



UK Proposes Nationality and Borders Bill

By: Ashley Haynes

As part of the United Kingdom's New Plan for Immigration, the Nationality and Borders Bill was introduced to Parliament in July 2021.¹ The Bill's stated objectives are to reform immigration by creating a fairer asylum system, reducing illegal entry, and removing those who are unlawfully in the country.² However, the Bill is facing resistance in the Committee stage from Members of Parliament who doubt its ability to achieve those goals.³ If it passes, the Bill will also severely limit the legal avenues to seek refuge and asylum in the UK, raising questions about its compliance with the United Nations Convention Relating to the Status of Refugees (1951 Refugee Convention) and the UK's obligations to other parties to the 1951 Refugee Convention.⁴

The foundation of the Nationality and Borders Bill is the concept of a “first safe country,” which is that refugees should seek asylum in the first safe country they reach.⁵ This requirement is not found in the 1951 Refugee Convention, or in any other international law; rather, any country in which an asylum-seeker arrives has the responsibility for providing protection.⁶ This shared responsibility among all parties to the 1951 Refugee Convention ensures that all refugees, regardless of their country of origin, have the opportunity to seek asylum without putting an unfair burden on any individual country.⁷

Nevertheless, the Bill aims to enforce the first safe country expectation by creating a two-tier asylum system that categorizes refugees based on their method of arrival.⁸ Refugees who travel to the UK “directly from a country or territory where their life or freedom was threatened” and present themselves to authorities immediately upon arriving will be considered Group 1 refugees,⁹ and will be granted asylum in the UK in accordance with the 1951 Refugee Convention.¹⁰

However, Group 1 represents a small percentage of the refugees who arrive in the UK. The majority of refugees will fall under Group 2 and will receive a temporary legal status for up to ten years, during which time they will have limited access to public resources, little chance of being reunited with their families, and the constant threat of removal.¹¹ Refugees who enter the UK by “irregular means,” such as in a small boat across the English Channel, will be further subject to criminal charges and up to four years of imprisonment.¹²

Because of its relative location to areas of conflict, the UK already receives fewer asylum-seekers than other nearby countries.¹³ The first safe country requirement of the Nationality and Borders Bill will put additional pressure on France, Greece, Italy, and other countries in the region to accept refugees who might otherwise seek asylum in the UK.¹⁴ By

denying rights to the majority of refugees arriving at the UK's borders, the Nationality and Borders bill undermines the intent of international asylum law and neglects the UK's responsibility to both refugees and the global community under the 1951 Refugee Convention.

¹ Melanie Gower, *Nationality and Borders Bill, Bill 141 of 2021-22*, HOUSE OF COMMONS LIBR. (July 15, 2021), <https://commonslibrary.parliament.uk/research-briefings/cbp-9275/> [<https://perma.cc/CC5D-QDXY>].

² Rajeev Syal, *Priti Patel's Borders Bill 'Breaches International and Domestic Law'*, GUARDIAN (Oct. 12, 2021), <https://www.theguardian.com/world/2021/oct/12/priti-patel-borders-bill-breaches-law-human-rights> [<https://perma.cc/6A8H-NLPA>].

³ See *Nationality & Borders Bill – What We Learnt from the Second Reading*, REFUGEE COUNCIL (July 23, 2021), <https://www.refugeecouncil.org.uk/latest/news/nationality-borders-bill-what-we-learnt-from-the-second-reading/> [<https://perma.cc/45VH-PUU3>] [hereinafter *Nationality & Borders Bill*].

⁴ U.N. Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 [hereinafter 1951 Refugee Convention].

⁵ Lucy Mayblin, *The Nationality and Borders Bill 2021: From Empty Threats to Further Erosion of the Right to Seek Asylum*, U. OXFORD FAC. L. (July 9, 2021), <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2021/07/nationality-and> [<https://perma.cc/8Y8F-L2LJ>].

⁶ Press Release, UNHCR, UNHCR: UK Asylum Bill Would Break International Law, Damaging Refugees and Global Co-Operation, (Sep. 23, 2021), <https://www.unhcr.org/uk/news/press/2021/9/614c163f4/unhcr-uk-asylum-bill-would-break-international-law-damaging-refugees-and.htm> [<https://perma.cc/3MA7-BDWU>] [hereinafter UK Press Release]; 1951 Refugee Convention, *supra* note 4.

⁷ See UNHCR, *Legal Observations on the Nationality and Borders Bill* (Oct. 2021), <https://www.unhcr.org/615ff04d4.pdf> [<https://perma.cc/4JT9-SMGF>] [explaining that the first safe country requirement is unworkable in practice because 73% of the world's 34.4 million refugees and asylum-seekers are already hosted in countries neighboring their countries of origin, and 86% are in developing countries].

⁸ See Syal, *supra* note 2.

⁹ Nationality and Borders Bill 2021-22, HC Bill [187] cl. 2 (UK).

¹⁰ UNHCR, *The Nationality and Borders Bill* (last updated Oct. 2021), <https://www.unhcr.org/uk/uk-immigration-and-asylum-plans-some-questions-answered-by-unhcr.html> [<https://perma.cc/XNL3-JWNP>].

¹¹ See UK Press Release, *supra* note 6.

¹² See Syal, *supra* note 2.

¹³ See *Nationality & Borders Bill*, *supra* note 3.

¹⁴ See UK Press Release, *supra* note 6; see *Nationality & Borders Bill*, *supra* note 3.