



Safe Passage: written evidence on the Nationality & Borders Bill Submission to the Public Bill Committee

About us

At Safe Passage International, we help refugees access safe routes to asylum. We champion refugees' right to safe passage through strategic legal work, advocacy and campaigning.

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Summary

The Government's Nationality and Borders Bill will do nothing to break the business model of smugglers nor prevent dangerous Channel crossings, but it will make the lives of many who have fled war and persecution a misery. The Government seeks to criminalise and punish refugees with this Bill, and to offload Britain's international responsibilities to those seeking our protection.

If the Government was serious about preventing refugees from having to risk dangerous journeys to reach sanctuary, they would instead open safe routes to the UK for refugees. Safe routes save lives, reunite families and support refugees to rebuild their lives welcomed by our communities.

Our recommendations

We recommend:

- the opening of a new safe route to the UK for people seeking asylum who have family here, via a new clause to the Nationality & Borders Bill;
- the plans for differential treatment of refugees are scrapped and Clause 10 does not stand as part of the Bill;
- the offence of assisting "unlawful immigration" or asylum seeker is not extended to cover those helping asylum seekers without benefit to themselves, and that Clause 38(2) does not stand as part of the Bill; and
- the proposal to extend maritime enforcement powers are dropped, and Clause 41 and Schedule 5 do not stand as part of the Bill.

New clause: safe passage to asylum & family

Providing safe routes are the best way to prevent people from being forced to travel in lorries or on small boats across the Channel. We know from our work at Safe Passage assisting refugee families to reunite safely that when people have no safe route to reach families, they are likely to risk their lives on dangerous journeys to reach loved ones. The Government's New Plan for Immigration and this Bill is a missed opportunity for desperately needed reforms.

"I feel stronger and happier when I get a hug from my mum... I feel guilty because I am able to get that love from my mum, whereas my brothers are not because they are in a different country."

- Nouran, refugee & student

We recommend the opening of a new safe route to the UK for those seeking asylum with family here. This new clause would give safe passage to people seeking asylum who have family here in the UK:

Immigration Rules: entry to seek asylum and join family

(1) Within 6 months of this Act being passed, under the power in section 3(2) of the Immigration Act 1971, the Secretary of State shall lay before Parliament rules making provision for the admission of persons coming for the purpose of seeking asylum.

(2) These rules shall include provision for admitting persons who have a family member in the United Kingdom who—

(a) is ordinarily and lawfully resident in the United Kingdom; or

(b) has an outstanding claim for asylum in the United Kingdom.

(3) For the purposes of this section, a "family member" means a grandchild, child, parent, grandparent, sibling, uncle or aunt.

This amendment would open a much-needed safe route to the UK for children and separated families who are in need of international protection and desperate to be with their loved ones. To prevent Channel crossings and break smuggling networks, this is the type of reform that is required – the urgent, ambitious expansion of safe routes to the UK for refugees, including child refugees.

Jabir is an unaccompanied child in northern France, who is desperate to join his family in the UK. He is willing to risk the Channel to be reunited with his loved ones.

His family in the UK have already lost a young family member to the treacherous crossing and so are desperate to find a safe way for Jabir to be reunited with them, but that just doesn't exist.

Whilst he would have had a clear case under the EU's Dublin III Regulation, he doesn't under the UK's own Immigration Rules.

The Government claims to recognise how vital safe routes are to refugee protection but has failed to propose new safe routes with their New Plan for Immigration or this Bill. The very few existing safe routes for refugees to reach the UK are inadequate. In fact, in the last year, the Government closed routes to sanctuary: ending the Dubs scheme for unaccompanied refugee children in Europe, and refusing to replace the EU's Dublin III Regulation, which allowed for family reunion.

The revocation of the EU's Dublin III Regulation was devastating to children and separated families seeking asylum and reunification with their loved ones. With no comparable safe route to the UK, these children and families are now reliant on the UK's broken Immigration Rules.

Of the family reunion cases we supported to access the EU rules, Dublin III, we estimate 95% would be very unlikely to qualify under the UK's current Immigration Rules.

The UK's rules are too restrictive, take too long and are less guaranteed to succeed. Children lose faith in the process and resort to dangerous journeys to be with family. **So far this year, more than a half of the unaccompanied children we are helping reunite with family have lost faith in the legal process and travelled to the UK irregularly, instead of pursuing their claim under UK rules.**¹

A new safe route to the UK for those seeking asylum to join family here is urgently needed. This proposed new clause would allow people to access a legal route to the UK and to claim asylum in the care and context of their family, rather than take dangerous journeys to join them. Children are particularly likely to resort to people smuggling when access to family reunion is delayed or at risk, according to UNHCR.²

As under the EU's Dublin III Regulation, this new safe route would allow child refugees to join family members including grandparents, aunts and uncles and siblings, as well as parents. The majority of our family reunion cases at Safe Passage are child refugees seeking to reunite with wider family members in the UK such as aunts, uncles or siblings – rather than parents. In 2018, 40% of our cases from France were siblings trying to reunite. Some child refugees lose their parents either before they had to leave their country or on their journey to find sanctuary. Many children start their journey with their families, including parents and siblings, but then they become separated, their family disappear or die on the way.³

This new safe route would also allow those seeking protection to join relatives in who are ordinarily and lawfully resident here, such as those with British Citizenship or indefinite leave to remain and those who have claimed asylum and are waiting on a decision. This is similar to the EU's Dublin III Regulation, and is more fair than Refugee Family Reunion under the Immigration Rules, which only applies to those with refugee status or humanitarian protection. More than one third of our family reunion cases under the EU's Dublin III Regulation were unaccompanied children reuniting with family who were refugees who were granted British citizenship.

15-year-old **Ahmed** is stranded alone in France after fleeing Afghanistan. He desperately wants to be reunited with his brother, who was granted asylum in the UK and is now a young business owner. Under the UK's Immigration Rules, the brothers will find it extremely difficult to reunite. If Ahmed's parents were in the UK, the process would be straightforward, but tragically his brother is his only remaining family member.

Ahmed is in an extremely vulnerable situation. He suffers from trauma and struggles enormously with the loss of his family. Being reunited with his brother is his only option to feel safe and to build a better future.

Clause 10: differential treatment of refugees

At Safe Passage, we're deeply concerned that this Bill would establish an inhumane and unlawful two-tier system that differentiates and discriminates against refugees, depending on how they had to make their journey to find sanctuary. **We strongly recommend that Clause 10 does not stand as part of the Bill and that these inhumane plans for an asylum system that punishes refugees based on how they had to travel to the UK are scrapped.**

Clause 10 of this Bill would establish an asylum system that differentiates and discriminates against refugees, depending on how they were forced to make their journey to find sanctuary. Under this system, refugees would be categorised as 'Group 1' if they have travelled directly from the country or territory where their life or freedom is threatened and made an asylum claim without delay, and everyone else would be in 'Group 2'. Under this two-tier system, most refugees would be classed as 'Group 2' and denied vital rights, including to family reunion.⁴

By punishing refugees for how they were forced to travel to safety, Clause 10 does a disservice to Britain's proud record of providing safety to those fleeing persecution and violence. These plans are also a chilling assault on refugee family reunion, despite the Government heralding family reunion as a vital safe route to the UK. With those placed in the Government's proposed 'Group 2' denied family reunion rights, most refugees arriving in the UK would therefore not have the right to reunite with their family.⁵ This is not only heart-breaking for the refugees here in the UK, but would deny their family (most often women and children) a safe route to join their loved ones, leading more people to risk dangerous journeys.

"I had no choice, no option but now here I am. I want to get on with my life. Every child fleeing war or persecution should have the same opportunities that I have, and the same right to safety."

- Muste, refugee, student & aspiring fitness trainer

As it stands, Clause 10 and the differential treatment provisions would apply also to unaccompanied children seeking asylum, as there is nothing on the face of the Bill stating that children are to be excluded from the two-tier system and the associated penalties.⁶ No refugee should be penalised for how they travel to seek protection, but unaccompanied child refugees are particularly vulnerable and in need of extra care and protection. It is deeply concerning that the Government would impose such policies on children, despite the duties on the Home Secretary to safeguard and protect the welfare of children in the UK.⁷

Azeem fled the Taliban when he was just 10 years old. Having lost his family, he was forced to journey to Europe alone and eventually made it to the Calais Jungle travelling irregularly. After another treacherous journey, he finally reached sanctuary in the UK where he was granted refugee status. Today, he is thriving at school and plays in a UK cricket team.

Under Clause 10, Azeem would be penalised and denied rights because of how he had to travel to the UK. With no security or protection, his dreams of going to school and pursuing his passions would not have been possible.

The Government claims that these plans are justified as they are intended to prevent refugees from entering the UK irregularly, including through Channel crossings. Evidence, however, shows that policies aiming to deter refugees from taking dangerous journeys are ineffective.⁸ Such policies do not address why people come here - for family, community, security, and to rebuild their lives. Most refugees on the move are unaware of policies

aiming to deter their attempts to travel to safety, rendering them ineffective.⁹ Even the Government's own equality impact assessment acknowledges the evidence suggesting that deterrence and security-based policies are effective is 'limited'.¹⁰ This equality impact assessment actually acknowledges that increasing deterrence could force people into taking more risky and dangerous journeys.¹¹

When refugees are forced to flee from the only life they've ever known, it's often a long and dangerous journey to find safety. This is what many Afghans now face, unable to find a safe route to the UK. 40% of the unaccompanied children and families we have helped at Safe Passage to reunite with their family in the UK were originally from Afghanistan – the single biggest nationality amongst our clients. Family reunion from Afghanistan is now effectively closed¹² and despite the Government's new Afghan Citizens' Resettlement Scheme, some refugees have no choice but to arrive in the UK having crossed borders without visas or documentation, travelling in the back of lorries or risking crossing the sea in dinghies to reach safety and family here. The UK must offer the same welcome and compassion to those forced to seek sanctuary in this way. The Government's Nationality and Borders Bill will deny real protection to and punish Afghan and other refugees forced to make a dangerous journey to the UK. Continuing to push these plans undermines any promise the Government makes to stand by the people of Afghanistan.

Travelling irregularly does not mean someone is not a refugee, and does not mean they should not be offered protection in the UK. 98% of those who crossed the Channel in the first half of 2020 claimed asylum in the UK.¹³ Whilst we have seen an increase in the numbers crossing the Channel this year, the overall numbers of asylum applications are holding steady¹⁴ – those risking the dangerous crossing in a dinghy do so because there is no other way. **Our research shows that from the 12,248 unaccompanied children granted protection in the UK between 2010-2020, only 700 arrived through official government schemes.¹⁵ Most of these children were forced to travel irregularly to find protection – nine times out of ten in the back of lorries.**

"A person without a family is a lost soul, a person without a family lacks belonging to something greater other than oneself, improved mental health, affection and encouragement."

- Tekle, refugee & engineering student

There are many reasons why people come to the UK to seek asylum – for example they have family here; there's a community of people they know; they speak English; think they'll feel safe here, have their rights protected and can rebuild their life. Most, however, do claim asylum in other countries – few refugees come to the UK, including of those who travel through Europe in search of sanctuary. Everyone has the right to seek asylum – and there's no restrictions setting out where someone must do so. People must be able to seek sanctuary where they feel safe, and where they can rebuild their lives – including in the UK.

"We did not have a clear plan for our journey – our only rule was to keep going to reach somewhere safe, and that whatever happened was part of life."

The whole journey up until that point was exhausting. Nothing helped me calm down because there was always a sense of urgency."

- Ridwan, refugee and university student

Clause 10: obligations under refugee and human rights law

We believe that the two-tier system would violate the UK's obligations under refugee and human rights law, including child rights:

Obligations under refugee law

We consider that the two-tier system as proposed under Clause 10 is likely to be unlawful as contrary to Articles 21-23, 31(1) and 34 of the Refugee Convention. The attempt to “differentiate” between two types of refugees – or create two classes of refugees – is inconsistent with the Refugee Convention, which clearly sets out one single definition of refugee.

Under the Refugee Convention, refugees must not face penalties for illegally entering or being present in a country (Article 31(1)).¹⁶ Yet under Clause 10 and the two-tier system, refugees arriving irregularly to the UK would be penalised as they would be granted only temporary protection, denied family reunion rights, and refused public funds. UNHCR takes the view that any punitive measure which limits the rights of refugees purely on the grounds of illegal entry or presence, could arguably constitute a ‘penalty’ within the meaning of Article 31(1).¹⁷ It is our view also that these measures introduced by Clause 10 would constitute a penalty as prohibited by the Refugee Convention because they are intended to prevent ‘Group 2’ refugees from obtaining full rights in domestic law to which they would otherwise be entitled as refugees.

Clause 10 would specifically limit refugee family reunion rights, with refugees who arrive irregularly stripped of their right to sponsor their family to join them in the UK. It would also permit differential treatment of family members joining their relatives in the UK in terms of whether they are given leave to remain, the length of any period of limited leave, the requirements that a person must meet for indefinite leave to remain, and any ‘no recourse to public funds’ condition. This is not in line with the 1951 Convention, which recommends that States ensure that the unity of the refugee’s family is maintained.

Obligations under human rights law

Clause 10 would risk the right to respect for private and family life, as protected by Article 8 of the ECHR. The differential treatment outlined in Clause 10, which delays and prevents refugees’ access to settlement, public funds and/or family reunion, impacts on refugees’ right to private and family life.

In particular, stripping away refugee family reunion rights specifically under Clause 10 would engage the right to family life, as protected by Article 8 of the ECHR. The principle of refugee family reunion has also been recognised by the European Court of Human Rights: “there exists a consensus at international and European level on the need for refugees to benefit from a family reunification procedure that is more favourable than that foreseen for other aliens”.¹⁸ We understand that the Government could still permit extremely limited family reunion under the right to family life (Article 8). Whilst we do not have further details, we presume that the Government intends to allow only applications “outside of the rules” in the case of ‘Group 2’ refugees. Currently if family reunion wouldn’t be permitted under the strict and tightly drawn UK’s Immigration Rules, it is possible for the Home Office to grant leave “outside of the rules” in very exceptional cases. Such cases depend on the Home Office’s discretion, which is infrequently exercised, and the few cases granted are mainly done so only on appeal.¹⁹ For the many families who would be kept apart by the new restrictions to family reunion, the suggestion that reunification would possibly still be granted “outside the rules” is no reassurance at all.

To restrict family reunion rights for Group 2 refugees would be an unacceptable assault on the rights refugees have had in the UK. This rowing back on rights and protections would also be contrary to the Government’s stated aim of reducing irregular and dangerous journeys with these reforms, which have been used to justify the plans. We know that when people are denied family reunion they are more likely to risk dangerous journeys or resort to smugglers in order to reach their loved ones.

Alongside interfering with Article 8 rights, we believe that Clause 10 is contrary to the right to non-discrimination (Article 14 of the ECHR) as it specifically targets those seeking asylum based on how they journeyed to and arrived in the UK, which we believe is discriminatory. The differential treatment under Clause 10, which is intended to control or deter illegal migration, is a disproportionate measure.

Child rights obligations

As it stands, Clause 10 and the differential treatment provisions would apply to unaccompanied children seeking asylum. Falling under the wider definition of “refugees” and therefore within the scope of Clause 10, there is nothing on the face of the Bill stating that children are to be excluded from the two-tier system and the associated penalties. The Refugee Convention (and the ECHR) applies to child refugees, and UNCHR emphasises that child refugees, particularly unaccompanied children, are particularly vulnerable and require special care and assistance. In addition to the obligations under refugee law and the ECHR covered above, the Secretary of State has a duty under s55 of the Borders, Citizenship and Immigration Act 2009 to have regard to “the need to safeguard and promote the welfare of children who are in the United Kingdom”. The associated statutory guidance expressly references the UN Convention on the Rights of the Child (UNCRC), which mandates that in all actions concerning children “the best interests of the child shall be a primary consideration”.²⁰ As differential treatment under Clause 10 would be likely to impede children’s wellbeing and development, we believe it would be contrary to the s55 duty and the UNCRC duty on the best interests of the child, which underpins it. Whilst the Government’s Equality Impact Assessment of the Bill states that the “no recourse to public funds” condition would not apply to former unaccompanied asylum-seeking children care leavers who are considered “Group 2 refugees” and subject to a temporary protection status, this is far from the assurance needed to ensure that the rights of children are respected and protected.

These reforms will have a significant impact on children and the rights of the child, and this has not been fully assessed. Whilst the Government has now published their equality impact assessment (16 September), a full assessment on the specific impact on child rights has not been made available. The objective of protecting children and childhood must run through any reforms but as it stands, we are concerned that the proposals will be deeply detrimental to child rights. We recommend that the Government publishes a comprehensive child rights impact assessment alongside their equality impact assessment.

Clause 38: Extending the offence of assisting “unlawful immigration”

We are very concerned that the Government intends to extend the offence of assisting “unlawful immigration” to cover those helping asylum seekers without benefit to themselves.²¹ Clause 38 of the Nationality and Borders Bill would penalise those assisting irregular migrants or asylum seekers. It would increase the maximum sentence for this offence from 14 years to life imprisonment,²² and change the law so that the offence would apply whether or not someone was acting “for gain”.²³ Whereas in the past this offence was focused on people smugglers who had facilitated entry into the UK for their own benefit, this Bill would extend the offence so that anyone assisting an asylum seeker could now face prosecution.

“Smugglers try to steal your money and do not worry about your life. But we do not have any other choice. We can’t reach our families without paying the smugglers to help. The legal routes are closed to us.”

- Anonymous, refugee

We recommend that the Government does not extend the offence of assisting “unlawful immigration” or asylum seeker to cover those helping asylum seekers without benefit to themselves. We urge that Clause 38(2) is deleted, and instead the Government opens safe routes to sanctuary here in the UK to try to prevent dangerous journeys, including across the Channel.

“I came through the Syrian resettlement scheme and my life has significantly changed. I found sanctuary, support and safety when I arrived. But when I look at the other young refugees who risked their lives to find a place that they feel safe in, I know that it’s not fair for them. They deserve better treatment and a better life. It is not a crime to seek asylum or refuge in the UK.”

- Osama, refugee & college student

Removing the requirement for the assistance to be provided “for gain” means that the Government would criminalise friends, family members and fellow refugees for helping someone seeking sanctuary. In the UK, we have had a proud history of assisting and welcoming refugees – and yet this Bill would mean Sir Nicholas Winton risked a criminal offence if he rescued refugee children today, as he did in 1938. To criminalise the act of helping an asylum seeker is not only a disservice of our record of providing safety to those fleeing war and persecution, but undermines our commitment and obligations to those who today seek safety in the UK.

The extension of this criminal offence also has implications for the right to life for those at sea. Those who help asylum seekers in distress at sea, for example rescue from drowning and offer assistance to shore, could also face criminal prosecution. Although organisations which aim to assist asylum seekers and do not charge for their services are excluded from this offence,²⁴ there is no such exclusion for “good Samaritans” and those acting with humanitarian motives, merchant ships’ officers or other mariners who undertake rescue efforts and seek to preserve life when in or partly in the UK’s territorial waters. We are deeply concerned that those who would offer assistance to asylum seekers or migrants in distress at sea will refuse to help or face serious consequences for doing so.

The UN Convention on Life at Sea sets out a duty to render assistance to those at sea in danger or distress.²⁵ International maritime law also states that the ship master has an obligation to render assistance to those in distress at sea without regard to their nationality, status or the circumstances in which they are found.²⁶ Clause 38 of this Bill could mean, however, that ship masters are criminalised for providing such assistance, and it would be no defence to a ship master that they were following international maritime law. We therefore believe therefore that Clause 38 is incompatible with international law, namely Article 98 of the UN Convention on Life at Sea.

It is also notable that EU law does not allow for ship masters to face criminal penalties when they rescue people in distress at sea and take them to a place of safety²⁷ - whereas Clause 38 creates an offence for that very same act.

This proposal is deeply inhumane. It punishes both people in extremely vulnerable situations who are seeking the protection of the UK, and those who would attempt to rescue anyone in distress. This is a frightening prospect which could result in more people seeking asylum in the UK dying in the Channel. Hundreds of people have already died trying to cross the English Channel in recent decades²⁸ – the Channel is an extremely dangerous stretch of water and is the world’s busiest shipping lane.

Instead of pursuing dangerous and cruel policies that risk the lives of those crossing the Channel in order to reach sanctuary here, the Government must urgently expand and

improve safe routes to the UK for refugees. People risk their lives taking dangerous journeys to reach protection and loved ones when safe routes aren't available.

Clause 41 & schedule 5: extended maritime enforcement powers

We are deeply concerned by the Government's proposal to extend maritime enforcement powers so that vessels may be diverted out of UK territorial waters.²⁹ The introduction of pushbacks in the Nationality and Borders Bill is cruel and unacceptable. Pushing back boats will not stop people from making dangerous journeys but will punish and threaten the lives of refugees. As above, policies that rely on deterrence to prevent refugees from taking dangerous journeys do not work, like these put forward by the Government.

The Government must scrap their proposal to extend maritime enforcement powers so that vessels may be diverted out of UK territorial waters. Instead of inhumane proposals such as pushbacks, we urge the Government to introduce safe routes to asylum and family reunification instead.

"In the media we hear constantly and in great volume how we as refugees are nothing but trouble, a burden to society and so on. It's almost forgotten that we are human and deserve a decent and dignified life like anybody else."

- Tekle, refugee & engineering student

Not only do we believe this policy will be ineffective, but also that these powers are likely to operate in a way that is inconsistent with the principle of 'non-refoulement', as enshrined in Article 33 of the Refugee Convention.

Article 33 of the Refugee Convention sets out that refugees should not be expelled or returned to where they risk persecution. It applies to both refugees and asylum seekers that arrive on boats. As this Bill would place no obligation on UK authorities to investigate the circumstances of persons on board a vessel before exercising these extended powers and diverting boats out of UK territorial waters, we consider that it will not be consistent with Article 33 of the Refugee Convention. In practice, it would also be almost impossible for UK authorities to make an assessment of the circumstances of a person on board a vessel whilst conducting a pushback operation.

Without an adequate consideration of individual circumstances, which is almost impossible in a live pushback operation, we also suggest that diverting boats in this way would not be consistent with our obligations under the ECHR, namely:

- The UK's duty to ensure that appropriate legal and administrative systems are available to protect those who are vulnerable to torture, inhuman or degrading treatment or punishment, and to ensure that appropriate steps are taken if it becomes aware that a person is at a real and immediate risk of suffering such treatment (Article 3). Whilst France and other neighbouring EU States are themselves bound by Article 3, the lack of procedure to investigate and the practical impossibilities of conducting an investigation mean that the Government is in effect assuming Article 3 will be observed by another State. Making this assumption disregards the UK's obligations under Article 3. Without proper investigation, it is likely that cases where there is a real risk to someone's right to freedom from torture, inhuman or degrading treatment are not identified.
- Contrary to the right to respect for private and family life (Article 8), a pushback would deny those on board with family connections to the UK the opportunity to reunite with family. Whilst this right and UK case law require that individual

circumstances are balanced with the interests of the State and the wider community, we believe this to be a disproportionate interference with the right to family life.

- The extended maritime powers in the Bill would operate in a way that was discriminatory on the basis of immigration status, which would likely be in violation of freedom from discrimination (Article 14).

¹ 10 of our 19 family reunion cases this year did not proceed with their application under the UK Immigration Rules & travelled irregularly. Last year, none of our 80 cases under the EU's Dublin III Regulation did so.

² UNCHR (2019) [Desperate Journeys](#)

³ UNHCR (2019) [Destination Anywhere](#)

⁴ Estimation based on the [New Plan for Immigration policy statement](#), which states that "62% of UK asylum claims were made by those entering illegally - for example by small boats, lorries or without visas" (Sept. 2018-19).

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⁶ The Government's Equality Impact Assessment of the Bill states that the "no recourse to public funds" condition would not apply to former unaccompanied asylum-seeking children care leavers who are considered "Group 2 refugees" and subject to a temporary protection status.

⁷ The Secretary of State has a duty under s55 of the Borders, Citizenship and Immigration Act 2009 to have regard to "the need to safeguard and promote the welfare of children who are in the United Kingdom".

⁸ This has also found to be true in the case of offshore processing – see Madeline Gleeson and Natasha Yacoub (August 2021) [Cruel, costly and ineffective: The failure of offshore processing in Australia](#) - policy brief from Kandor Centre for International Refugee Law

⁹ Mediterranean Migration Research Programme (2017) [Dynamics of migration across the Mediterranean](#)

Home Office Research Study 243: [Understanding the decision-making of asylum seekers](#) (2002)

Heaven Crawley & Jessica Hagen-Zanker (2018) [Deciding Where to go: Policies, People and Perceptions](#)

[Shaping Destination Preferences](#) *International Migration* Volume 57, Issue 1 p. 20-35

¹⁰ Home Office (2021) [The Nationality and Borders Bill: equality impact assessment](#)

¹¹ Home Office (2021) [The Nationality and Borders Bill: equality impact assessment](#)

¹² [Government closes family reunification scheme for Afghan refugees in 'devastating' move](#), *The Independent* (September 2021)

¹³ Home Affairs Select Committee, Oral evidence HC 705, Q29

¹⁴ House of Commons Library (13 September 2021) [Asylum Statistics](#)

¹⁵ Safe Passage research - [Revealed: 10,000 child refugees risked their lives to enter Britain](#), *The Observer* (January 2020)

¹⁶ Whilst Article 31(1) of the Refugee Convention does reference refugees having come directly from where their life or freedom is at risk, and sets out that refugees are expected to present themselves without delay to authorities and have a good reason for their illegal entry or presence, this was never intended to deny or exclude refugees from protection. The [UNHCR Handbook](#) on determining refugee status specifies that "coming directly" allows for a person to transit through a third country and clarifies that there is no time limit on how long a refugee's journey might take. The Handbook also notes that the expectation for someone seeking asylum to present themselves to authorities without delay should not be associated with a time limit.

¹⁷ UNHCR (May 2021) Observations on the New Plan for Immigration UK

¹⁸ *Tanda-Muzinga c. France*, Requête no 2260/10, Council of Europe: European Court of Human Rights, 10 July 2014, para. 75

¹⁹ Refugee Council, Amnesty International & Save the Children (2020) [Without My Family](#)

²⁰ Article 3(1) of the UN Convention on the Rights of the Child

²¹ Clause 38(2) of the Nationality & Borders Bill

²² Clause 38(1) of the Nationality & Borders Bill

²³ Clause 38(2) of the Nationality & Borders Bill

²⁴ *Immigration Act 1971*, s.25

²⁵ Article 98 of the UN Convention on Life at Sea

²⁶ The United Nations High Commissioner for Refugees and the International Maritime Organisation have released guidance which states that ship masters have an obligation to render assistance to those in distress at sea without regard to their nationality, status or the circumstances in which they are found. This is a longstanding maritime tradition as well as an obligation enshrined in international law. Compliance with this obligation is essential to preserve the integrity of maritime search-and-rescue services. See UNHCR, IMO & International Chamber of Shipping's [Rescue at sea: a guide to principles and practice as applied to refugee and migrants](#)

²⁷ EU Regulation 656/2014

²⁸ Institute of Race Relations (2020) [Deadly Crossings and the Militarisation of Britain's Borders](#)

²⁹ Clause 41 and Schedule 5 of the Nationality & Borders Bill