



Government Immigration Bill 262
House of Commons Committee
27 & 28 March 2023

Asylum

“I have three main concerns with the Bill. The first is the blanket dismissal of anyone who is facing persecution and finds their way to the UK... Examples have been given, but a young woman fleeing persecution in Iran, for example, would have the door to the UK shut in her face... By definition, someone fleeing for their life will, more often than not, be unable to access a legal route.”

Rt Hon Theresa May MP (*Hansard*, 13 Mar 2023 : Col 592)

The primary purpose of this Bill is to effectively shut down the UK’s asylum system. It is explicit in barring the Home Secretary from considering the asylum or human rights claim of any person caught by its provisions.¹ Instead, she is to be required to expel them from the UK – and to permanently pursue that irresponsible aim for weeks, months, even years regardless of any connection someone facing expulsion may have to the UK, however impractical pursuing that aim may be and however harmful pursuing it may be to that person, their partner or child.²

The Bill’s key provisions

Clause 2 requires the Home Secretary to expel anyone who meets the four conditions contained in that clause. Clause 4 requires her to permanently ignore any asylum or human rights claim the person may make or any need of protection the person may have. Together, subparagraphs (2) to (6) of Clause 2 mean that any person who arrived to the United Kingdom on or after 7 March 2023 without permission of the Home Secretary, but required by her rules to have that permission, must be expelled by her. It does not matter the strength of the person’s claim to asylum in this country, what horrors they have experienced in their home country or on the journey here,

¹ Clause 4

² Clause 2

however involuntary was the person's journey to this country, nor whether there is any real possibility of the Home Secretary being able to expel the person.

There is but one exception to this. That exception is if the person has been able to travel without passing through any other country (where it is said their life or liberty were not threatened) to seek asylum here. This is the effect of subparagraphs (4) and (5). Essentially, a refugee from Afghanistan must somehow be able to fly direct from Kabul, a refugee from Syria direct from Damascus and a refugee from Eritrea direct from Asmara. It does not matter that this is impossible, impracticable or unsafe. It does not matter that the refugee's family is here. It does not matter that the very reason the refugee is at risk is because of service and support to the UK, it's Army or some other emanation of it. No connection of the refugee to the UK is permitted to matter.

Question for Ministers: What is their assessment of the number of people granted asylum in the UK after making an asylum claim in this country over the last 10 years who have come direct from their home country in the manner specific in subparagraph (5) of Clause 1?

It also does not matter that the refugee is an unaccompanied child. This is the effect of clause 1(7). It is there simply to permit the Home Secretary to avoid the extremity of leaving an unaccompanied child in limbo in the UK pending the day the child reaches adulthood. She may grant the unaccompanied child leave to enter or remain. But the bar she asks Parliament to put upon her ever considering the child's asylum claim is to remain – as is the requirement upon her to expel the child from the UK (only delayed until the child turns 18).

The lie at the heart of this

Ministers persist in the pretence that the people who seek asylum in the UK fail to take safer means to do so and instead choose to come by dangerous journeys at great personal risk and cost to themselves, sometimes fatally. This is a cruel fabrication.

The Home Secretary – as her predecessors have long done – maintains immigration rules and policy to require any claim for asylum in the UK to be made *in the UK*.³ Her rules do not permit any journey to the UK from any country from which any significant number of people seek asylum unless a visa is granted.⁴ And her rules bar any visa for anyone to come for the purpose of seeking asylum.⁵ **There is no queue. No safe route.** There is simply a system established by Government policy whereby people smugglers (and other even more dangerous people) are left almost entirely free to control the means by which the UK will ever – currently – receive an asylum claim.

Question for Ministers: Why does the Home Secretary persist in suggesting that people seeking asylum should come by routes that her immigration rules clearly do not provide?

³ Section 14, Nationality and Borders Act 2022 made this law designating certain places all expressly “in the United Kingdom” as the sole places where an asylum claim may be made.

⁴ See Immigration Rules Appendix Visitor: Visa national list

⁵ Immigration rules provide no visa for the purpose of seeking asylum and make express that any visa sought or obtained for a visa other than for a purpose that the rules permit is to be refused or cancelled.

There are safe routes for Ukrainian refugees.⁶ Save for these, the Government has invested heavily in the pretence that its valuable visa scheme for British nationals, of independent means, from Hong Kong is a scheme for refugees – despite this scheme entirely excluding any consideration of whether any visa applicant is at risk of persecution.⁷ The Government has an Afghan resettlement scheme of which it has made much noise despite the scheme being almost entirely redundant in practice.⁸ It also operates a limited scheme for some Afghans who can show they are at risk by reason of their previous work for the British Army or other UK Government body.⁹ And the Government has similarly made much noise about the refugee family reunion visas it has granted – a route which will be almost entirely closed down if this Bill becomes law because these visas are dependent on someone first securing asylum via the asylum system (and that is something this Bill is designed to prevent).

There is an obvious reason why Ukrainians are not found in the boats or in the backs of lorries crossing the Channel. People don't make dangerous journeys and endure great trauma, violence and exploitation when they have other choices. People do so precisely because there are no real choices available to them.

Moreover, the people who make these journeys – now much more than previously by particularly visible means¹⁰ – do not constitute an especially large number. The UK continues to lag far behind its European neighbours,¹¹ more so many far poorer countries further afield,¹² in terms of the refugees it hosts and the people seeking asylum it receives. It is simply no good ministers pretending otherwise. Nor their pretending that other nations, who already take so much more responsibility than the UK, can or should simply be expected or persuaded to receive the UK's responsibilities on top of their own.

<p>Question for Ministers: Why does the Government think it fair or practical to demand that others should meet obligations to people who seek asylum on their territory if that is not what the Government will do in the UK?</p>

Dreadful consequences

There are four consequences that should be expected from the attempt by this Bill to simply close down the UK's asylum system. They are each dreadful, doing no good

⁶ See Immigration Rules Appendix Ukraine Scheme

⁷ See Immigration Rules Appendix Hong Kong British National (Overseas)

⁸ Government data shows fewer than 500 people recorded as resettled under the Afghan Citizens Resettlement Scheme in 2022. There have been frequent reports attesting to these schemes minimal functionality; and it must be recalled that it is not a scheme to which individual people can make application (even if they could be persuaded that it could work for them).

⁹ See Immigration Rules Appendix Afghan Relocation and Assistance Policy (ARAP)

¹⁰ This is something to which the Rt Hon Theresa May MP expressly drew attention at Second Reading, see *Hansard* HC, 13 March 2023 : Col 592

¹¹ The impact of Russia's war of aggression in Ukraine has been to elevate certain of the Eastern European nations above the UK in the proportion of refugees to which European nations are host. The UK was already behind nearly the remainder of the EU in this regard, and far behind countries such as France and Germany.

¹² The least developed countries continue to be the host to a hugely disproportionate large share of the world's refugee population. Countries that host very large refugee populations include Lebanon, Jordan, Pakistan, Iran, Uganda and Ethiopia.

for refugees, no good for the international reputation of the UK and, ultimately, no good for the British taxpayer.

First, people seeking to exercise their right to find in the UK safety from persecution are to be denied this. As the former Prime Minister and Home Secretary, Rt Hon Theresa May, said at Second Reading, the door is to be shut in their face.¹³ Decades ago, the UK and others shut the door in the face of many Jewish people.¹⁴ The murderous consequences of that are well known. The international agreement the UK made with others to keep doors open to those who flee torturers and tyranny was drafted in the wake of the Holocaust and in the knowledge that closed doors cost lives.¹⁵

Question for Ministers: Why is the Home Secretary so committed to unlearning this awful lesson from history that simply to insist on visas or other prior permission is ultimately to condemn people fleeing persecution to torture, abuse and murder?

Second, the comprehensive refusal to consider the claims of the people who do seek asylum here can be expected to do much harm at great cost. There being no visa to come to seek asylum and generally no direct routes for someone seeking asylum to take, thousands of people can be expected to be cast into a permanent limbo – of detention, destitution and social exclusion. The prospect of other countries receiving thousands of people from the UK to add to their own populations of refugees and people seeking asylum is remote. Nor is that a fair, humane or lawful ambition for the UK to pursue. So, having created an enormous asylum backlog, the primary means by which the Government seeks to reduce it is to simply not count within the backlog the people who arrive and are stuck in this limbo.¹⁶

Question for Ministers: Is it the Government's intention to claim a reduction in the asylum backlog merely by refusing the people who newly arrive any access to the system that would otherwise determine their claims?

Third, the worst implication of the Government's increased efforts to deter people is that people who need to make the journey will come but the incentive will be to do so by ever more secretive and therefore ever more dangerous means. That incentive will extend to avoiding or escaping the authorities after arrival as well as on journeys to get here.¹⁷ By this Bill, ministers are inviting Parliament to give the vile business of human exploitation a very substantial boost.

¹³ *Hansard* HC, 13 March 2023 : Col 592

¹⁴ There are various sources that may be drawn upon such as those reviewed here <https://reviews.history.ac.uk/review/221> and the account of the US Holocaust Memorial Museum here <https://encyclopedia.ushmm.org/content/en/article/refugees>

¹⁵ These origins of the 1951 UN Convention relating to the Status of Refugees are habitually and carelessly ignored or forgotten by its latter-day critics.

¹⁶ This is the effect of Clause 4. The Home Secretary is required not to consider people's asylum claim and to permanently treat their claim as inadmissible. The person and their claim will never join the backlog of outstanding claims. The backlog will, of course, go down – simply because people are no longer counted.

¹⁷ Some indication of this has already been given from the dreadful accounts of dozens of unaccompanied children going missing from Home Office accommodation.

Question for Ministers: Is it the Government's intention to claim a reduction in the number of people entering the country merely by being unable to see and therefore to count the number of people driven to do so by invisible means?

Fourth, the consequences for the UK's international reputation are more than mere embarrassment. The Government is expressly set on a course to abandon any pretence of accepting and acting on its international duties – particularly, though not only, to refugees. It is inviting others to follow suit,¹⁸ making the world a far less safe place for refugees with more people needing to search further and farther for the safety they need and are entitled to. Ministers are even giving licence to those who already abuse international human rights laws – including those who perpetrate, aid and encourage the very conflicts and violations from which people are forced to flee.¹⁹

Question for Ministers: The Home Secretary has spoken of a “new global model”. Is this it – a world in which rich countries pass all responsibility onto poorer ones already long taking the great majority of global refugee responsibility; a world where more generally all nations are encouraged to act as if anyone but them is to take responsibility?

Clause 51 – the proposed annual cap

As the former Prime Minister and Home Secretary, Rt Hon Theresa May, made clear at Second Reading, even if the Government reversed its policy by creating effective and accessible safe routes, a functioning asylum system would still be needed.²⁰

Clause 51 could, therefore, provide no justification for what precedes it in this Bill even were it to constitute a credible offer of significant Government-run safe routes to asylum. But it does not even make such an offer. There is no minimum commitment.²¹ There is not even the guarantee that what the Home Secretary will label as a “safe and legal route” will constitute a scheme that is truly for refugees.²² Indeed, the repeated misrepresentation of her valuable scheme for British nationals from Hong Kong as a refugee scheme emphasises not merely the absence of such a guarantee, but the clear risk that its absence is wilfully misused by ministers.

¹⁸ The Home Secretary has claimed she is establishing a “new global model”:
<https://www.infomigrants.net/en/post/47622/uk-minister-visits-rwanda-to-reinforce-migration-outsourcing-plans>

¹⁹ This is indeed the case with Rwanda as the United Nations and United States, among others, have highlighted.

²⁰ *Hansard* HC, 13 March 2023 : Col 592

²¹ Clause 51(1) requires a maximum and only a maximum

²² Clause 51(6) leaves it to the Home Secretary to specify in regulations what is to count as such a route