

# THE ILLEGAL MIGRATION BILL: EXAMINING THE CHALLENGES AND IMPLICATIONS FOR ASYLUM SEEKERS AND REFUGEES WITH DR. NATALIE HODGSON

**The Illegal Migration Bill is currently making its way through the UK House of Lords . What sorts of things does the Bill seek to do?**

**Natalie:** One of the things that the Government proposes to do in the Illegal Migration Bill is to expand the UK's "inadmissibility" regime. What this means is that, if a person has travelled through a "safe country" on their way to the UK, they will be found to be "inadmissible" and prohibited from claiming asylum here. The Government says that this is important for deterring people from risking their lives and taking dangerous journeys across the English Channel. In theory, this sounds quite sensible – of course we should do something to reduce the number of people risking their lives, and potentially dying, in search of safety. However, there are a number of issues with the Government's plan.

First, many asylum seekers do stay in the first "safe country" they pass through. According to the UN Refugee Agency, the country with the highest number of refugees is Türkiye, which currently hosts 3.6 million refugees and asylum seekers, many of whom have fled the war in neighbouring Syria. Currently, 74% of the world's refugee population are hosted in low and middle-income countries. However, it is not fair to expect these countries to bear the burden of hosting refugees. Wealthy countries such as the UK must play a role in responding to the global refugee crisis.

Second, many asylum seekers have good reasons for coming to the UK. Some people might want to come to the UK because they have family members here, they speak our language, or because they worked with our forces overseas (for example, asylum seekers arriving from Afghanistan). Other people might end up in the UK because it was where their people smuggler brought them, or because they simply did not feel safe and able to claim asylum in the countries they travelled to on the way to the UK.

The England and Wales High Court recognised in the case of Adimi [1999] that that 'some element of choice is indeed open to refugees as to where they may properly claim asylum'. That is, people should be allowed to choose which country they want to seek asylum in. By effectively requiring that people claim asylum in the first safe country they pass through, and by refusing to consider people's applications for asylum if they have travelled through a safe country, the Illegal Migration Bill represents an abrogation of the UK's obligations towards people seeking asylum.



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Dr Natalie Hodgson is an Assistant Professor in Law at the University of Nottingham School of Law. Natalie heads the Human Rights Law Centre's Forced Migration Unit.

Natalie's research areas include international criminal law, criminal law, criminal procedure and evidence, and refugee law.

She spoke to us about the UK's current political climate and its effects on the rights and lives of refugees, with a specific focus on the controversial 'Illegal Migration Bill' that is currently being considered by Parliament. The Bill was announced March 2023 and passed through the House of Commons in April. It aims to address challenges relating to the UK's asylum process but has been described as 'desperately cruel' by key human rights organisations.



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## What happens to people who are found to be “inadmissible”?

Under the Illegal Migration Bill, people who have travelled through a safe country such as France on their way to the UK will be prohibited from claiming asylum here. But it is unclear what happens to these people next.

Article 33 of the Refugee Convention states that no state is allowed to expel or return a refugee to a territory where their life or freedom would be threatened. This is known as the prohibition on refoulement. Effectively, Governments are prohibited from sending a person back to the country they came from if they would face serious harm upon their return. Governments also cannot send people to any other country if they would face serious harm living there.

Due to the prohibition on refoulement, the UK cannot send anyone back to the country they came from if there would be a risk to their lives. And so, for the most part, the asylum seekers travelling to the UK in small boats cannot be returned to the countries they came from. They might theoretically be sent to Rwanda under the Government’s Migration and Economic Development Partnership – but removals to Rwanda are currently paused pending the outcome of a Court of Appeal hearing. Further, Rwanda only has the capacity to receive a thousand asylum seekers, if that, from England.

“What this means is that tens of thousands of people will be forced into a state of limbo – they will not be permitted to claim asylum in the UK, but they will not have anywhere else that they can go. It is unclear what the Government plans on doing with these people. ”

## The Government says it is doing this to stop people risking their lives crossing the Channel, but are there any other solutions?

Many of the asylum seekers travelling to the UK on small boats do not choose to undertake dangerous journeys – they have no choice but to travel irregularly.

Generally speaking, the UK only allows people to apply for asylum if they are physically in the UK. The UK does not have a specific visa that asylum seekers can apply for. There are a few exceptions to this – for example, when the war in Ukraine began, the UK created a specific visa scheme available only to people from Ukraine. But for the vast majority of asylum seekers – including people trying to leave Sudan due to the current violence – there is no way to travel to the UK safely. The only way to come to the UK is through these dangerous, irregular routes.

One of the reasons why we have not seen large numbers of Ukrainians crossing the English Channel in boats is that many Ukrainians were able to come to the UK through safe routes. As such, if the Government wanted to reduce the number of people risking their lives at sea to come to the UK irregularly, they could simply make it easier for people to travel here to seek asylum through safe routes.

The unfortunate fact is, for as long as there is war and conflict, there will be people in search of safety. Events in Afghanistan, Ukraine and Sudan have shown us that there is very little we can do to stop people being forced to leave their homes in search of safety. The choice for us in the UK is whether we are willing to help these people come to the UK safely, or whether we are going to make them to travel through dangerous routes in search of asylum.

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