture, false imprisonment, and exploitation. For example, many have reported time detained, tortured and exploited in Libya.

At least 15 of the 28 age disputed children were initially charged with 'facilitation', as well as their own 'illegal arrival'.

## A lack of transparency

**It is very likely that more than 29 age disputed children have been prosecuted for their arrival to the UK.** Given the lack of transparency shown by prisons, CPS, Home Office, and Ministry of Justice, and in the absence of a systematic means of identifying individuals in this situation, we believe this to be an undercount. Each of these individuals has been identified through court observation in Kent, through information from others in prison, or via their criminal solicitor. There is no systematic way for NGOs to identify these individuals, and we have no way of being able to confirm this number. While the CPS previously said that no children have been prosecuted for these offences, they acknowledged that they do "not collate or record" data related to those who are age disputed and have been accepted as children after further assessments.<sup>39</sup>

**The 17<sup>40</sup> children we have identified who had their ages subsequently accepted as under-18 by Local Authorities have faced complex ongoing legal battles regarding their adult criminal convictions.** Six of these children were convicted and sentenced as adults prior to a full 'Merton compliant' assessment of their age. They accepted being treated as an adult for the purpose of sentencing, as if they had continued to delay sentencing to await the outcome of an assessment, they would have had to spend longer in prison. We continue to work with these young people: one has so far had their conviction quashed.

**Of the 17 who had their ages accepted, only six were remanded to Local Authority care while 'Merton compliant' age assessments were undertaken.** Others were only able to access age assessments and an acceptance of their ages after extended periods of time and legal advice, one child waited more than 13 months. Each child had a complex journey to accessing the required care and support they are entitled to as unaccompanied asylum seeking children, with the complexities of each clearly demonstrating how they have been failed by multiple actors and agencies, beginning with the failure of the Home Office in reliably and fairly determining their age upon arrival.

<sup>37</sup> This child was convicted of a document offence, for which he spent 7 months in adult prison at the age of 14. He was subsequently assessed to be the age he stated, by a Local Authority, after his release. We are very concerned that more age-disputed children are in this situation after arriving via other routes (not just 'small boats'). This is very likely, however, we have no way of identifying these individuals systematically.

<sup>38</sup> One individual was assessed to be a child at the time of arrival by an independent social worker led age assessment, however, he turned 18 before this was conducted and remains detained in an adult prison awaiting extradition

<sup>39</sup> FOI request (12 April 2024), [https://www.whatdotheyknow.com/request/cps\\_age\\_dispute\\_policy#incoming-2621462](https://www.whatdotheyknow.com/request/cps_age_dispute_policy#incoming-2621462)

<sup>40</sup> One individual was assessed to be a child at the time of arrival by an independent social worker led age assessment, however, he turned 18 before this was conducted and remains detained in an adult prison awaiting extradition

**Once an individual is accepted as under-18, the charges against them are discontinued.** One of the 17 was, for reasons unknown, bailed to adult Home Office accommodation. Here, he spent 6 weeks without specialist support and living with unrelated adults. Eventually, Humans for Rights Network was able to locate him, and subsequently referred him to the relevant local authority for an age assessment.

Since the last report (February 2024), **we have identified two additional children who were convicted and sentenced as adults and served sentences in an adult prison.** These two children were only identified by our networks as children after their release from prison. One said that while he said his true date of birth in the magistrates court, he was told that only the Home Office issued date of birth could be used, and was told to stop telling them his real age. It was only after release that they disclosed that they were in fact both under 18 at the time of arrival in the UK. They did not think anyone in the prison or criminal justice system could help them to achieve justice and correct the age issue.

The experiences of these children clearly show how the criminal justice system does not operate effective safeguards to protect age disputed children.

*"While I spend the 2 months in prison, people there, they advised me to saying I am guilty and the age that they have given to you, accept it. Do this to get out quickly. I listened to them. So I went to court and said that I would accept the age that they gave to me because I want to be outside the prison."* (Yassin, 17)

## Experiences of age disputed children in the Criminal Justice System

**Each of the 29 children identified has had a different journey through the British criminal justice system.** Their experience depended on a variety of factors including, the court they appeared before; whether they were remanded to prison or the care of a local authority; their legal representative; and, at what point Humans for Rights Network were able to intervene and advocate for the child to be referred for additional legal advice.

First, as previously described, all the young people were subjected to an initial 'age interview' in Dover in the hours after their arrival. This determination of 'age' was then used to justify their arrest and charge as an adult.

**At every stage there remains a consistent burden on the child to continually advocate for themselves and their age as under 18.** When they appeared in court, for example, they restated their birthday, which conflicted with the older date of birth assigned by the Home Office.

As many of these hearings are conducted in adult courts, there are often no reporting restrictions in place to protect children. On several occasions, the National Crime Agency has released the names of age-disputed children into the public domain, a protection that is usually always afforded to children in the Criminal Justice System.

**In some of these cases, the court decided to conduct what is known as a 'Section 99 assessment'**<sup>41</sup>, where magistrates or Judges make an assessment of the person's age based on the evidence in front of them. We have observed this in both Kent courts, and other courts across the country dealing with these cases. Each court deals with it differently, indicating a nation-wide lack of understanding as to how to deal with cases of age-disputed young people before criminal courts. However, where courts have decided to make 'Section 99' assessments, this usually meant relying on the Home Office's initial assessment, as well as a visual assessment of the defendant in the courtroom, justifying their remand to adult prison. These 'Section 99' assessments are insufficient in safeguarding and acting in the best interest of children in adult courtrooms.

In *R v L, HVN, THN, T*, the Court of Appeal argued that: *'Where there are reasons to believe that the defendant is a child, then he should be treated as a child. In other words it is not possible for the court to brush aside evidence which suggest that the defendant may be a child. The issue must be addressed head on.'*<sup>42</sup> **Best practice, therefore, where there is doubt as to the defendant's age, is to treat them as a child pending a full 'Merton-compliant' assessment.**

Since February 2024, in Kent, some age-disputed children have been remanded by courts to the care of the local authority pending a full Merton compliant age assessment. Whilst this a better outcome than remand in adult prisons, **these children were still routinely denied protections intended to safeguard children in the criminal justice system, for example, they would not even be referred for prosecution if accepted to be a child, they would not be in the police station being interviewed as an adult and charged as adults.**

<sup>41</sup> <https://www.legislation.gov.uk/ukpga/Geo5/23-24/12/section/99>

<sup>42</sup> *R v L, HVN, THN, T* [2013] EWCA Crim 99, para 25.



## Case Study: Majid, imprisonment of children continues in 2025

In January 2025, Humans for Rights identified a child detained in an adult prison outside of Kent. Upon arrival, Majid was subjected to an initial Home Office 'age interview' finding him to be an adult. He was then transferred to an adult hotel outside of Kent. He was later arrested from this hotel for both 'illegal arrival' and 'facilitation'.

Majid first appeared in a magistrate's court, which decided to treat him as an adult after conducting a Section 99 assessment. He was remanded to an adult prison.

In February and March 2025, his case was heard before a Crown Court. In both these hearings, the court showed limited awareness of best practice for dealing with age disputed young people in criminal courts, including the above mentioned obligations under the Modern Slavery Act 2015.

While the Judge recognised that a Merton compliant age assessment needed to be carried out, he did not initially order it. In February, the Judge finally ordered one to be carried out, but Majid was kept in prison.

After 3 months in an adult prison, Majid's specialist public law solicitors were able to ensure the local authority provided him with an address for bail. He was eventually released from adult prison to this address. Throughout this case in 2025, the courts both failed to acknowledge and act appropriately with regards to safeguarding him as a potential child and acted insufficiently to secure his release and safety.

Even when a child is remanded to the care of a local authority, the ongoing adult criminal case causes significant distress and anxiety for them due to concerns around, for example, the possibility of remand to adult prison, as well as the impact of conviction on their immigration status.

Whilst the Home Office continues to refer children to the CPS for charging prior to adequate age determination and fails to acknowledge its flawed process for determining age, children will continue to be incarcerated with adults and subjected to acute harm. These children have very limited pathways for compensation for the additional trauma and distress caused by their incarceration in the UK.

## Home Office Policy

**Since February 2024, when we first publicly highlighted the fact that children were being imprisoned in adult prisons, the Home Office have made several changes to their policies and guidance around age assessments.** However, these remain insufficient, and children continue to be imprisoned in adult prisons in 2025.

In November 2024, the Home Office updated its 'Assessing Age'<sup>43</sup> guidance stating:

*'Any decision on age made by the Home Office for immigration purposes is not binding on the criminal courts. Where the court doubts whether the individual is a child or not, the court can make a separate decision on the age of an individual based on the available evidence or can order a Merton compliant age assessment.'*

From this change, it is clear that the Home Office accepts it refers people for prosecution who have ongoing age disputes and may well be children given the unreliability of the initial age assessment. However, rather than improving its processes in Dover, the department seems to pass on responsibility to the criminal courts.

Elsewhere in these November changes, the department stated that the 'Criminal and Financial Investigations (CFI) team' should be made aware if anyone they are considering for prosecution is age disputed. However, this has clearly failed as a safeguard. Despite this change in written policy, as Majid's story shows, children have continued to be imprisoned in adult prisons for offences relating to their arrival to the UK to seek asylum. The Home Office continues to withhold information about the number of age disputed children referred for prosecution.<sup>44</sup>

<sup>43</sup> <https://assets.publishing.service.gov.uk/media/672e169e4f7608e424ffdab1/Assessing+age.pdf> - page 82-83.

<sup>44</sup> [https://www.whatdotheyknow.com/request/children\\_prosecuted\\_for\\_crossing#incoming-2969315](https://www.whatdotheyknow.com/request/children_prosecuted_for_crossing#incoming-2969315)

## Case study: Ishaq

Upon arrival to the UK in May 2024, 16-year-old Ishaq was determined to be an adult after the initial Dover-based 'age interview'. He was then arrested for 'illegal arrival', accused of steering the dinghy, and appeared before Margate magistrates court. The court remanded him to the care of Kent County Council.

A National Age Assessment Board (NAAB) age assessment was carried out again finding him to be an adult, despite staff and his childrens accommodation informing the Home Office that they considered him to be a child. He was immediately moved to an adult Home Office hotel, where his mental and physical health declined, he lost weight and suffered from anxiety and depression.

His criminal case continued, but he continued to maintain his stated age as under-18. In the Crown Court, the judge concluded that he was, in fact, telling the truth about his age, finding him to be 'consistent, cogent and consistent'. The judge found that he was unable to place any more than minimal weight on the assessment conducted by the NAAB. In fact, his findings included:

- That the assessment had taken an unfair approach, disregarding the views of staff at IA's placement who considered him to be a child.
- The 'minded to' process, where social workers are required to explain their provisional age assessment to the young person giving them an opportunity to respond and provide further information, was not conducted fairly or in accordance with the guidance
- The assessment failed to recognise the experiences of Ishaq\* as not adequately comparable to that of a western European child.
- The assessment failed to apply the principle of benefit of the doubt
- Overall, the assessment placed too much weight on searching for evidence that Ishaq\* was an adult and did not place weight on supporting evidence.

This case raises concerns regarding the NAAB and its role in assessing the age of asylum seeking children in the UK. We are concerned that the fact that adult criminal charges had been brought against him influenced the reasoning of the assessors.

In March 2025, the Home Office further amended its 'Assessing Age Policy', in response to a Judicial review brought by 4 children subject to criminal prosecutions for s24, prior to adequate determination of their ages. It includes an 'interim policy' pending more substantial changes to the initial age interview process in Dover (not yet introduced). This interim policy states that:

*"referrals by the Home Office to the CPS for criminal prosecution as adults for immigration offences must be delayed pending the opportunity to have an age assessment". This is caveated, by the conditions that the individual must have been found to be over 18 by a S18 decision and assigned a date of birth making them under 25 years of age, and that they are not considered a high harm case."*

**We welcome this interim policy change, which acknowledges that the initial age interviews in Dover are an insufficient safeguard for children referred for criminal prosecution as adults.** All Children should have the opportunity for a full Merton compliant assessment, carried out by independent social workers over a longer period, and not in the hours following a distressing journey.

**However, the caveats included in this interim policy remain concerning, and we are concerned about what the future policy might look like.** For example, the caveats in the interim policy seems to suggest that if someone died in the Channel, and the person steering was age-disputed and prosecuted, they will not be afforded the protections they are entitled to.

The direction of policies in this area has consistently focused on identifying 'abuse', rather than focusing on the rights, welfare and best interests of children.

We are yet to establish the impact of both the interim and future policy in regards to its effectiveness in adequately establishing the age of children prior to prosecution in order to protect them from any further harm, including if the interim policy is followed in practice. However, since 'Assessing age was further updated in March 2025, Humans for Rights Network has already identified one child who was referred for prosecution prior to a Merton compliant age assessment, a clear failure by the Home Office to follow its own policy.

## Accessing an age assessment

**For all age-disputed children in the UK, accessing an age assessment is difficult.** Delays and structural barriers mean that children are often prevented from accessing a fair determination of their age.

Humans for Rights Network has worked with over 2,000 children over the past 3 years (2022-2025) who have been determined to be adults upon arrival by immigration officers. Many of these young people have been placed in isolated hotels with adults. We are concerned about a Home Office policy which prevents accommodation providers, and Migrant Help, from making child safeguarding referrals to Local Authorities.

**On average, it can take up to 6 months for a child to access an age assessment. Many children wait far longer.** Others cannot access them at all, for example, local authorities refuse to act on a referral, due to difficulties instructing a solicitor, or because they decide to stop the process due to the stress and its potential to delay the outcome of asylum claims.

**When a child is in prison, barriers to accessing fair age assessments are far harder for a child to overcome.** Children in adult prisons do not have access to information regarding which NGO or professional to contact for support, and prison staff do not have the knowledge to support them. Children in prison are therefore almost entirely prevented from accessing an assessment and local authority care, unless identified, for example by Humans for Rights Network. Once identified, they are reliant on this NGO for support in understanding and challenging their situation.

## Harms and risks to children prosecuted

*"The time that I spend in there [Elmley prison], I wouldn't wish it on my enemy to spend that time. Really it is bad days, bad days. People think that 6 months and 8 days is easy, but it is not easy. You can lose your mind.*

*Day by day I'm turning my happiness that I had back before. I'm trying to not remember the days that I spent in there, just trying to make myself ok. Everything is going to be better one day."* Yassin, 17

The negative impact of these criminal proceedings on age disputed children is significant and potentially long term. This is particularly the case when children are held in adult prison, where they are at serious and obvious risk of harm including through lack of safeguarding, psychological and psychiatric harm. At least two young people have since been prescribed antipsychotic medicine, citing their time in British prison as a significant contributing factor to their condition.

**We have serious concerns about the practices of UK prisons in which age disputed children are held.** Prisons are unwilling to provide information regarding their procedures for dealing with such individuals,<sup>45</sup> and that even when safeguarding policies are provided, their application in practice is inconsistent and experienced as punitive by incarcerated children (for example, being isolated from other people when held in segregation, itself a harmful practice).

*"They was racist. They was racist actually. Sometimes they cannot allow you to do your religion. They cannot help you with your applications. They cannot help you if you've got problem with your cell. They cannot help you. You should be down and begging them, then they might help you. Without begging, nobody can help you. Many times that happened to me with them. One day I'm trying to do salah [Muslim prayer], someone, the staff comes to me and they said we cannot allow you to do this there. I told him, many people are doing this here, so why not me. He didn't allow me to do what I was trying to do. He just told me, go to your cell. Go to your cell."* Yassin, 17

**Children who were remanded or bailed to Local Authority care instead of prison were also negatively affected by their ongoing criminal proceedings.** The uncertainty, both of the outcome of their age assessment and the possibility of time in an adult prison hanging over them often for many months, as well as worries over the longer-term impact of a potential conviction, all have significant adverse impacts on the health of these young people.

**It is likely that we have not identified every age-disputed child who is in prison for seeking safety in the UK.** Many of these individuals have been identified by chance. Captain Support has observed an increase in people being arrested at a later date from their asylum accommodation, rather than straight from Manston. Given that accommodation is dispersed around the UK, it has become impossible for everyone to be systematically identified. We are very concerned about the likelihood of children being prosecuted as adults, and held in adult prisons, around the country without specialist support or safeguarding practices.

<sup>45</sup> [https://www.whatdotheyknow.com/request/prison\\_policies\\_age\\_disputed\\_pri](https://www.whatdotheyknow.com/request/prison_policies_age_disputed_pri)



## Case Study: Yassin

The following case study and all quotes contained in this section of the report are provided by Yassin (not his real name). Yassin was convicted of 'illegal arrival' and sentenced as an adult after steering a dinghy to the UK. He spent over 6 months in an adult prison as a child.

Yassin arrived in mid-2023 on a 'small boat' into Dover. In the docks, he stated that he was 17, but Border Force officers did not believe him. He was subjected to an initial age 'interview' in the hours following his journey across the Channel. An arbitrary decision was made about his age, labelling him as 7 years older than he in fact was.

He was then arrested and charged initially with both 'facilitation' and 'illegal arrival' offences. He was taken to a police station and questioned, where he again stated he was under-18. He was remanded by a Kent Magistrates Court to adult prison (HMP Elmley).

A month later, HFRN was able to make contact with Yassin in prison, having been made aware of his presence there through another prisoner. He confirmed that he was 17 and wanted HFRN to assist him with his age dispute. He said that he was 'very worried about everything and prison was very bad'. The call was cut short as he was told by a guard that his cell was to be locked.

Yassin became concerned that pursuing his age dispute in the criminal process would prolong his time in prison. This was because full age-assessments can take some time and delay the entering of a plea or sentencing. Following this path might well end up in children spending longer in prison than their eventual sentence.

When he was eventually sentenced as an adult at the end of 2024, Yassin received a sentence of 28 weeks (7 months). He had, due to backlogs in Kent courts, spent longer than required in prison.

After his release Yassin was referred to the relevant local authority as an age-disputed child. Very shortly after, they accepted that he was, indeed, his stated age, 17.

***"I say to those who came to check my age, I showed them all my papers, I told them the truth."***

# Conclusion

**This report has provided an update of observations from casework and research on how the offences of ‘illegal arrival’ and ‘facilitation’ are being used against people arriving to the UK on ‘small boats’.** Despite our report in February 2024 - which revealed how asylum seekers, victims of trafficking and torture, and children with ongoing age disputes are being imprisoned for seeking safety - the new Labour government has continued these prosecutions. The proposed Border Security Bill promises more of the same.

**There is no evidence that these prosecutions will have the ‘deterrent’ effect used to justify them.** Most people crossing the Channel are unaware of these offences, or are undeterred, just as in other geographical contexts where people cross borders in order to seek safety.

**This report has again shown how those targeted are not those benefiting significantly in financial or material terms from the crossings.** Instead, they are often those most vulnerable to being coerced or compelled to steer, or to return to the UK. The government’s narrative that only the ‘most egregious’ immigration offenders will be prosecuted is false. One of the ongoing key findings from our research is that people with ongoing asylum claims, and victims of trafficking, continue to be prosecuted for how they arrive. Victims of trafficking are often not referred into the National Referral Mechanism, due to ongoing procedural issues, including where the trafficking relates to the offence they are charged with.

**Children with ongoing age disputes continue to be prosecuted as adults, without the necessary safeguards in place in police stations, Home Office detention sites, courts, and prisons.** Widely documented and systemic issues with Home Office decision making about people’s ages in Dover result in children being placed in adult prison, accused of steering dinghies across the Channel.

**We call for an immediate end to the practice of criminalising people for how they enter the UK to seek asylum.** We asked those we interviewed for this report if there was anything they wanted to share with members of the British public:

*“Yes, just I want to tell them that these people are not criminal, just they did not have a good life in this country. People from Sudan, Iraq, Syria, Libya, he wants to change his life, he wants to go to school, he wants to bring something good, he wants to change his life. He cannot stay in a country where there is war. The one who is the driver just does not have any money to buy his way.” Samuel*

*“I really want people to know that if someone took a risk and came here on this dangerous trip and was taken to prison, you don’t know what you are doing to him or how this is affecting him.. We had to come here with no choice.” Ashraf*

*“One thing I wanted the public to know is that asylum seekers should not be imprisoned. I am against this law and people who arrested are victims of this law. Living conditions in Calais are so bad and when people come here they already have trauma and bad experiences. I want people in the UK to help us and understand our situation.” Nour*