

Nationality and Borders Bill:

The following is an extract from the joint submission of Migrant Voice and Amnesty International UK to the Public Bill Committee on this Bill. It considers one of the primary objectives Ministers claim to be pursuing by this Bill. That objective is “save lives”.¹ As explained in this extract, the Bill, if implemented in its current form, will not only fail to meet that objective but risks leading directly and indirectly to the deaths of more women, men and children.

1. At Second Reading, the Home Secretary identified saving lives as an important aspect of what she described as breaking the business model of people smugglers.
2. Many of the journeys that are facilitated by smugglers are undoubtedly dangerous. There is much attention to the minority of people who enter the UK’s asylum system via a boat crossing of the Channel.² However, that is far from the only dangerous journey that is made to enter the UK. The Home Secretary emphasised this when referring to the tragedy by which 39 Vietnamese people lost their lives in a container found by Essex police in 2019.³ Again, as the Home Secretary identified in her speech, dangers are not limited to the journeys but are also a feature of the violent and exploitative treatment of people by smugglers, traffickers and other abusers.⁴ Moreover, many of the people who make dangerous journeys to reach the UK from the continent will already have made dangerous land and sea journeys, including across the Mediterranean.
3. The fallacy in the Government’s position arises for essentially the same reasons that contradict and undermine its objective of breaking the business model of smugglers. By failing to provide any safe or safer alternatives for people, who will remain compelled to make journeys, the Government is not merely perpetuating the very conditions that put people at risk, including fatal risks. It is making this much worse and making the likelihood that people die or suffer other serious harms much greater.
4. It appears that Ministers and those advising them do not appreciate the compulsion to make these journeys. This is strange because it is clearly acknowledged that the journeys are very dangerous, are sometimes fatal, are often highly traumatic (physically and mentally) and generally involve at some point extremely violent and cruelly exploitative people. To give but one example, Amnesty has long documented, among women and girls seeking to reach safety in Europe by crossing the Mediterranean from Libya, the practice of taking contraceptive medication prior to reaching Libya because the women and girls anticipate that they will be raped in that country on this journey.⁵ This is not to say that people are knowledgeable, still less fully aware, of all the risks they may face, still less about what conditions may await them in the countries to which they flee. But it does emphasise that people are far from unaware that they face very serious harms on these journeys; and this is not a deterrent for the simple reason that the need, or perceived need, of people to make these journeys is sufficiently overwhelming to defy even some of the harshest of ways by which countries may make their asylum systems difficult to access or traverse.

¹ An aim emphasised at e.g. *Hansard* HC, Second Reading, 19 July 2021 : Col 705, 706, 712 & 713 *per* the Home Secretary

² While this group remain a minority of the people claiming asylum, it has become a significantly larger proportion of that overall number.

³ *Hansard* HC, Second Reading, 19 July 2021 : Cols 712-713

⁴ *Hansard* HC, Second Reading, 19 July 2021 : Col 713

⁵ See e.g. <https://www.amnesty.org/en/latest/press-release/2016/07/refugees-and-migrants-fleeing-sexual-violence-abuse-and-exploitation-in-libya/>

5. If people truly had reason to believe they were or would be safe where they are, they would not make these journeys. Simply making the journey more dangerous or, even the asylum system that awaits more unwelcoming, will not change this. A salutary lesson ought to be taken from the example in 2014 when pressure from across the EU, then including the UK, led to Italy's decision to abandon its organised search and rescue operations in the Mediterranean. The immediate impact over a period of several months before Governments relented was a huge increase in the number of people dead.⁶ The need for the journeys had not changed so the journeys continued. The dangers of the journeys were greatly increased so hundreds more people lost their lives.
6. There is, of course, nothing in the Bill that provides directly for saving lives. On the other hand, Clause 38 opens up the prospect that a person may be criminalised and prosecuted for saving someone's life if this enables the person to enter the UK. That is manifestly the opposite of a life-saving provision. Any claim that the remainder of the Bill will contribute to saving lives rests on two assumptions. First, that the Government will successfully deter people from coming to the UK by dangerous journeys by creating the prospect that people who claim asylum will not receive it even though they may be entitled to it and that anyone seeking asylum will be punished and mistreated for doing so. Secondly, that increased sentences for smugglers and traffickers, and promises of greater and more successful prosecutions, will deter organised criminals engaged in this activity. For reasons explained in this and the previous subsection (relating to 'breaking the business model of smugglers'), these presumptions are fanciful.
7. Indeed, what is being done is likely to create far more danger and cause more loss of life. If the risk of being intercepted or identified as having entered the UK via a particular route or from a particular country is increased, people who need to move will choose other routes. The prospect is that there will be more journeys by routes that are more hidden and dangerous.
8. Meanwhile, there is no useful purpose to the protestations of Ministers and others that France, for example, is safe.⁷ If the people who make these dangerous journeys were or felt safe there, they would not make these journeys. Few do. France has not only long received many more people seeking asylum into its system than the UK. The disparity has grown significantly.⁸ Overall, France provides asylum to very many more people than the UK. That disparity has also risen significantly.⁹ For the few people who set out to seek asylum in the UK because they have family or other connections to this country and for the few people who seek asylum here because they have not been able to get safely into the asylum system in France (or elsewhere), these protestations by Ministers aid nothing.

⁶ For the first few months of 2015 following that decision, 1 in 16 people attempting this sea crossing lost their lives. More is available here: <https://www.amnesty.org/en/documents/eur03/2059/2015/en/>

⁷ As the Home Secretary repeated at Second Reading: *Hansard* HC, 19 July 2021 : Col 710 (in a speech in which she described a mother and father being forced into a boat at gunpoint in northern France)

⁸ Asylum applications in France have risen to levels that see the country regularly receive significantly more claims in a month than does the UK in a quarter.

⁹ UNHCR data shows both the scale of the disparity and its growth in recent years: <https://www.unhcr.org/refugee-statistics/download/?url=joL65X>