

THE PROSPECTIVE IMMIGRATION POLICY OF SIR KEIR STARMER'S LABOUR PARTY

BY DR AZEEM IBRAHIM OBE



**CENTRE ON
SOCIAL &
POLITICAL RISK**

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About Us



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About The Henry Jackson Society

The Henry Jackson Society is a think-tank and policy-shaping force that fights for the principles and alliances which keep societies free, working across borders and party lines to combat extremism, advance democracy and real human rights, and make a stand in an increasingly uncertain world.

CENTRE ON SOCIAL & POLITICAL RISK

About The Centre on Social & Political Risk

The Centre on Social & Political Risk (CSPR) is a citizen-focused, international research centre, which seeks to identify, diagnose and propose solutions to threats to governance in liberal Western democracies. Its fundamental purpose is to underscore the potential harm that various forms of social, cultural and political insecurity, conflict and disengagement can pose to the long-term sustainability of our democracies.

Executive Summary

The Labour Party, headed by Sir Keir Starmer, finds itself in a favourable position for the upcoming elections. Yet its position on one of the most important topics for the electorate today remains unclear, namely immigration and asylum policy. This is particularly surprising as 1.2 million immigrants made it to the UK's shores in 2023 alone, including tens of thousands of asylum seekers arriving by small boats, often without identification, through financing smuggling gangs, and raising domestic security risks.

The UK and its peers in Europe find themselves at a crossroads, facing demographic changes within their societies, and subsequent legal and financial challenges that might potentially have international ramifications. With rapid developments taking place surrounding immigration policies, international treaties pertaining to maritime law and the 1951 Convention Relating to the Status of Refugees face increasing pressure for revision. The UK is positioned to be a catalyst nation on asylum reform, and understanding the historical, legal and political position of the UK Labour Party might explain where its path is heading in demographic policies, immigration and asylum law, international criminology and, indeed, British domestic politics.

This report finds that Sir Keir Starmer's flagship proposed returns deal with the EU is impossible without the acceptance of migrant quotas from the EU in return. The assessment and analysis of evidence from journalistic, academic and political sources, as well as from Government data and projections, indicates that a Starmer government would mean higher levels of net migration than the status quo, with plausible estimates of increases of more than 250,000 per year. This report also finds little room for optimism that any announced or anticipated policy package could 'stop the boats' or reduce the financing of international smuggling gangs.

A historical analysis, both of policy and of Starmer's formative career in Parliament and as Director of Public Prosecutions, shows his key objective to be an electoral one – he first needs to be in power to effect change, even if this is sometimes at the expense of ideological and policy consistency. Yet this kind of analysis also shows where there is consistency, and helps identify, amongst a pattern of policies dropped, the key human rights, rule of law and economic objectives that belie the caricature of his being an insincere or unideological leader. Chief among them, a strict support for the European Court of Human Rights (ECHR) and a desire to train and build skills domestically to reduce reliance on overseas labour.

Sir Keir Starmer's Labour Party may well be on the verge of a historic election victory. But it will need to provide greater clarity on a key issue of the day like migration policy if it is to survive the scrutiny of an election campaign where its every movement will be judged by the voters it hopes will propel it to victory.

Dr Azeem Ibrahim OBE

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Introduction

The crisis of asylum seekers in the UK reached an apogee with calls by parts of the public to set limits or stop this occurrence. What became known as the 'Channel migrant crisis' involved the movement of tens of thousands of people from various regions of the world, mainly Africa and the Middle East, who attempt to reach the UK by crossing the English Channel in small boats. Some of these people are fleeing war, persecution, poverty or human rights violations, and claim asylum in the UK. This phenomenon, however, garnered a public reaction and put pressure on the Conservative Government to address the problem. 'Stopping the boats' thus became a central component of the Government's policy agenda, from press (and party) conferences¹ to novel primary legislation.²

Criticism of the UK immigration system varied from accusations of bureaucratic inefficiency and ineffectiveness to criticism of its very objectives. Some analysts believe the system structurally ensures unsustainable net immigration, while others insist that a lack of safe routes are to blame for the unprecedented immigration violations.³ As a result, the Conservatives endeavoured to either reform the asylum law or stop the flow of boats altogether, but it was not the only political party on the cusp of formulating a new approach to immigration. Labour Party Leader Sir Keir Starmer, for example, shifted Labour away from the 'open borders' rhetoric of the Jeremy Corbyn era towards a more cautious approach towards UK migration policy.

The Policies of Previous Governments

The complexity of illegal migration to the UK, and the ever-changing circumstances, rendered many of the Government's policies ineffective, especially from a legal perspective. The Asylum and Immigration Act in 2004, for instance, was portrayed as the "final phase" on immigration and asylum reform, yet the two subsequent decades of crises and additional laws make it evident that the act failed to address the crux of the matter. Additionally, the turn-back policy, which would authorise Border Force officials to use 'pushback' tactics to redirect migrant boats back to France, if personally approved by the Home Secretary, was preached but not implemented. The policy was based on the legal right of the UK, or any signatory nation to the 1951 UN Refugee Convention and 1967 Protocol, to intercept people at sea where necessary to prevent crime or to protect borders. However, the policy has been strongly opposed by France, NGOs and even the Border Force itself, with claims that it "may"⁴ violate international maritime law and the principle of non-refoulement, which prohibits the return of people to a place where they may face persecution or serious harm. The Border Force even threatened to strike over the policy.⁵

The series of ineffective acts continued in subsequent years. The Conservative Government began its project in earnest to reform the UK's asylum laws under the short-lived premiership of Liz Truss. It passed legislative solutions including the Illegal Migration Act, which was introduced by the former Home Secretary Suella Braverman and became law in July 2023.

¹ "Rishi Sunak denies small boats bill will break human rights laws", *ITV News*, 7 March 2023, <https://www.itv.com/news/2023-03-07/sunaks-small-boats-asylum-plans-push-boundaries-of-international-law>.

² "Illegal Migration Act 2023", Gov.UK, 8 March 2023, <https://www.gov.uk/government/collections/illegal-migration-bill>.

³ "Updated House of Commons Library briefing on 'safe and legal' routes to the UK for refugees, asylum seekers and others seeking protection", *Electronic Immigration Network*, 27 January 2023, <https://www.ein.org.uk/news/new-house-commons-library-briefing-safe-and-legal-routes-uk-people-seeking-protection>.

⁴ Anja Radjenovic, "Pushbacks at the EU's external borders", European Parliament, March 2021, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689368/EPRS_BRI\(2021\)689368_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689368/EPRS_BRI(2021)689368_EN.pdf).

⁵ Nicola Slawson, "UK Border Force could strike over Channel refugee 'pushback' plan", *The Guardian*, 5 January 2022, <https://www.theguardian.com/uk-news/2022/jan/05/uk-border-force-could-strike-over-channel-pushback-plan>.

The law aims to create a two-tier system of asylum where those who arrive in the UK legally through resettlement schemes will be granted more rights and benefits than those who arrive illegally by boat or other means. The act also gives the Home Secretary the power to detain and remove Channel migrants to Rwanda or another 'safe' third country where they will have their asylum claims processed. The act also limits the number of refugees that the UK will accept through legal routes and restricts the access to bail and judicial review for Channel migrants.⁶

Case Law

What complicates the advent of a coherent UK immigration policy are the international treaties that it has signed. Rulings by the European Court of Human Rights (ECHR), including *Čonka v. Belgium* (2002),⁷ *Hirsi Jamaa and Others v. Italy* (2012),⁸ *Sharifi and Others v. Italy and Greece* (2014)⁹ and *M.K. and Others v. Poland* (2020),¹⁰ have established precedents, some of which mark a striking deviation from the letter of the legislation in service of the 'spirit' of the law. *M.S.S. v. Belgium and Greece* (2011) found that Belgium had violated the ECHR by returning a migrant to Greece under the Dublin regulation rules.¹¹ These cases, which serve as samples from a plethora of cases, set out precedents for when, where, how and which rights the asylum seeker has and the obligations of the signatories.

The nexus of ECHR rulings and international agreements is further complicated by domestic court proceedings. Most recently, in November 2023, the Supreme Court upheld a Court of Appeals ruling that while Rwanda may or may not be 'safe' in itself, there were "substantial grounds" to believe that those sent to Rwanda could subsequently end up somewhere unsafe,¹² establishing, if you like, a system of first- and second-order safety to rule Rwanda unsafe.¹³

The Government's policy was further complicated by the procedure of housing the asylum seekers pending the result of their applications. Instead of placing them in refugee camps, the Government decided to use ex-military sites and offshore accommodation, which involves housing Channel migrants in former barracks, Royal Airforce bases or floating barges while they await the outcome of their asylum claims. The Government claims that this is a cost-effective and humane way of providing temporary accommodation for Channel migrants¹⁴ who would otherwise be placed in hotels or dispersed across the UK.¹⁵ However, the conditions and suitability of these sites have been criticised by human rights organisations such as

⁶ "Illegal Migration Act 2023", legislation.gov.uk, 20 July 2023, <https://www.legislation.gov.uk/ukpga/2023/37/introduction/enacted>.

⁷ "CASE OF ČONKA v. BELGIUM", HUDOC - European Court of Human Rights, 5 February 2002, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-60026%22%7D>.

⁸ "CASE OF HIRSI JAMAA AND OTHERS v. ITALY", HUDOC - European Court of Human Rights, 23 February 2012, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22hirsi%22%22%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%22%22itemid%22:%5B%22001-109231%22%7D>.

⁹ "AFFAIRE SHARIFI ET AUTRES c. ITALIE ET GRÈCE", HUDOC - European Court of Human Rights, 21 October 2014, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-147287%22%7D>.

¹⁰ "CASE OF M.K. AND OTHERS v. POLAND", HUDOC - European Court of Human Rights, 23 July 2020, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22M.K.%20and%20others%20v%20poland%22%22%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%22CHAMBER%22%22%22itemid%22:%5B%22001-203840%22%7D>.

¹¹ "CASE OF M.S.S. v. BELGIUM AND GREECE", HUDOC - European Court of Human Rights, 21 January 2011, <https://hudoc.echr.coe.int/eng?i=001-103050>.

¹² Dominic Casciani and Sean Seddon, "Supreme Court rules Rwanda asylum policy unlawful", *BBC News*, 15 November 2023, <https://www.bbc.co.uk/news/uk-67423745>.

¹³ Devyani Prabhat, "Supreme court rules Rwanda plan unlawful: a legal expert explains the judgment, and what happens next", *University of Bristol Law School Blog*, 18 September 2023, <https://legalresearch.blogs.bris.ac.uk/2023/12/supreme-court-rules-rwanda-plan-unlawful-a-legal-expert-explains-the-judgment-and-what-happens-next/>.

¹⁴ "Accommodation sites factsheet - April 2023", Home Office in the media, 3 April 2023, <https://homeofficemedia.blog.gov.uk/2023/04/03/accommodation-sites-factsheet-april-2023/>.

¹⁵ "Asylum hotel summary and FAQ", Home Office, 24 October 2023, <https://www.gov.uk/government/publications/asylum-hotels-exit-summary-information/asylum-hotel-summary-and-faq>.

Refugee Action and by local authorities which have raised concerns about the lack of adequate facilities, services and support for Channel migrants, as well as the potential impact on their mental and physical health. There have also been reports of protests, fires and deaths at some of these sites.¹⁶

Why the UK?

There are various reasons why individuals might choose to seek asylum in the UK instead of the first country they arrive at in Europe. Factors such as family ties, existing communities, cultural familiarity or language can influence this decision. A significant factor could be the delay in the decision-making process. The Dublin III regulation stipulates that the EU member state where an asylum seeker first arrives is responsible for processing their claim. This can put a strain on the asylum and support systems in those countries. According to Refugee Rights Europe, new arrivals might be unable to access basic rights or have their asylum claim rejected, leaving them with limited options but to move on.¹⁷

A specific instance of this was shared with the Commons Home Affairs Committee by a Yemeni medical student who is also an asylum seeker. He initially entered Europe through Spain and applied for asylum there. However, he didn't receive an appointment for accommodation from the Red Cross until several months later. In the meantime, he lived on the streets in Barcelona for a month before deciding to move to France in search of another country. Encouraged by other migrants, he attempted to reach the UK but failed twice. He then returned to Spain to attend his Red Cross appointment, only to be given another appointment more than half a year later. He made his way back to France and, on his third attempt, was rescued by the Border Force while trying to reach the UK by sea. Upon his arrival in the UK, he was informed that his claim was inadmissible because he had already applied for asylum in Spain.¹⁸

There are also other reasons why migrants might feel they have little choice but to head to the UK. For instance, Dan O'Mahoney, the Clandestine Channel Threat Commander, mentioned to the Committee cases of migrants being forced onto boats by smugglers who had taken payments, and these migrants had no idea where they were when they arrived in the UK. Rossella Pagliuchi-Lor, UNHCR Representative to the UK, pointed out that smugglers' marketing tactics could be another reason. Some migrants who had already applied for asylum elsewhere wanted to apply in the UK due to concerns about the outcome of their initial claim.

Migrants, especially children, might not be fully informed about the risks and benefits of journeying to the UK. The information they receive from their peers and community leaders can be very influential and hard to counteract.

Attraction of Illegal Labour Market

There have been suggestions that the perception of an active illegal labour market in the UK could be a factor attracting clandestine migration. Notable figures such as Xavier Bertrand, the President of Hauts-de-France Regional Council, Pierre-Henri Dumont, the MP for Calais, and Natasha Bouchart, the Mayor of Calais, have all proposed this as a reason that draws migrants to the northern French coast. Indeed, President Macron has made the same suggestion,¹⁹

¹⁶ "Napier Barracks: Call to close 'unlawful' asylum centre", *BBC News*, 3 June 2021, <https://www.bbc.co.uk/news/uk-england-kent-57343968>.

¹⁷ Channel crossings, migration and asylum, Q242, HC705, 30 September 2020, <https://publications.parliament.uk/pa/cm5803/cmselect/cmhaff/199/report.html>.

¹⁸ "Oral evidence: Channel crossings, migration and asylum-seeking routes through the EU, HC 705", House of Commons, 7 October 2020, <http://committees.parliament.uk/oralevidence/1445/pdf/>.

¹⁹ Holly Bancroft, "'Hypocritical' Britain to blame for every Channel migrant drowning, says Macron", *The Independent*, 2 February 2022, <https://www.independent.co.uk/news/world/europe/macron-channel-migrant-crossing-britain-b2005766.html>.

as have many of his ministers.²⁰ If this perception does influence migration, it needs to be dispelled, and the active involvement of the French authorities is crucial in helping to do so.

This notion is contradicted by the highly visible nature of small boat crossings. Those who aim to enter the UK clandestinely to work illegally are unlikely to want to be escorted to shore, detained and identified upon arrival. Dan O'Mahoney stated that the small boats route is predominantly used by people seeking asylum rather than those seeking unauthorised entry to the UK for other reasons. He noted that almost all arrivals by small boats are detected and controlled by Border Force, Immigration Enforcement and Home Office officers. If someone were trying to get into the UK and thought there was a very low chance of claiming asylum, they would likely use a different route.²¹

After nearly two decades of ongoing ebb and flow of the immigration debate, it does not seem that the Home Office has conducted serious research into why the UK is especially attractive to migrants. The only study that strived to explain the UK's attractiveness to immigrants was conducted in 2002 and it was unsatisfactory. It identified four reasons why asylum seekers saw the UK as a safe haven: they had relatives or friends here; they perceived the UK as safe, tolerant and democratic; there were links, including colonial links, between their country and the UK; and they could speak English or wanted to learn. The study fell short in taking into account some of the crucial facts. For example, Tyson Hepple, then Director General of Immigration Enforcement at the Home Office, confirmed that Home Office management information does not capture data on the significance of family connections. However, he agreed that the English language and the presence of diaspora communities could be attractive factors. The Oxford Migration Observatory, while maintaining there was "no clear or single explanation" for the rise in small boats activity, additionally points out that "smuggler groups have become larger and increasingly professionalised in recent years, and were able to capitalise on their experience as enforcement measures were progressively tightened."²²

Some sources blame the departure from the Dublin returns regulation as a key factor, despite the fact that it routinely resulted in incredibly few returns to EU countries. We shall discuss the viability of such agreements in this paper. Other insights include that snowball effects may be a significant factor. A 2020 report by the Independent Chief Inspector of Borders and Immigration argued that small boats are now "established in the minds of many migrants and facilitators as an effective method of illegal entry", highlighting a behavioural "snowball effect" where migrants believe the route to be an effective route to asylum. They're not wrong – 86% of small boat crossings received a grant of protection from the UK Government in 2023.²³ Breaking that perception will be key to 'stopping the boats'.

²⁰ Kim Willsher, "Channel crossings are an English issue, says French minister", *The Guardian*, 29 November 2021, <https://www.theguardian.com/uk-news/2021/nov/29/channel-crossings-are-an-english-issue-says-french-minister>.

²¹ Vaughan Robertson and Jeremy Segrott, "Understanding the decision-making of asylum seekers", Home Office Research Study, July 2002, <https://www.embraceni.org/wp-content/uploads/2020/02/hors243.pdf>.

²² Peter W. Walsh and Mihnea V. Cuius, "People crossing the English Channel in small boats", The Migration Observatory, 21 July 2023, <https://migrationobservatory.ox.ac.uk/resources/briefings/people-crossing-the-english-channel-in-small-boats/>.

²³ Ibid.

Analysis of View of Electoral Calculations

Research conducted in the wake of the 2016 Brexit referendum indicated that, at that cultural moment, immigration had lost some of its salience as an electoral issue. One interpretation was that the Brexit vote had reassured voters that immigration was being taken seriously as an issue and that it was in the process of being solved. Another interpretation was that the Brexit vote itself was cultivating anti-immigration sentiment in the UK, and that once the ballot had been held, tensions were bound to decrease. The increased salience since suggests that, indeed, Brexit temporarily calmed nerves, but that anxieties about immigration reappeared once it became clear immigration was increasing, not decreasing.

Public Sentiment

Furthermore, responding to an opinion poll, 73% felt that the UK has not regained control over its borders after Brexit, with only 12% believing the contrary. Indeed, a mere 9% of the population believe that Brexit has improved the UK's border management, while 45% think it has deteriorated. Among those who supported Brexit, the loss of faith in the immigration system was the most profound. Only 7% of leave voters believe that the UK has regained control over its borders post-Brexit, while a staggering 85% believe it hasn't.²⁴

The importance of immigration in the mind of the UK's electorate took a hiatus as more pressing issues took centre stage. In June 2016, during the EU Referendum, immigration was cited as a significant issue by 48% of individuals.²⁵ However, the prominence of immigration gradually decreased over the subsequent years, with fewer people mentioning it. There was a parallel surge in concern about Europe, but this too sharply declined after the transition period concluded. By the middle of 2018 and throughout 2019, less than 20% of respondents mentioned immigration.²⁶ By April 2020, it's not surprising that the primary concern had shifted to the coronavirus pandemic, with immigration being mentioned by a mere 5% of participants.²⁷

The electoral dynamics of immigration also allow for apparent paradoxes, including, as pointed out by *The Economist*, that British voters tend to oscillate depending on the profession of the immigrants. British voters say they want "more nurses, doctors and fruit pickers. Carers, academics, computer whizzes and students are welcome, too." Programmes to offer safe and legal routes to allow large numbers of Ukrainian and Hong Kong citizens into the country were also widely approved of by the British population.²⁸ In this sense, public opinion is predictable: if an immigrant is coming to do a specific job otherwise left unfilled, especially if that job is in the National Health Service (NHS), or is fleeing crises like Ukraine, then British society tends to support them being here. The country is also substantially in favour of high-skilled 'professional' migration, and research has shown that the public cares more about bringing skilled people than about which particular country they are from.²⁹

²⁴ Michael Savage, "Most Britons think country has lost control of its border since Brexit: poll", *The Guardian*, 5 November 2022, <https://www.theguardian.com/uk-news/2022/nov/05/most-britons-think-country-has-lost-control-of-its-border-since-brexit-poll>.

²⁵ Peter W. Walsh and Mihnea V. Cuiibus, "UK Public Opinion toward Immigration: Overall Attitudes and Level of Concern", The Migration Observatory, 28 September 2023, <https://migrationobservatory.ox.ac.uk/resources/briefings/uk-public-opinion-toward-immigration-overall-attitudes-and-level-of-concern/>.

²⁶ Ibid.

²⁷ Ibid.

²⁸ "British voters want more immigrants but less immigration", *The Economist*, 25 May 2023, <https://www.economist.com/britain/2023/05/25/british-voters-want-more-immigrants-but-less-immigration>.

²⁹ Walsh and Cuiibus, "UK Public Opinion toward Immigration".

Asylum Seekers

The group for which the most Britons advocated tougher entry rules was asylum seekers.³⁰ As the Oxford Migration Observatory points out, “37% of people thought that the arrival of asylum seekers should be made more difficult, but only 14% wanted to do so for Ukrainians fleeing conflict.”³¹ Numbers were also lower for Hongkongers (21%) and Afghans (30%). Again, a similar pattern appears to emerge wherein the public favours instances of asylum while being deeply concerned about the scale.³² The polling results paint a clear picture of a nation wanting to take skilled migrants and those fleeing genuine acute crises, but deeply sceptical of low-skilled migrants, outraged by Channel crossings and nursing anxieties about total immigration figures. The failure to get this policy right has, in recent years, driven Labour voters to parties to the right of the spectrum, such as UKIP, the Brexit Party or the Conservatives, and Conservative voters to Reform UK.³³

Important when evaluating such polling results is an appreciation that the way a question is asked and those questions before and after it can materially influence the response given. There has long been a bias in such collection which has tended to represent countries as being more liberal in social attitudes than they actually are. This can be due to phrasing but also to an intentional misrepresentation of one's opinion in a form of self-censorship.³⁴ Being pro-immigration can be seen as a high-status belief, with those from poorer and/or less-educated backgrounds often opposing it.³⁵

Results from the European Social Survey show the UK as one of the countries most permissive of immigration in Europe, with low numbers saying immigration makes the UK a “worse place to live” at only 17%.³⁶ Data collected across countries in this fashion has permitted some valuable insights, focused on *stocks v. flows* of immigrants. Ubiquitously, populations were unsupportive of continuing flows of immigrants yet mostly unconcerned with those immigrants already present.³⁷ The European Social Survey can also be used to discuss the relationship between individual attitudes towards immigration and party choice.³⁸ It has become clear that cultural factors hold more influence over voting patterns than the economic factors of immigration, and that this effect is only becoming stronger over time.³⁹

Indeed, the British public's views on immigration may appear erratic, contradictory or even fickle when analysing individual presentations of data. A more expansive view of UK public opinion is possible, however, and allows for a welcoming and tolerant national character to emerge, but one which is also distrustful of politicians and deeply anxious about a loss of border control and of cultural change. Abrams and Travaglino used two large polling sets in Kent and in Scotland to show the correlation between trust in politicians, concerns about

³⁰ Walsh and Cuibus, “UK Public Opinion toward Immigration”.

³¹ Ibid.

³² Eleni Courea, “‘Stop the boats’ now second-biggest concern of UK Tory voters — poll”, *POLITICO.eu*, 9 March 2023, <https://www.politico.eu/article/stop-the-boats-now-second-biggest-concern-of-tory-voters-poll/>; Simon Jenkins, “Prepare for this general election to be the most toxic ever, thanks to Farage and Reform UK”, *The Guardian*, 27 November 2023, <https://www.theguardian.com/commentisfree/2023/nov/27/general-election-most-toxic-ever-farage-reform-uk>.

³³ Hugo Gye, “Sunak losing votes to Farage's Reform UK amid Tory rows over migration”, *iNews*, 3 December 2023, <https://inews.co.uk/news/politics/sunak-losing-votes-farage-reform-uk-tory-rows-migration-2789423>.

³⁴ Emily Ekins, “Poll: 62% of Americans Say They Have Political Views They're Afraid to Share”, Cato Institute, 22 July 2020, <https://www.cato.org/survey-reports/poll-62-americans-say-they-have-political-views-theyre-afraid-share#introduction>.

³⁵ Walsh and Cuibus, “UK Public Opinion toward Immigration”.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Brandon Malloy, Zeynep Ozkok and Jonathan Rosborough, “The Impact of Immigration Attitudes on Voting Preferences: Evidence from the European Social Survey”, *Journal of International Migration and Integration* 23 (2022): 1825-1853, <https://doi.org/10.1007/s12134-021-00913-2>.

acceptable levels of immigration, threat from immigration, European identification and voting intention on Brexit.⁴⁰ Bringing such voters on side, as the Vote Leave campaign was exceptionally successful at doing, is therefore largely a function of assuaging fears about the motivation of politicians and the re-establishment of controlled and orderly borders. It should go without saying that 'take back control' was, in this context, a remarkably astute piece of communication that interacted powerfully with UK voters and their desire for political change.

Labour Policy

Inveterate politicians such as Sir Keir Starmer are certainly aware of the central importance of immigration and illegal immigration as an electoral issue and will therefore need an electoral strategy.

There are several interpretations as to why Starmer remains unpronounced on immigration. One of the rare instances where he presented a clear and resolute stance on immigration was when advocating the transfer of powers from Westminster to local authorities.⁴¹ Despite Labour being, at the time of writing, some 20 points ahead in the polls, this stance was not part of a clearly known political strategy to address immigration.⁴² This ambiguity made pundits from the right and the left speculate that Labour faces a "headache" in the form of immigration. Some believe, on the one hand, that Starmer is comparatively agnostic on the issue, while other analysts recognise that a low profile has been a key electoral strategy, hoping that the Conservatives "tear themselves apart" over the issue and drive voters to Labour.⁴³ His electoral strategy is reasonably clear: to say as little as possible to put off voters until the campaign begins in earnest. At that point, Starmer will try to signal strength and the ability to control the situation, whilst condemning Conservative attempts as chaotic, immoral and illegal.

This ambiguity served the Labour Party very well during the debate on the Rwanda asylum plan. The Conservative Party pronounced its plan that anyone entering the UK illegally after 1 January 2022 could be sent to Rwanda. For some time, analysts believed that the Conservative Party did not want the Rwanda policy to go through Parliament and the courts, hoping to benefit from the rhetoric without actually implementing the plan. Others have noted how remarkably reserved Labour has been about what it would do if the Rwanda policy did go through. One member of the shadow cabinet is reported in *The Guardian* as saying: "If the [Rwanda] bill gets through and one plane takes off, then the questions will stop being about internal Tory struggles and become, 'What would Labour do about this?' That is a nightmare scenario, I'm not sure we have an answer to it yet."⁴⁴ Indeed, pressed on the issue, Starmer refused to say whether his government would end the policy,⁴⁵ while a spokesman said: "Let's wait and see how long this policy actually lasts for because we still don't know what situation we're going to be in with it."⁴⁶ The Labour Party was spared from entering the morass as the UK Supreme Court ruled unanimously in 2023 that the Rwanda plan was unlawful.⁴⁷

⁴⁰ Dominic Abrams and Giovanni A. Travaglino, "Immigration, political trust, and Brexit – Testing an aversion amplification hypothesis", *British Journal of Social Psychology* 57, 2 (2018): 310-326, <https://doi.org/10.1111/bjso.12233>.

⁴¹ Becky Morton, "Keir Starmer embraces Brexit slogan with 'take back control' pledge", *BBC News*, 5 January 2023, <https://www.bbc.co.uk/news/uk-politics-64173370>.

⁴² "General election 2024 poll tracker: How do the parties compare?", *BBC News*, accessed 31 January 2024, <https://www.bbc.co.uk/news/uk-politics-68079726>.

⁴³ Peter Walker, Kiran Stacey and Ben Quinn, "The trouble with targets: immigration is a potential headache for Labour", *The Guardian*, 18 December 2023, <https://www.theguardian.com/uk-news/2023/dec/18/trouble-targets-immigration-potential-headache-labour>.

⁴⁴ *Ibid.*

⁴⁵ Jon Stone, "Rwanda deportations policy: the different parties' positions side-by-side", *The Independent*, 15 June 2022, <https://www.independent.co.uk/news/uk/politics/rwanda-deportation-labour-position-b2101898.html>.

⁴⁶ *Ibid.*

⁴⁷ "What is the UK's plan to send asylum seekers to Rwanda?", *BBC News*, 30 January 2024, <https://www.bbc.com/news/explainers-61782866>.

Immigration will surely continue to be among the top priorities for the electorate at the next general election, perhaps more so than at any other time in British electoral history. This will have a direct impact on the concrete policies of a Starmer government, as the promises and arguments made will shape Labour Party thinking and restrict the 'Overton Window' of possible policies, as sometimes talking too much about an issue in politics can make it harder to solve.⁴⁸ However, electoral factors are by no means the only determinant of party policy.⁴⁹ An exploration of the individuals and history and a critical analysis of policy options is also illuminated to infer the most likely Labour immigration policy once in government, rather than simply an inference of the strategies the party might use to get elected.

⁴⁸ Julia Lynch, "In and Out of the Overton Window: How Talking about Health Inequality Made the Problem Harder to Solve", *Regimes of Inequality: The Political Economy of Health and Wealth* (Cambridge: Cambridge University Press, 2020): 176–206, <https://www.cambridge.org/core/books/abs/regimes-of-inequality/in-and-out-of-the-overton-window/8A11D7389C64F66B58AB68FC0424FE20>.

⁴⁹ Matt Evans, "Policy-Seeking and Office-Seeking: Categorizing Parties Based on Coalition Payoff Allocation", *Politics and Policy* 46 (2018): 4–31, <https://doi.org/10.1111/polp.12242>.

Keir Starmer's Personal Perspectives on Immigration

Background

Starmer comes from a family that has a strong leaning towards the Labour Party. In fact, Keir Starmer was named after J. Keir Hardie, the first leader of the Labour Party in Parliament.

From the early days in his career, Starmer specialised in criminal defence work, with a particular emphasis on human rights issues. His work extended both within the UK and overseas. He defended convicts sentenced to suffer the death penalty in several Caribbean countries. He specialised in the issue, and served on the Foreign Office Death Penalty Advisory Panel, providing expert counsel. In addition to this work, Starmer served as a human rights adviser to two significant organisations: the Northern Ireland Policing Board and the Association of Chief Police Officers, again focusing on human rights and on the curtailment of state power.

Asylum Cases

Starmer's stance on human rights as a lawyer included the defence of asylum seekers, which went counter to the overall policy of the Labour Party. In 2003, six asylum seekers took the Government to court and Starmer legally represented five of them. The case rested on whether the Home Office, led by Lord David Blunkett (2001-2004), could refuse to support asylum seekers who did not claim asylum as soon as they arrived in the country. The claimants won the case with Starmer's representation, and the case decided that asylum seekers must be supported regardless of how soon after arrival their asylum claim is made. Blunkett remained adamant in his position and announced his intention to fight the case in the Court of Appeal. He said shortly after the ruling that: "Frankly, I am personally fed up with having to deal with a situation where parliament debates issues and the judges then overturn them. We were aware of the circumstances, we did mean what we said and, on behalf of the British people, we are going to implement it."⁵⁰

Another indicative position of the Labour Party was taken by Beverley Hughes MP. Hughes, the Labour Government's Minister of State for Immigration and Citizenship in 2002, said that: "we will vigorously defend these judicial reviews, which challenge laws passed by parliament that are part of a major reform of our asylum process". She argued that it was reasonable to expect those genuinely fleeing prosecution to claim asylum in a timely manner. The rules formed part of a package designed to halve the number of asylum claims, which were ultimately blocked by this case.

Terror Cases

Other deportation cases Starmer fought in court included the remarkable 2008 case of Abu Qatada, a preacher accused of having links to terrorist organisations. He was instructed in this case by Birnberg Peirce, a leading human rights law firm and, following 'cab rank' rules, duly acted on behalf of Qatada at his deportation appeals hearing. Starmer argued that Qatada should not be detained during the deportation proceedings and should receive government benefit payments in the meantime; he also claimed that revoking his refugee status would violate international and domestic human rights law.

During this period, Starmer also represented many cases abroad, of which a significant portion concerned the rights of those claiming refugee status. One overseas case involved representing Hizb ut-Tahrir (HT) at the ECHR. Hizb ut-Tahrir gained notoriety as a radical

⁵⁰ Alan Travis, "Blunkett to fight asylum ruling", *The Guardian*, 20 February 2003, <https://www.theguardian.com/politics/2003/feb/20/homeaffairs>.

international organisation accused of supporting terrorism and anti-Semitism. Germany banned the group in 2003 because it was “accused of spreading violent anti-Semitism on university campuses and establishing contacts with neo-Nazis.”⁵¹ Tony Blair's Government tried twice, unsuccessfully, to ban the group. The Home Office finally banned Hizb ut-Tahrir as a terrorist group, and the decision was approved by Parliament in January 2024. In 2008, Starmer led a team which made an application to the ECHR arguing for the German ban on Hizb ut-Tahrir to be overturned on human rights grounds.⁵²

Importantly, this case may have qualified as foreign work since the dispute itself related to Germany and the ECHR is based in Strasbourg. Under a foreign work exception to the ‘cab rank’ rule, Starmer would not have been bound to represent Hizb ut-Tahrir, and would have had every right to refuse the case.⁵³ The fact that he *did not* refuse to defend the organisation could indicate the merit he saw in it and perhaps give some insight into a possible tolerance for extremist groups that paint themselves as victims. A release posted on the Hizb ut-Tahrir website in 2008 referred to “The HT legal team led by Keir Starmer QC” and went on to list points the legal team had highlighted, including “the silencing of HT re-expression of its views publicly in Germany despite it being well known that HT is a non-violent political party based on Islam.”⁵⁴

However, Starmer was appointed Director of Public Prosecutions (DPP) in the UK only a month after the ECHR application was submitted, and so moved on from the case before any oral hearings. A Labour spokesman told *The Telegraph* that, in his new role as DPP and only months later, Starmer brought cases against “terrorists with links to Hizb ut-Tahrir and led the first ever prosecution of al-Qaeda”. The spokesman added that: “Keir Starmer and the Labour Party he leads have been clear that those who incite hatred or glorify terrorism need to face the full force of British law.”⁵⁵

Director of Public Prosecutions

In 2008, Starmer became DPP, a position he held for five years. His appointment drew some criticism both from his colleagues in left-leaning human rights law, and amongst barristers who considered him an inexperienced outsider to the world of prosecutions. As the director of the Crown Prosecution Service (CPS) – the very body that decides whether or not to prosecute someone accused of a crime – Starmer's career would, in theory, pivot him from being a defender of human rights against state power to directing that state power himself.

Indeed, many who have worked closely with Starmer have noted the marked change in his politics and his methods that were brought about by his role at the CPS,⁵⁶ for instance, Anthony Metzger. Another colleague, while praising his work ethic and dedication, drew attention to “all those leftwing shibboleths [he had], which he has reconsidered since he became a public servant.”⁵⁷ Perhaps Starmer's experience as a prosecutor gave him a wider and more nuanced perspective. Yet in Metzger's eyes, this shift appeared to be driven by personal ambition. *The Guardian* quotes Metzger as saying that: “The Keir of 2008 could not have looked at Margaret

⁵¹ Peter Finn, “Germany Bans Islamic Group”, *The Washington Post*, 15 January 2003, <https://www.washingtonpost.com/archive/politics/2003/01/16/germany-bans-islamic-group/8220a0d6-442e-403c-8382-45fd315cacdb/>.

⁵² Dominic Casciani, “Home Office to ban Hizb Ut-Tahrir as terror group”, *BBC News*, 15 January 2024, <https://www.bbc.com/news/uk-67984295>.

⁵³ Edward Malnick, “Starmer acted for extremist Islamist group in bid to overturn ban”, *The Telegraph*, 16 December 2023, <https://www.telegraph.co.uk/news/2023/12/16/keir-starmer-represented-extremist-islamist-group/>.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ Kiran Stacey, “How leading the CPS changed Keir Starmer – while he changed it”, *The Guardian*, 21 December 2023, <https://www.theguardian.com/politics/2023/dec/21/keir-starmer-cps-analysis>.

⁵⁷ *Ibid.*

Thatcher with anything other than total loathing. The Keir who wants to be prime minister is going to say nothing is off the table.”⁵⁸ This speaks both to the significance of the change but also its motivation – he seems to have acquired a streak of political pragmatism and an opportunistic instinct that have allowed, as we will explore, some of his hitherto stated core beliefs to be seemingly replaced by more politically expedient ones.

Decisions made during Starmer's tenure at the CPS nonetheless give insight into the nature of those enduring beliefs and principles. This is an area that deserves further exploration. His tenure was characterised in many cases by a continuing theme – the effective use of the Human Rights Act (HRA) to challenge and derail Government decisions, especially when they concerned the treatment of immigrants and refugees.

Shadow Immigration Minister

Upon the conclusion of his five-year term as DPP, Starmer was appointed Knight Commander of the Order of the Bath (KCB) in the 2014 New Year Honours. His time at the CPS significantly shaped his career and played a role in his subsequent political journey. Following his retirement from the role in 2015, Starmer contested the safe Holborn and St Pancras constituency at the 2015 General Election, winning comfortably with a majority of 17,048.⁵⁹

He was re-elected in the 2019 General Election held on 12 December 2019. In this election, he secured a significant majority of 27,763 votes. He received 36,641 votes, which accounted for 64.5% of the total votes cast.⁶⁰

Starmer supported Andy Burnham against Jeremy Corbyn for the leadership of the Labour Party (year) and was appointed Shadow Minister for Immigration that same year. This appointment was, even with the benefit of hindsight, not particularly surprising. Corbyn faced the parliamentary reality that Ed Miliband's 2015 intake was not largely on board with the Corbyn project.⁶¹ Starmer was a new MP and a junior appointment may have helped to bring him onside despite them being from opposite wings of the party, in a bid to bring about his opposition of “unity”.⁶² He argued that Labour had allowed the issue of immigration to get away from them, saying that:

What Labour has got wrong in the past is that where people have voiced a concern about immigration, we have walked past the problem, instead of confronting it. If there is a feeling that there are certain conversations we don't want to have, then we are in the wrong place.⁶³

During this early period as an MP, he also took a leading position against the Investigatory Powers Bill, something for which his prosecutions background undoubtedly was formative. In March 2016, Starmer led and argued for an immigration bill amendment tabled in the House of Lords that would have allowed 3000 unaccompanied children into the UK through an open-doors policy. Ministers and the Home Office were concerned that the policy would “inadvertently create a situation in which families see an advantage in sending children alone,

⁵⁸ Kiran Stacey, “How leading the CPS changed Keir Starmer – while he changed it”.

⁵⁹ “Election History of Holborn and St Pancras”, UK Parliament, <https://members.parliament.uk/constituency/3536/election-history>.

⁶⁰ Ibid.

⁶¹ “Jeremy Corbyn unveils ‘unifying’ shadow cabinet team”, *BBC News*, 14 September 2015, <https://www.bbc.co.uk/news/uk-politics-34240869>.

⁶² Ibid.

⁶³ Stephen Moss, “Labour's Keir Starmer: ‘If we don't capture the ambitions of a generation, it doesn't matter who is leading the party’”, *The Guardian*, 9 April 2016, <https://www.theguardian.com/law/2016/apr/09/labours-keir-starmer-if-we-dont-capture-the-ambitions-of-a-generation-it-doesnt-matter-who-is-leading-the-party>.

ahead and in the hands of traffickers, putting their lives at risk by attempting treacherous sea crossings to Europe which would be the worst of all outcomes.”⁶⁴

Starmer introduced the Victims of Crime Bill, draft legislation designed to provide victims with a right of appeal against a decision to stop a criminal investigation.⁶⁵ It attracted considerable support from MPs, including from the Government front bench, but failed to pass into law following criticism from barristers and prosecutors, including Lord MacDonald, Starmer's predecessor as DPP at the CPS.⁶⁶

Post and Pre-Brexit Positions

Starmer criticised the Government's delay and reluctance to help refugees in February 2016 as he announced his immigration 'listening tour', intended to adapt to voter concerns but also to raise his profile amongst the national membership.⁶⁷ In an interview in June 2016, two weeks before the Brexit vote, he criticised the direction of the Labour Party, adding that: "If you don't capture the ambition of the people who are going to be voting in 2020 then you're not going to win that election."⁶⁸ He resigned from his role as Shadow Minister for Immigration during the Corbyn leadership crisis following the Brexit vote on 23 June 2016, along with almost the entirety of Corbyn's shadow cabinet.⁶⁹

Starmer spent much of this period focusing on the issue of Brexit, being appointed as the Shadow Secretary of State for Exiting the European Union on Friday 7 October 2016, rejoining Corbyn's cabinet. Within a week of taking the role, Starmer broke with Corbyn's line and called for immigration to be reduced. Speaking to the BBC's Andrew Marr, Starmer said: "I think it should be reduced and it should be reduced by making sure we have the skills in this country that are needed for the jobs that need to be done."⁷⁰

Starmer continued to speak on immigration issues, taking a more moderate line than the open-borders rhetoric of the party leadership. He insisted that immigration curbs are part of the post-referendum settlement and that future immigrants from the EU will need to have a job to come to the UK.⁷¹ At this point, he appeared fully reconciled to the end of free movement, arguing that "The rules on free movement have got to be changed - or the way the rules operate has got to change."⁷²

Indeed, Starmer was also fully reconciled to Theresa May's key red line that the UK must leave the jurisdiction of the European Court of Justice, and that Labour should support "the

⁶⁴ Rowena Mason, "Labour says 'fight will go on' after Tories vote down child refugee plan", *The Guardian*, 26 April 2016, <https://www.theguardian.com/world/2016/apr/25/tories-vote-against-accepting-3000-child-refugees>.

⁶⁵ Owen Bowcott, "Victims' law could boost rights to challenge the crime investigation process", *The Guardian*, 25 January 2016, <https://www.theguardian.com/law/2016/jan/25/keir-starmer-victim-law-challenge-investigation-process-child-abuse-report-duty>.

⁶⁶ "A critical analysis of Sir Keir Starmer's Victims of Crime Etc (Rights, Entitlements and Related Matters) Bill", Kingsley Napley, 10 February 2016, <https://www.kingsleynapley.co.uk/insights/blogs/criminal-law-blog/a-critical-analysis-of-sir-keir-starmer-victims-of-crime-etc-rights-entitlements-and-related-matters-bill>.

⁶⁷ Keir Starmer, "Migration is now the issue of our time - Labour needs to find a principled, fair and humane response", *LabourList*, 4 February 2016, <https://labourlist.org/2016/02/migration-is-now-the-issue-of-our-time-labour-needs-to-find-a-principled-fair-and-humane-response/>.

⁶⁸ Kate McCann, "Jeremy Corbyn lacks 'vision' and is taking Labour backwards, shadow minister warns", *The Telegraph*, 9 June 2016, <https://www.telegraph.co.uk/news/2016/06/09/jeremy-corbyn-lacks-vision-and-is-taking-labour-backwards-shadow/>.

⁶⁹ "Live updates: Labour leadership crisis", *ITV News*, 27 June 2016, <https://www.itv.com/news/update/2016-06-27/keir-starmer-resigns-as-shadow-home-office-minister/>.

⁷⁰ Rajeev Syal, "Keir Starmer calls for immigration to be reduced", *The Guardian*, 9 October 2016, <https://www.theguardian.com/uk-news/2016/oct/09/keir-starmer-calls-for-immigration-to-be-reduced>.

⁷¹ Rob Merrick, "Brexit: Labour's Keir Starmer says EU free movement rules 'have got to be changed'", *The Independent*, 1 January 2017, <https://www.independent.co.uk/news/uk/politics/brexit-article-50-sir-keir-starmer-jeremy-corbyn-immigration-eu-free-movement-a7504331.html>.

⁷² *Ibid.*

fullest possible" tariff-free access to the European market consistent with leaving it.⁷³ This was, albeit, with the caveat that a new body be established to "settle disputes between Britain and the EU".⁷⁴ Following the general election on 8 June 2017, the tune markedly changed. By December that year, Starmer was urging a more "constructive" approach, one which included a transitional period within the single market and customs union and, hence, the free movement regime.⁷⁵ He now supported the "easy movement" of people, but not the free movement.⁷⁶

The turning point for Starmer had been his watershed "nobody is ruling out remain as an option" speech to the Labour conference in Liverpool in 2018 which pushed Labour into reopening the Brexit issue in its entirety.⁷⁷ There had been considerable speculation about whether he would follow the pro-EU elements of the party into calling for a "people's vote", which from this point onwards he emphatically embraced. Given how this position reopened freedom of movement, and finds its legacy today in Starmer's EU migrant policy, we must evaluate his motivations for this change. At that moment, of course, Starmer was a frontrunner to replace Corbyn and would have seen significant upsides in appealing to the party membership which had voted 90% for remain. The risk of alienating the third of their voters who voted leave would scarcely affect Starmer's constituency, and could only help in bringing an end to Corbyn's leadership.⁷⁸

Starmer would continue to make overtures of his support for Corbyn until the 2019 election, for instance saying on *BBC Breakfast* on 26 February 2019 that Corbyn would make a "great prime minister", that he offered "good leadership" (*Politico*, 23 September) and that he was "100% behind Jeremy Corbyn" (*Andrew Marr Show*, October 2020). After the general election, he maintained that he was "very good friends" with Corbyn (*Sky News*, 16 February) and that they "worked very effectively together" (*Andrew Neil Show*, 4 March). Following his becoming party leader, Starmer praised Corbyn for having "energised our movement" (*Twitter*, 4 April). By 2023, however, with Corbyn removed from the party, Starmer claimed that "I think we lost our way, and that's why I made it my business to change the Labour Party" (*Politics Hub with Sophy Ridge*, 11 October).

⁷³ Tom McTague and Charlie Cooper, "Keir Starmer: Britain's last Remaining hope", *POLITICO.eu*, 4 November 2016, <https://www.politico.eu/article/keir-starmer-britains-last-remaining-hope/>.

⁷⁴ Ibid.

⁷⁵ Anushka Asthana and Peter Walker, "Labour MPs hope EU deal is signal for soft Brexit approach", *The Guardian*, 8 December 2017, <https://www.theguardian.com/politics/2017/dec/08/labour-mps-hope-eu-deal-is-signal-for-soft-brexite-approach>.

⁷⁶ Aubrey Allegretti, "Keir Starmer calls for 'easy movement' after Brexit to keep UK 'aligned' with EU", *Sky News*, 10 December 2017, <https://news.sky.com/story/keir-starmer-calls-for-easy-movement-after-brexite-to-keep-uk-aligned-with-eu-11165090>.

⁷⁷ Martin Kettle, "Keir Starmer launched an unexpected Brexit zinger - and it hit the spot", *The Guardian*, 25 September 2018, <https://www.theguardian.com/commentisfree/2018/sep/25/keir-starmer-brexite-zinger-labour-conference-remain-option-peoples-vote>.

⁷⁸ Ibid.

Opinions Before Becoming Party Leader

There is legitimate discussion about how far one should look back to gain useful insights into Starmer's current opinions or the trajectory he followed to arrive at them. For instance, back in 1988, he said that a "racist undercurrent ... permeates all immigration law."⁷⁹ These claims may have reflected the views of the young Starmer but are unlikely to bear fruit due to their extreme age. In what follows we will therefore limit ourselves to those statements made during his time in Parliament.

Views on Illegal Immigration

Starmer claims to have been significantly impacted in his thinking on illegal migration by his experiences at the camps in the Calais region of France. "I explained just how powerful the experience of being in Calais and Dunkirk had been on me, saying that no-one could come away from the camps without being changed by the experience."⁸⁰

On his UK immigration tour in Glasgow, Scotland, Starmer wrote how he had met a 15 year-old Congolese boy who explained how he had made his way across seven countries to finally arrive in the UK. Along the way the smugglers told him to throw all your papers overboard yet when he arrived in Scotland, he was detained for being unable to prove his age. He also endorsed the views and activities of 'Camden Citizen', a group which supports asylum claims from people who come through illegal routes,⁸¹ again indicating his support for some degree of amnesty for those who enter through illegal means.

In a January 2016 blog piece, Starmer appeared to liken the "bullying" of migrants in the Calais camp to the suffering of the Jews during the Holocaust. "On Tuesday I was at William Ellis School for a deeply moving event to remember the Holocaust. We were privileged to hear the first hand testimony of one of the survivors of the Nazi death camps: Freda Wineman." He continued: "What do you do, I asked, when you see someone being bullied? Or when you come across people sleeping rough in the streets of Camden? I told them of the Iraqi man I had met in the refugee camp in Calais, who was told to fight for ISIS, or be killed. And of how he is now living in a wood just an hour from the school. I asked the pupils to hold in their minds Freda's words. If they did, they would make the right decision when the time came to decide how to act."⁸²

Skills Shortages

The main priority for Starmer that *doesn't* get muddled in the targeting of his political messaging remains his discussions of shortages in skilled labour. "Clearly the long term problem is our education, training and apprenticeships – but that cannot meet the current shortages."⁸³ He highlighted that "72% believe free movement across the UK is beneficial to British business." But discounting the social element of his politics would be a mistake.

Back in 2016, he opposed measures curtailing the activities of illegal or legal immigration in a speech to the British American Business Immigration Conference. "Labour will also look

⁷⁹ Socialist Lawyer, Immigration Law and Practice, 1988.

⁸⁰ Keir Starmer, "Weekly update 18th March 2016", www.keirstarmer.com, https://web.archive.org/web/20170613055857/http://www.keirstarmer.com/weekly_update_18th_march_2016.

⁸¹ CitizensUK.org, North London, 2017, https://web.archive.org/web/20170613055857/http://www.citizensuk.org/north_london.

⁸² Keir Starmer, "Weekly update 29th January 2016", www.keirstarmer.com, https://web.archive.org/web/20170613055724/http://www.keirstarmer.com/weekly_update_29th_january_2016.

⁸³ Keir Starmer, "Weekly update 5th February 2016", www.keirstarmer.com, https://web.archive.org/web/20170613055939/http://www.keirstarmer.com/weekly_update_5th_february_2016.

at the damage that is being caused to our businesses, economy and public services by the Government's current approach to Tier 2 Visas".⁸⁴ Starmer highlighted what he saw as a folly in British immigration practice – that at a time when net migration stood at 323,000 (compared to 672,000 in 2023⁸⁵), only 20,700 visas were for high-quality skills and that those numbers were being clamped down upon.⁸⁶ The contradiction between the focus on skills and the undercutting of local workers on one hand, and on the other the reductivist moralist position on refugee camps, can be reconciled by understanding that Starmer is tailoring his message to different audiences. This, indeed, is early evidence of his already-noted transformation while at the CPS from a more clearly ideological position to a set of positions apparently rotated between depending on his audience.

The Labour Party is reported to have since accepted the principle of minimum salary requirements, accepting the advice of the Migration Advisory Committee (MAC),⁸⁷ but this policy has not appeared anywhere else in Labour's communication. Indeed, it appears requests for comment⁸⁸ on the issue have been refused in service of keeping Labour's options open in future. Indeed, even the flagship "300,000 cut" to immigration numbers announced by James Cleverly MP was met with no official comment from the Labour Party,⁸⁹ although Yvette Cooper and Beth Winter MP contributed that the plans were "chaos" and that "a better, more humane approach" would be to improve social care pay.⁹⁰ Conspicuous by their absence, Labour left union leaders such as Unison's Christina McAnea to argue that the changes are "'cruel' and 'disastrous' for the social care sector".⁹¹ Sadiq Khan, Mayor of London, also criticised the policy for being "damaging" to London's economy.⁹²

In salient contradiction, back in 2016 Starmer criticised a proposed salary threshold increase to £35,000 for tier 2 visas. He claimed that: "This policy would restrict the right to remain in the UK for those in skilled professions and who have been contributing to the economy and society for five years."⁹³ He also, during the same period, used his speech to the British American Business Immigration Conference to highlight the skills shortage in the UK, blaming it partly on a failure to invest in UK workers. This is a repeated and longstanding focus of Starmer's – the need to skill up and stop the deck being stacked against local workers with perverse disincentives for businesses to train new skills, or indeed effective 20% discounts to hiring workers from abroad.⁹⁴

⁸⁴ Keir Starmer, "Keir Starmer gives keynote speech to the British American Business Immigration Conference", keirstarmer.com, 11 March 2016, https://web.archive.org/web/20170613060018/http://www.keirstarmer.com/keir_starmer_gives_keynote_speech_to_the_britishamerican_business_immigration_conference.

⁸⁵ "Long-term international migration, provisional: year ending June 2023", Office for National Statistics, 23 November 2023, <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/longterminternationalmigrationprovisional/yearendingjune2023>.

⁸⁶ Starmer, "Keir Starmer gives keynote speech".

⁸⁷ Becky Morton, "Labour says it 'won't set arbitrary target' on migration", *BBC News*, 26 November 2023, <https://www.bbc.co.uk/news/uk-politics-67536932>.

⁸⁸ Jessica Frank-Keyes, "New visa wage thresholds for foreign workers to come in 'within weeks'", *Yahoo Finance*, 30 January 2024, <https://uk.finance.yahoo.com/news/visa-wage-thresholds-foreign-workers-164513457.html>.

⁸⁹ Rajeev Syal, Kiran Stacey and Robert Booth, "Five-point plan to cut UK immigration raises fears of more NHS staff shortages", *The Guardian*, 4 December 2023, <https://www.theguardian.com/uk-news/2023/dec/04/five-point-plan-to-cut-uk-immigration-raises-fears-of-more-nhs-staff-shortages>.

⁹⁰ Nadia Ragozhina and Alys Davies, "Tougher visa rules should reduce migration by 300,000 a year – Cleverly", *BBC News*, 4 December 2023, <https://www.bbc.co.uk/news/live/uk-politics-67612152.uk-immigration-raises-fears-of-more-nhs-staff-shortages>.

⁹¹ Rajeev Syal, "Cleverly to announce salary threshold rise as part of new migration package", *The Guardian*, 4 December 2023, <https://www.theguardian.com/uk-news/2023/dec/04/cleverly-to-announce-salary-threshold-rise-as-part-of-new-migration-package>.

⁹² Rachael Burford, "Sadiq Khan slams Home Office visa changes as 'damaging economic policies' for London", *Yahoo News*, 31 January 2024, <https://uk.news.yahoo.com/sadiq-khan-slams-home-office-140744408.html>.

⁹³ Starmer, "Keir Starmer gives keynote speech".

⁹⁴ Jim Pickard and Jasmine Cameron-Chileshe, "Labour to tackle immigration by ending foreign workers' lower pay", *Financial Times*, 24 May 2023, <https://www.ft.com/content/f211a628-68f8-42a9-8a07-9b847a5d7d7b>.

Overseas Students

In the same piece, he described how measures to reduce the number of overseas students and the dependants they were bringing were detrimental to the UK, following a conversation with representatives of UK universities and colleges. “They explained the distorting and damaging effect of considering overseas students as immigrants. By treating them this way they face a range of hurdles, which result in many being discouraged. We have world class institutions. But can we really expect young people to spend vast sums of money, leave their friends and families and travel halfway around the world, if they feel they are not welcome?”⁹⁵

Hansard records additional speeches made during this period. Starmer asked the Prime Minister to distance himself from “what I thought were disappointing comments from the Prime Minister this morning when he described people in those camps as ‘a bunch of migrants’”. Some of the people in the camps will have been deeply disappointed and hurt to have been described in that way, because they hold our politicians – our leaders – in very high esteem.”⁹⁶ He has also made speeches concerning amnesty for illegal workers and those who employ them, saying in October 2015 that “Fairness and common sense dictate that we should not support the criminalisation of employees themselves for illegal working ... To do so would simply increase the susceptibility of already-vulnerable individuals to greater exploitation.”⁹⁷

Dublin III Arrangements

Hansard also records Starmer's thoughts on the Dublin III arrangements before politicisation by Brexit, and gives perhaps an undiluted view of Sir Keir Starmer's true views about the limitations of returns agreements with the EU as opposed to with individual nations.

May I touch on a couple of issues of process? In those camps and others across Europe, among the Syrians who have fled are individuals who are undoubtedly entitled, under the Dublin III arrangements, to be reunited with their families already in the UK, yet on the ground it is clear that that process is not working; it is not working in Calais or Dunkirk. I ask the Minister whether it is possible to have an urgent review of the Dublin III arrangements—the practical operation on the ground.⁹⁸

In the same speech, Starmer opposed a cap on the number of refugees, and indeed urged larger numbers and more support for unaccompanied children.

Against Stricter Asylum System

Between 2015 and 2022, Keir Starmer voted 14 times against a stricter asylum system and abstained 22 times,⁹⁹ never voting in favour of stricter measures. Indeed, when he was Shadow Minister for Immigration, Starmer aimed to modify the law to allow Channel migrants who are “afraid to return” to their home countries to be eligible for asylum. Additionally, he endeavoured to prevent small boats that reach UK waters from being turned back.¹⁰⁰ The theme of such parliamentary activity, including both amendments tabled and votes cast,

⁹⁵ Starmer, “Weekly update 29th January 2016”.

⁹⁶ “House of Commons Hansard Debates for 27 Jan 2016 (pt 0002)”, n.d., Parliament (publications), accessed 1 February 2024, <https://publications.parliament.uk/pa/cm201516/cmhansrd/cm160127/halltext/160127h0002.htm#16012750000602>.

⁹⁷ “House of Commons Hansard Debates for 13 Oct 2015 (pt 0004)”, 2015, Parliament (publications), https://publications.parliament.uk/pa/cm201516/cmhansrd/cm151013/debtext/151013-0004.htm#151013-0004.htm_spnew14.

⁹⁸ “House of Commons Hansard Debates for 27 Jan 2016”.

⁹⁹ “Voting record – Keir Starmer MP, Holborn and St Pancras”, n.d. TheyWorkForYou, accessed 1 February 2024, https://www.theyworkforyou.com/mp/25353/keir_starmer/holborn_and_st_pancras/votes.

¹⁰⁰ Harriet Line and Tom Scotson, “Sir Keir Starmer is accused of ‘trying to thwart efforts to stop boats crossing the Channel’”, *Daily Mail*, 1 November 2022, <https://www.dailymail.co.uk/news/article-11378903/Sir-Keir-Starmer-accused-trying-thwart-efforts-stop-boats-crossing-Channel.html>.

continues with votes recorded against those parts of the Nationality and Border Act (2021) which would remove foreign-born criminals.¹⁰¹

In February 2020, Starmer co-signed a letter demanding the suspension of “all future charter flights” until lessons from the Windrush scandal were implemented.¹⁰² A few days later, a flight was scheduled to deport nearly 50 criminals to Jamaica but following the campaign, a last-minute legal challenge banned more than half the detainees from being removed from Britain.¹⁰³ This led to criminals, including drug dealers, violent offenders and a rapist of underage girls, staying in the country, several of whom went on to reoffend upon release from jail.¹⁰⁴

Motivations

This record tells the story of a politician motivated through past human rights work to take the side of those who are at risk of having their rights crushed by the state. It tells the story of one who has made useful contributions to the topic of immigration, and one who has cultivated, over time, a moderate stance on business visas and skills issues related to immigration.

Yet it also shows a consistent and longstanding reticence to take action against criminals and those who abuse the system. Within the context of a life of criminal and human rights defences made as a barrister, and through experience as a DPP, Starmer may have developed a propensity, or perhaps a subconscious heuristic, to oppose state action against vulnerable would-be deportees, even if the state has the right, and even if the deportees are violent criminals. That said, the trajectory of his party's views has been towards a policy of political and practical realism, one which suggests (though not openly) that he may come to endorse policies like the minimum salary thresholds, moving on from his opposition, as leaked in the 2017 manifesto.

¹⁰¹ “Nationality and Borders Bill, Div. 143”, Hansard, 8 December 2021, <https://hansard.parliament.uk/Commons/2021-12-08/division/F5657738-02C5-4128-896F-150DC871BCF4/NationalityAndBordersBill?outputType=Name>; “Immigration Bill, Div. 74”, Hansard, 13 October 2015, <https://hansard.parliament.uk/Commons/2010-12-13/division/1012142001814/PoliceReformAndSocialResponsibilityBill?outputType=Names>.

¹⁰² Jonathan Reilly, “Keir Starmer demanded halt of all deportations just weeks before taking over as Labour leader”, *The Sun*, 4 March 2023, <https://www.thesun.co.uk/news/21596131/keir-starmer-halt-deportations-labour-leader/>.

¹⁰³ Georgina Cutler, “Keir Starmer demanded foreign criminals stay in UK... and then they carried out more crimes”, *GB News*, 23 March 2023, <https://www.gbnews.com/politics/keir-starmer-campaign-deportation-foreign-criminals-crimes>.

¹⁰⁴ Rob Pattinson and Harry Cole, “Foreign crooks including drug dealers carried out more crimes in Britain after Keir Starmer campaigned for them to stay”, *The Sun*, 22 March 2023, <https://www.thesun.co.uk/news/21806470/keir-starmer-campaigned-against-deportation-foreign-criminals-crimes/>; David Barrett and Jason Groves, “Labour leader opposed deportation of criminal jailed for vile sex attacks on teenage girls”, *Daily Mail*, 19 April 2023, <https://www.dailymail.co.uk/news/article-11992213/Keir-Starmer-opposed-deportation-criminal-jailed-vile-sex-attacks-teenage-girls.html>.

Labour's Opposition to Current Policy

A pattern may be emerging over time that Sir Keir Starmer's Labour Party is quietly dropping opposition to Conservative immigration policies, either as part of his move to the centre ground of British politics or as part of an electoral strategy that involves saying as little as possible on the topic.

A mainstay of both Starmer's and Labour's criticism of Conservative policy concerns the alleged lack of 'safe and legal' routes. The Government says that, from 2015 to 2022, it offered comparative safety to almost half a million (481,804) people seeking new lives in the UK.¹⁰⁵ This includes dedicated 'safe and legal routes' for Afghans, Ukrainians and Hongkongers, set up to reflect a particular and acute British effort to help people leaving those countries. The Government also points to the record that "the UK is one of the largest recipients of UNHCR referred refugees globally, second only to Sweden in Europe since 2015."¹⁰⁶ Indeed, 28,780 came via the UN High Commissioner for Refugees resettlement scheme, and 49,088 through family reunion schemes from 2015 to 2023.¹⁰⁷

The criticism of the lack of 'safe and legal routes' therefore concerns those from elsewhere. Countries such as Syria, Eritrea, Iran, Sudan and Pakistan send the largest numbers of people to the UK through the Family Reunion route, should they have family in the UK to reunite with. Such 'safe and legal' routes are established in cooperation with local authorities which will ultimately oversee the processing and provide for the needs and human rights protections of those who arrive.

The supposition is that by having more (and more generous) 'legal routes' available, no migrant would see it as worthwhile to cross the Channel by small boat. The 2022 Nationality and Borders Act created a system which prioritised those who came to the UK to claim asylum through legal routes, and those from illegal routes, which open themselves up to the possibility of offshore processing, such as those intended to be set up under the Rwanda agreement.¹⁰⁸ Opposition to the policy has been largely moralistic in character, with significant leadership on the issue coming from faith leaders including former Archbishop of Canterbury Dr Rowan Williams,¹⁰⁹ largely echoing Starmer's own language about the camps.

Returning Illegal Migrants

The suggestion is that any attempt to return illegal migrants, or to refuse their settlement in the UK, is bound to "backfire," since restricting safe and legal routes creates a "booming" market for smugglers.¹¹⁰ One former aid worker for the UN, Tiara Ataii, wrote in *Foreign Policy* that:

Asylum seekers have compelling reasons to cross the English Channel—ones that, for many, outweigh the risk of drowning in the strong currents of the world's busiest shipping

¹⁰⁵ "Safe and legal routes", Home Office, 20 July 2023, <https://www.gov.uk/government/publications/illegal-migration-bill-factsheets/safe-and-legal-routes>.

¹⁰⁶ Ibid.

¹⁰⁷ Dave Burke, "Refugees make dangerous Channel journeys as 'woefully inadequate' Tories block safe routes", *The Mirror*, 11 January 2024, <https://www.mirror.co.uk/news/politics/refugees-making-dangerous-channel-journeys-31860676>.

¹⁰⁸ "Agreement between UK and Rwanda for the provision of an asylum partnership to strengthen shared international commitments on the protection of refugees and migrants", GOV.UK, 2023, https://assets.publishing.service.gov.uk/media/656f51d30f12ef07a53e0295/UK-Rwanda_MEDP_-_English_-_Formatted__5_Dec_23_-_UK_VERSION.pdf.

¹⁰⁹ Diane Taylor and Haroon Siddique, "UK faith leaders call on Boris Johnson to not 'close door' on refugees", *The Guardian*, 28 February 2022, <https://www.theguardian.com/uk-news/2022/feb/28/uk-faith-leaders-call-on-boris-johnson-to-not-close-door-on-refugees>.

¹¹⁰ Tiara Ataii, "Here's How Labour Can 'Stop the Boats'", *Foreign Policy*, 6 December 2023, <https://foreignpolicy.com/2023/12/06/uk-british-immigration-policy-small-boats-asylum-seekers-refugees-labour-starmer/>.

lane. These range from the desire to reunite with family members to police brutality in mainland Europe to a connection with the United Kingdom due to work with the British military in countries such as Iraq or Afghanistan.¹¹¹

The academic credibility of this approach is largely derived from the belief that migrants are misinformed about immigration policies to such an extent that the deterrence effect of deportation would be near zero.¹¹² Aside from the fact that this explanation appears to beg the question of where misinformed views of immigration policies come from, it no more mitigates for an open-borders 'safe-and-legal' approach than it does for a memorable and well-publicised deterrent, like Rwanda. Interestingly, those elements campaigning for safe and legal routes also tend to oppose returns agreements like the Dublin regulation. As Ataii writes, "A Dublin-style agreement would only prevent individuals seeking safety from starting a new life and contributing to British society." The quiet bit, said aloud, is that universally available 'safe-and-legal routes' is code for almost no immigration controls at all. Under safe and legal routes such as that with Ukraine, 170,062 out of 190,573 visa applications were granted, representing an 89% grant rate.¹¹³ As such, despite being endorsed at various points throughout Labour's recent history in opposition, and *sounding* like a good humanitarian idea, it fails even the most basic tests of viability.

Rwanda Policy

The Rwanda policy is also a focus point of criticism from the Labour Party.¹¹⁴ In her 2022 Conference Speech, Yvette Cooper MP, Shadow Home Secretary, promised to reverse the "deeply damaging, extortionately expensive, unworkable and unethical Rwanda plan".¹¹⁵ The proposals work on the same logic as the 'safe and legal routes' approach - making small boat crossings unviable. Safe and legal routes, if viable, would work by increasing the payoff of taking a legal route. Rwanda, if viable, would work by decreasing the payoff to crossing in a small boat by assuring that, having taken a small boat route, migrants have no prospect of settling in the UK.

Under the UK and Rwanda Migration and Economic Development Partnership, when migrants reach Rwanda, they will be provisionally housed in Kigali, the capital, during the evaluation of their asylum applications. If approved, they will be granted permanent residency and provided with permanent accommodation in Rwanda. The processing of all applications was anticipated to take no more than three months. After settling in Rwanda, migrants were to be prohibited from going back to the United Kingdom to apply for asylum.

Starmer himself claimed that "When the Government first announced this gimmick, they claimed Rwanda would settle tens of thousands of people—tens of thousands of people. Then the former Deputy Prime Minister quickly whittled it down to mere hundreds. Then the Court of Appeal in June made it clear there is housing for just 100."¹¹⁶ It is apparent that this number

¹¹¹ Tiara Ataii, "Here's How Labour Can 'Stop the Boats'".

¹¹² Heaven Crawley and Jessica Hagen-Zanker, "Deciding Where to go: Policies, People and Perceptions Shaping Destination Preferences", *International Migration* 57, 1 (2019): 20-35, <https://doi.org/10.1111/imig.12537>.

¹¹³ "Statistics on Ukrainians in the UK", Home Office, 23 September 2022, <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-june-2022/statistics-on-ukrainians-in-the-uk>.

¹¹⁴ "Labour should pledge to scrap Rwanda deportations", MPs tell Starmer", *The Voice Newspaper*, 16 June 2022, <https://www.voice-online.co.uk/news/uk-news/2022/06/16/labour-should-pledge-to-scrap-rwanda-deportations-mps-tell-starmer/>.

¹¹⁵ Rajeev Syal, "Labour 'to act over child strip-searches and police vetting failures'", *The Guardian*, 27 September 2022, <https://www.theguardian.com/politics/2022/sep/27/labour-to-act-over-child-strip-searches-and-police-vetting-failures-yvette-cooper>.

¹¹⁶ Rony Thompson, "How many asylum seekers can the government's Rwanda scheme take?", *Full Fact*, 21 December 2023, <https://fullfact.org/news/keir-starmer-rwanda-capacity/>.

has been misinterpreted from the Court of Appeal proceedings, which was told that the initial hostel contained 100 available rooms, but that the capacity is now likely sufficiently high to serve those being transferred to the UK.

Deterrence

The scheme borrows much in concept from schemes attempted by other countries but innovates significantly in terms of the protections that would be provided, the funding as well as the development partnership packaged in. Australia has attempted to stop its small boats crisis by denying resettlement visas to any and all asylum seekers arriving by boat. The Australian system was incredibly expensive – but the results are that the number of asylum-seekers arriving via small boats has fallen.¹¹⁷ Much of the success is attributed, however, to the practice of forcibly returning boats, something which the Conservative Government has abandoned plans to do, following legal and political opposition, and which Sir Keir Starmer has considerable record of opposing. The offshore processing schemes in Australia nonetheless are popular with the voters,¹¹⁸ as has a tacit understanding that the deterrence role of offshore processing centres is effective within the context of overseas cooperation. Indeed, as Home Secretary James Cleverley has said, Rwanda would be “only one part” of a wider immigration system that continues to process asylum seekers who arrive legally in the conventional fashion.¹¹⁹

Other nations have also seen the value in a deterrence of this kind, despite the legitimate legal and human rights concerns that they bring up. Denmark's Immigration Minister Matthias Tesfaye told the BBC that “We are in dialogue with Rwanda, and we have good cooperation based on a broad partnership, but we do not have an agreement on transfer of asylum seekers. I share the view of the Rwandan and British governments that the current asylum system is unsustainable.”¹²⁰ Denmark has taken additional action including revoking the residence permits of hundreds of Syrians from the Damascus area, arguing it was now safe for them to return.¹²¹

Other legal and political activities in the UK find precedent in other European nations. Greece changed its definition of a safe third country when it issued a Joint Ministerial Decision designating Türkiye as a safe third country for applicants from Syria, Afghanistan, Somalia, Pakistan and Bangladesh.¹²² This provides political precedent for UK proceedings in Parliament which aim to declare Rwanda safe through statute rather than through the courts. Indeed, pushback practices, a lack of legal aid to migrants and detention centres that fail to meet ‘minimum standards’ are all the subject of criticism at the UN level. This should provide context, contrary to common narratives that the UK is somehow uniquely affected by such issues, or that it is uniquely pushing up against international rules and norms.

Even within the UK's recent history, previous governments, including Labour governments, have explored offshore processing and pushback options. “Soon after the two-day test case began yesterday, Tony Blair met Ruud Lubbers, the UN high commissioner for refugees, to discuss creating ‘safe havens’ for asylum seekers near their home countries which would deny

¹¹⁷ Alannah Francis, “Illegal migration bill: How the UK's small boats plan compares to Australia's asylum seeker laws”, *iNews*, 8 March 2023, <https://inews.co.uk/news/illegal-migration-bill-how-uk-small-boats-plan-australia-asylum-seeker-laws-2194908>.

¹¹⁸ James Rothwell and Roger Maynard, “Israel's bid to send asylum seekers to Rwanda failed – but Australia's offshoring still wins votes”, *The Telegraph*, 14 April 2022, <https://www.telegraph.co.uk/world-news/2022/04/14/israel-australias-offshore-migration-policies-achieved-varying/>.

¹¹⁹ Paul Seddon, “Rwanda deportations could be low if other deals done, says James Cleverley”, *BBC News*, 31 January 2024, <https://www.bbc.com/news/uk-politics-68154294.amp>.

¹²⁰ “Which other countries send asylum seekers overseas?”, *BBC News*, 14 April 2022, <https://www.bbc.co.uk/news/uk-61106231>.

¹²¹ Adrienne Murray, “Denmark asylum: The Syrian refugees no longer welcome to stay”, *BBC News*, 19 May 2021, <https://www.bbc.co.uk/news/world-europe-57156835>.

¹²² “Overview of the main changes since the previous report update”, Asylum Information Database, May 2022, <https://asylumineurope.org/reports/country/greece/overview-main-changes-previous-report-update/>.

most of them access to Britain.”¹²³ In 2004, Tony Blair confirmed plans to process people seeking asylum in Britain near their country of origin. He reportedly offered Tanzania an extra £4 million in aid if it opened an asylum camp for Somali refugees to have their applications assessed before they made the journey to the UK.¹²⁴ Indeed, asylum detainment centres have been within the scope of most nation's policy arsenals since the 1950s, again including UK and Labour governments such as Harold Wilson's first and second governments.¹²⁵

Academics have persuasively made the case that it was by 2005, towards the end of Labour's second term in office, that immigration policy was beginning to liberalise.¹²⁶ This tracks with an increase in the immigrant population by 44% between 2005 and 2017. But even in this context of liberalisation, the need to offer robust disincentives to immigration abuse were well understood. It is in this context that Starmer's party finds itself walking a fine line on immigration, with pundits describing how he “is reluctant to give any hint he is prepared to turn on the taps and allow thousands of people into the UK, while simultaneously trying to avoid upsetting Labour MPs who are overwhelmingly pro-migration.”¹²⁷ Starmer has announced that he would reverse the Rwanda policy, even if it is ruled legal and even if the small boats crisis declines as a result.¹²⁸ He has branded the scheme “unethical”¹²⁹ and a distraction with little chance of working.

Starmer's focus, again, within the wider context of legal immigration, focuses on skills, and this extends to criticism of the lack of Conservative progress in these areas. A belief within the party is that the Conservatives favour immigration to provide low-skilled services at low wages, such as for delivery services, taxis and the gig economy.¹³⁰ And while, as the *Financial Times* reports, Starmer has been rowing back on certain workers' rights demands, a central component of his criticism of the Conservatives concerns the way that the country's millions of sick, unemployed or early retirees have been left behind, unable to compete with low-skilled immigration.

In the eyes of some party loyalists, the Labour party has “begun to sound like the Conservatives on immigration”¹³¹ but locates the difference in insisting that the private sector do more to employ and train UK workers. Labour sees that, although the motivations to create a self-reliant worker speak every bit as much a Conservative policy as a Labour one, the Conservatives struggle to change legislation to hurt business by denying it a steady stream of pre-trained immigrant labour. How true this is of the Conservatives is dubitable, especially in view of very anti-business policies including a high minimum wage for internship labour.

¹²³ Alan Travis, “Treatment of asylum seekers ‘is inhumane’”, *The Guardian*, 11 February 2003, <https://www.theguardian.com/uk/2003/feb/11/immigration.immigrationandpublicservices>.

¹²⁴ Catherine Meyer-Funnell, “Labour's ‘embarrassing’ hypocrisy as Blair's plan to send asylum seekers to Africa unveiled”, *Daily Express*, 16 April 2022, <https://www.express.co.uk/news/uk/1596736/labour-hypocrisy-tony-blair-yvette-cooper-asylum-seekers-rwanda-africa-ont>.

¹²⁵ Robert Moore, “Labour's shameful record on immigration”, *The Guardian*, 29 December 2022, <https://www.theguardian.com/politics/2022/dec/29/labours-shameful-record-on-immigration>.

¹²⁶ Erica Consterdine and James Hampshire, “Immigration policy under New Labour: Exploring a critical juncture”, *British Politics* 9 (2014): 275-296, <https://link.springer.com/article/10.1057/bp.2013.19>.

¹²⁷ Aubrey Allegretti, “Keir Starmer walks fine line in shifting Labour's stance on immigration”, *The Guardian*, 23 November 2022, <https://www.theguardian.com/politics/2022/nov/23/keir-starmer-walks-fine-line-shifting-labour-stance-immigration>.

¹²⁸ Rachel Wearmouth, “Keir Starmer pledges to reverse Rwanda scheme even if declared legal”, *New Statesman*, 8 October 2023, <https://www.newstatesman.com/politics/labour/2023/10/keir-starmer-pledges-to-reverse-rwanda-scheme-even-if-declared-legal>.

¹²⁹ “Starmer: Government's Rwanda immigration plans are unethical”, *BBC News*, 24 April 2022, <https://www.bbc.co.uk/news/av/uk-61208118>.

¹³⁰ Lucy Fisher, Michael O'Dwyer and Jim Pickard, “Labour rows back on workers' rights to blunt Tory ‘anti-business’ claims”, *Financial Times*, 17 August 2023, <https://www.ft.com/content/30a8a3f1-c5ad-4b85-bb48-7b7de05470f4>.

¹³¹ Erica Consterdine, “Labour sounds like the Tories on immigration – but its policy goes back to its trade union roots”, *The Conversation*, 25 November 2022, <https://theconversation.com/labour-sounds-like-the-tories-on-immigration-but-its-policy-goes-back-to-its-trade-union-roots-195221>.

Likelihood and Feasibility of an EU Returns Agreement

While the question of the UK returning to the fold of the EU is subject to debate and would continue to be so if Starmer were to occupy 10 Downing Street, it is safe to say that Starmer would seek a direct deal with the French authorities. Indeed, so central is the goal for an EU returns agreement that he made it a central theme of his European tour featuring Emmanuel Macron and Europol.¹³² A leaked memo in *The Times* and *Daily Mail* on discussions with Sir Tim Barrow, the UK's national security adviser, reportedly mentioned that one of President Ursula von der Leyen's aides, Bjoern Seibert, had ruled out any such EU returns agreement, with the aide stressing that "the commission is not open to a UK-EU readmissions agreement."¹³³ However, after the attention the memo drew, a spokesman for the European Commission denied on 15 August 2023 that Mr Seibert had said that. The remarks were unfavourably perceived in the UK, where they were seen to highlight the apparent intransigence on the EU side.¹³⁴ The initial attempts at a return agreement focused, naturally, on France. It is from France that the small boats are originating, and therefore the returns agreement would facilitate the return of any persons who took the small boats route to the UK.

The French president Emmanuel Macron has said that "any agreement must be at the EU level." However, the French Government does in fact have the competency to sign such an agreement legally. Indeed, the same logic does not apply to agreements with the Border Force, which have seen the UK provide £64 million in return for a 40% increase in patrols and more intelligence sharing.¹³⁵ One crucial observation to be made about a potential EU-wide returns deal is that the UK functionally had such a deal when it was a member of the European Union. In law, the Dublin III regulation, and before that the Dublin II regulation, determines that the member state responsible for asylum applications is the country in which the asylum seeker first applies for asylum.¹³⁶ Indeed, the decision of the European Court of Justice in July 2017 upheld the Dublin regulation and affirmed the right of member states to transfer migrants to the first country of entry to the EU.¹³⁷

International and Domestic Law

There is also relevant and applicable international and domestic law, including Article 33 of the 1951 Geneva Convention on the Status of Refugees, the 1967 Protocol, and the domestic Asylum and Immigration (Treatment of Claimants etc) Act 2004. Article 33 establishes the "non-refoulement" principle - that refugees must not be sent to places where they will face persecution "for reasons of race, religion, nationality, membership of a particular social group or political opinion". The 2004 Immigration Act establishes in Schedule 3 what would be a list of safe countries for the purposes of domestic human rights obligations. Both before and after

¹³² Ben Quinn, Pippa Crerar, and Nadeem Badshah, 2023, "Starmer to Seek EU-Wide Returns Deal for Asylum Seekers", *The Guardian*, September 13, 2023, sec., Politics, <https://www.theguardian.com/politics/2023/sep/13/starmer-on-tour-solutions-migration-crisis>.

¹³³ Ben Quinn, "EU denies reports it has rejected UK deal to return people who cross Channel", *The Guardian*, 15 August 2023, <https://www.theguardian.com/uk-news/2023/aug/15/eu-denies-reports-rejected-uk-deal-return-cross-channel>.

¹³⁴ Matt Mathers and Adam Forrest, "War of words erupts over Britain's plea for post-Brexit migrant return deal", *The Independent*, 15 August 2023, <https://www.independent.co.uk/news/uk/politics/brexit-eu-migrant-return-deal-rejected-b2393280.html>.

¹³⁵ Patrick Wintour, "Sunak and Macron must navigate boat issues to reset Anglo-French relations", *The Guardian*, 10 March 2023, <https://www.theguardian.com/politics/2023/mar/10/sunak-macron-navigate-boat-issues-reset-anglo-french-relations>.

¹³⁶ "Policy plan on asylum : an integrated approach to protection across the EU - Impact Assessment", EUR-Lex, 17 June 2008, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52008SC2029>.

¹³⁷ Justin Huggler, "EU court rejects 'open-door' policy and upholds right of member states to deport refugees", *The Telegraph*, 26 July 2017, <https://www.telegraph.co.uk/news/2017/07/26/eu-court-rejects-open-door-policy-upholds-right-member-states/>.

Brexit, these obligations have remained unchanged in the form of the ECHR and the Human Rights Act.

It is, incidentally, under Schedule 3 of the Immigration Act that countries such as Rwanda can be declared safe places where the immigrant would not face persecution or human rights violations.¹³⁸ These laws, taken together, made it possible in 2019, *de jure*, to return asylum seekers to any EU country of first arrival, to process them through a single tier of appeal (the asylum and immigration tribunal), meaning that the High Court could only be appealed to on the grounds that the tribunal made an error of law. It was law, and remains law, that criminal sanctions can be made against people who arrive in the EU without travel documents, including those who purposefully destroy them, or those who will not cooperate with the authorities to get new travel documents when their claims fail.¹³⁹

Indeed, so confident was the Government in these laws that they touted it as the “final phase of asylum reform”.¹⁴⁰

In 2019, 35,737 asylum applications were made, and 20,703 people were granted asylum.¹⁴¹ The vast majority of claimants from Eritrea and Sudan, 87% and 85% respectively, were granted asylum. The Home Affairs Committee report records that “the Home Secretary told the House of Lords Justice and Home Affairs Committee on 27 October that “in the last 12 months alone 70% of the individuals who have come to our country illegally via small boats are single men, who are effectively economic migrants”. In 2019, the Dublin regulation saw 714 transfers *into* the UK (mainly from Greece) and 263 transfers *out* of the UK. There were only 53 transfers to France¹⁴² despite there having been nearly 1900 illegal crossings in the English Channel alone.¹⁴³ In 2020, the final year of the transition period, an astonishing 8502 requests were made to transfer out of the UK to the EU.¹⁴⁴ But only 105 were granted (around 1%), and only 43 returned to France.¹⁴⁵ Meanwhile, there were 882 illegal migrant transfers *to* the UK, from 2331 requests, indicating a 38% grant rate, more than 30 times that of the EU.¹⁴⁶

Safe First Country

Indeed, as the Home Office Affairs Committee report lays out, the “Government’s reliance on ‘safe first country’ and irregular entry as key criteria in its requests to other states to take returns may partly explain a lack of success in obtaining returns while the UK was still participating. The Dublin regulation criteria for establishing responsibility for assessing an asylum claim do not prioritise those criteria.”¹⁴⁷

This evidence suggests that even should the UK have such a returns arrangement in place, the concrete reality is that returning illegal migrants to EU countries that do not want them is challenging, bordering on impossible. Second, due to persistent economic, cultural and geographic realities, and due to the propensity of Channel-crossing migrants to destroy their

¹³⁸ “Asylum and Immigration [Treatment of Claimants] Act 2004”, LawTeacher.net, 7 June 2019, <https://www.lawteacher.net/acts/asylum-immigration-act-2004.php>.

¹³⁹ “Asylum and Immigration (Treatment of Claimants) Act 2004”, *The Guardian*, 19 January 2009, <https://www.theguardian.com/commentisfree/libertycentral/2009/jan/15/civil-liberties-immigration>.

¹⁴⁰ *Ibid.*

¹⁴¹ “How many people do we grant asylum or protection to?”, Home Office, 25 February 2021, <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2020/how-many-people-do-we-grant-asylum-or-protection-to>.

¹⁴² *Ibid.*

¹⁴³ Colin Campbell, “English Channel migrants boats using ‘surge tactics’”, *BBC News*, 20 January 2020, <https://www.bbc.co.uk/news/av/uk-england-kent-51152601>.

¹⁴⁴ “How many people do we grant asylum or protection to?”.

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*

¹⁴⁷ “Channel crossings, migration and asylum”.

documentation, returns agreements are structurally likely to lead to disproportionately more transfers *in* than transfers *out* in the case of the UK. Therefore, insofar as Starmer's goal with the returns agreement is to remove Channel migrants from the UK, the evidence suggests that this is only likely to be possible in a small number of cases, and that the UK will not be able to return the majority of illegal migrants who have crossed from the EU. Insofar as Starmer's goal is to reduce the total number of such migrants, the policy is overwhelmingly likely to lead to more migration than the *status quo*, all else being equal.

One reason for this structural disadvantage requires fundamental reform of the Home Office immigration system. Through both practice, legislation and a proliferation of 'cowboy' immigration lawyers, it has reached the point where the Home Office is simply vulnerable. A spokesman, in relation to the so-called modern slavery loophole, said it was "clear people are abusing our system when they have no right to be here in order to frustrate their removal".¹⁴⁸ Other problems for the Home Office include the destruction of documents by immigrants and false claims about where they have come from or which countries they passed through. While these claims can often be ascertained as being false, proving the point to a judge presents a serious challenge of bandwidth that can delay deportations and even dissuade the Office from attempting to uphold the immigration rules at all.

Dismantling Criminal Networks

A second justification for the returns agreement, however, is that it will "smash the gangs".¹⁴⁹ The hope is that the incentive to make such a journey would evaporate if we returned all migrants who cross illegally. Yet by backwards induction, if evidence from the Dublin III regulations suggests that very few migrants will be successfully returned, the 'pull factor' of the UK will not be significantly diminished. Indeed, the UK has a substantially higher overall rate of asylum claim approval (known as the 'grant rate') than France or, indeed, any other major economy in Europe, second only to the Republic of Ireland.

French-UK Push-Pull Factors

One of the main issues that Starmer will have to contend with if he becomes Prime Minister is UK-French relations in regard to immigration. As Migration Watch reports, "The UK's grant rate of 72% in 2021 at the initial stage was one of the highest in Europe. Meanwhile, France's was fifth lowest."¹⁵⁰ Ahead only of Malta, Cyprus, Croatia and Slovenia, France represents the lowest grant rate of Western Europe and the lowest of any major European economy, with an overall acceptance rate of only around 25%, which includes refugee status or subsidiary protection.¹⁵¹ The 'pull factor' of the UK includes, but is not limited to, a doubling of the likelihood of successfully being allowed to settle in the UK compared to European peers.

The French position on the Channel crossings has been a significant barrier from the start and will represent a significant challenge in UK-EU returns agreement talks. In February 2022, Emmanuel Macron blamed the UK for all deaths at sea, telling *La Voix du Nord* that the "responsibility for those who die at sea" falls on the British Government for failing to provide a safe immigration route.¹⁵² The French President suggested that the British immigration system continued to

¹⁴⁸ Holly Bancroft, "Robert Jenrick rebuked by watchdog for false claim over criminals posing as modern slaves", *The Independent*, 6 July 2023, <https://www.independent.co.uk/news/uk/politics/robert-jenrick-modern-slavery-statistics-authority-b2369865.html>.

¹⁴⁹ Ben Quinn, Pippa Crerar and Nadeem Badshah, "Starmer to seek EU-wide returns deal for asylum seekers", *The Guardian*, 13 September 2023, <https://www.theguardian.com/politics/2023/sep/13/starmer-on-tour-solutions-migration-crisis>.

¹⁵⁰ "Recent change in the UK asylum grant rate", Migration Watch UK, 22 December 2022, <https://www.migrationwatchuk.org/briefing-paper/511/recent-change-in-the-uk-asylum-grant-rate>.

¹⁵¹ *Ibid.*

¹⁵² Xander Richards, "Emmanuel Macron says UK 'hypocrisy' to blame for every death in the Channel", *The National*, 2 February 2022, <https://www.thenational.scot/news/19893019.emmanuel-macron-says-uk-hypocrisy-blame-every-death-channel/>.

encourage low-paid illegal work, where “The British continue to have a system from the 1980s, which manages economic immigration through hypocrisy. There is no legal immigration route.”

On 24 November 2021, a Channel tragedy occurred when 27 of the 30 individuals aboard a dinghy slowly froze to death.¹⁵³ The British and French coastguards were caught in a blame game, wasting precious time as the dinghy was sinking. The subsequent day, the then Prime Minister Boris Johnson sent a letter to the French President, Emmanuel Macron. In the letter, he proposed a “bilateral re-admissions agreement” between France and the UK, which would enable the return of all illegal migrants crossing the Channel. Macron, furious, rescinded an invitation to the then Home Secretary Priti Patel to critical discussions on the Channel crossings.¹⁵⁴

Likewise, the French Government has not been, in the words of the Home Affairs Select Committee, “willing to countenance” a policy of returning ships to the French shore upon early interception.¹⁵⁵ Indeed, the Select Committee noted that its international maritime lawyers had advised that the French would be perfectly entitled to do so, and highlighted the “deterrent effect at preventing people risking a dangerous and expensive round trip to and from French beaches”.¹⁵⁶ Other advice received by Parliament from Ainhoa Campas Velasco, a specialist in maritime law, indicates that, while stopping and “pushing back” ships is legal, the UK would become responsible for their human rights upon interception. Another expert, Rossella Pagliuchi-Lor, took the view that “pushbacks could not be an automatic policy since it would be necessary to establish whether any individual had a case for it being more reasonable for them to stay in the UK than in the country from which they had embarked.”¹⁵⁷

While no complications would be involved should the French vessels be the ones to intercept the small boats, both the lukewarm legal advice and the political positioning of the French has caused the Government to move on from pushback proposals, confirming in April 2022 that it would not pursue a pushback policy, likely only days before a judicial review was going to force their hand.¹⁵⁸ The British public in general fail routinely to understand the French position in these matters.

The testimony of Xavier Bertrand, President of Hauts-de-France (Calais Region) Regional Council, to the Home Affairs Select Committee inquiry of 2020 provides some insights into the French position. Speaking on the Treaty of Le Touquet (2004), he surmised that “United Kingdom outsources the protection and surveillance of its border with France, in exchange for funds which are insufficient and do not allow for a long-lasting solution to migration challenges.”¹⁵⁹ *Impasse* at the Anglo-French summit of March 2023 showed scarce progress on illegal migration, despite some warming relations and progress in other areas, including the Windsor Framework in March.¹⁶⁰

Indeed, Rishi Sunak agreed with the Commission in May of the same year to expand collaboration with the EU and agencies such as Frontex, allowing immigration officials to be

¹⁵³ Diane Taylor, “Channel dinghy tragedy: investigation confirms boat was in UK waters”, *The Guardian*, 24 November 2022, <https://www.theguardian.com/uk-news/2022/nov/24/dinghy-that-capsized-in-channel-killing-27-had-reached-uk-waters-finds-report>.

¹⁵⁴ Anne Daguerre, “Understanding the France-UK border control conundrum: a closer look”, UK in a Changing Europe, 31 May 2023, <https://ukandeu.ac.uk/understanding-the-france-uk-border-control-conundrum-a-closer-look/>.

¹⁵⁵ “Channel crossings, migration and asylum”, House of Commons Home Affairs Committee.

¹⁵⁶ *Ibid.*

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

¹⁶⁰ Richard Whitman, “The Anglo-French summit: a modest advance in foreign, security and defence policy?”, UK in a Changing Europe, 14 March 2023, <https://ukandeu.ac.uk/the-anglo-french-summit-a-modest-advance-in-foreign-security-and-defence-policy/>.

posted in EU countries and for more information to be shared on migrant routes, smuggling gangs and forged documents.¹⁶¹ By August, Sunak had been engaged in talks with the EU for some time in which an EU returns agreement was pushed for.¹⁶² Support for it, or at least for the idea of it, ranged from moderate 'remainers' including David Lidington to David Jones MP, the deputy leader of the European Research Group (ERG). The latter recognised that France was a significant barrier: "They are being awkward about this. Their unwillingness to cooperate is the principal problem."¹⁶³

The difficulty therefore of successfully negotiating a returns agreement with the EU, given the intransigence particularly of the French Government, presents a barrier to its feasibility in its own right. Starmer's flagship policy is, by all accounts, very unlikely to be negotiable without a quota. Politics can be fickle, but it is unlikely that fundamental interests would change profoundly after a change of government that would bring Labour to power. Starmer has indeed announced that he rules out rejoining the single market or customs union, but has stressed his desire to work on access, red tape and bureaucracy and to strike a more collaborative tone with the EU.¹⁶⁴ There is always a chance that progress will be made in the course of this 'olive branch' approach, but the evidence suggests that the fundamental position of the EU on the matter of the returns agreement is unlikely to match the hopes of British politicians. It would require a fundamental break from the patterns of shirking shown on both sides of the Channel and would require addressing the root causes of the elevated grant rate of the UK asylum system. For instance, the replacement plan advocated by the UK after Brexit, which would have allowed the UK to return all third-country nationals and stateless persons to the EU country they had travelled through, in exchange for the reciprocal right granted to the EU. Given such illegal travel is overwhelmingly *into* the UK and not out of it, the EU summarily rejected this.¹⁶⁵

EU Quota

The main reason is that any such returns agreement is reported and widely understood to include accepting a quota of EU asylum claims in a *quid-pro-quo*.¹⁶⁶ Starmer's September 2023 interview with *The Times* indicated that he was prepared to accept quotas of migrants in exchange for the returns agreement. There was considerable backlash from the Conservatives and the media,¹⁶⁷ not least because the anticipated returns agreement, as agreed in the EU, would involve countries transferring migrants based on self-defined 'connections', and whereby a nation which refused a migrant transfer would face a £17,200 fine.¹⁶⁸ In response to the backlash, Shadow Home Secretary Yvette Cooper insisted that such an agreement would not involve signing up to any quota scheme¹⁶⁹ but would instead "look at family reunions for children who have family in the UK who currently have no safe legal route to be able to join that

¹⁶¹ Andy Bounds, Laura Dubois and Jasmine Cameron-Chileshe, "UK and EU agree to collaborate over cross-Channel migration", *Financial Times*, 16 May 2023, <https://www.ft.com/content/4971f9be-4734-4097-a8d3-7f245266c1d3>.

¹⁶² Mathers and Forrest, "War of words erupts".

¹⁶³ *Ibid.*

¹⁶⁴ Peter Walker, "Starmer ends Labour silence on Brexit as he rules out rejoining single market", *The Guardian*, 4 July 2022, <https://www.theguardian.com/politics/2022/jul/04/starmer-ends-labour-silence-on-brexite-as-he-rules-out-rejoining-single-market>.

¹⁶⁵ Jennifer Rankin, "EU rejects British plan for post-Brexit return of asylum seekers", *The Guardian*, 20 August 2020, <https://www.theguardian.com/politics/2020/aug/20/eu-rejects-british-plan-for-post-brexit-return-of-asylum-seekers>.

¹⁶⁶ Quinn, Crerar and Badshah, "Starmer to seek EU-wide returns deal for asylum seekers".

¹⁶⁷ Ben Quinn, "Asylum policies open up pre-election divisions between Labour and Tories", *The Guardian*, 14 September 2023, <https://www.theguardian.com/politics/2023/sep/14/labour-will-treat-channel-people-smugglers-as-terrorists-says-starmer>.

¹⁶⁸ Lisa O'Carroll, "EU agrees radical reforms on migration and asylum laws", *The Guardian*, 9 June 2023, <https://www.theguardian.com/world/2023/jun/08/eu-agrees-radical-reforms-migration-asylum-laws>.

¹⁶⁹ Kiran Stacey, "EU quota scheme not part of Labour asylum plans, says Cooper", *The Guardian*, 15 September 2023, <https://www.theguardian.com/politics/2023/sep/15/eu-quota-scheme-not-part-of-labour-asylum-plans-says-cooper>.

family in the UK".¹⁷⁰ In reality, given the priority of the EU to decrease its own numbers, a returns agreement without reciprocity, and without participation in a quota, would be a non-starter. The overwhelming majority of Labour Party communications confirm this^{171, 172} indicating that Cooper's comments were difficult to reconcile with the reality. Cooper may have been couching her statement in the understanding that the UK would not be part of the quota scheme, being outside the EU, but would negotiate into it. The distinction is of no consequence.

Per EU regulations,¹⁷³ Labour's strategy would necessitate the UK to accept a portion of the EU's migrant quota. In June of this year, EU rules indicated that a distribution key, based on the population size and economy of each member state, should be employed in line with the compulsory principle of fair share. This is for the functioning of the solidarity mechanism that allows for the calculation of each member state's total contribution. When putting the Solidarity Pool into action, member states that contribute should fulfil their commitments in relation to their total pledge. This means that whenever solidarity is invoked from the pool, these member states contribute in accordance with their fair share.¹⁷⁴

To clarify further, as of 21 December 2022, the population of the United Kingdom stood at 67 million. On the first day of 2023, the European Union recorded a population of 448.4 million. The combined total of the UK and EU populations is 515.4 million. Under EU regulations, the UK's obligatory population share is 12.9%. However, this figure does not consider the potential further quota due to the impact of prosperity.¹⁷⁵

Projections

Drawing together this evidence, the content of any agreement with the EU which would secure a returns agreement would involve accepting significant transfers of asylum seekers in the EU. The landing ground for possible agreement could become viable in the context of a rapprochement between the UK and EU given Starmer's pro-EU stance. However, even if such a returns agreement were agreed, it is unlikely that the UK would be able to return significant numbers of those crossing the Channel, and it is therefore unlikely that it would act as a significant deterrent to the UK 'pull factor'.

In fact, extrapolating from data during the Dublin regulation era, where only 1% of UK applications to send immigrants back to the EU were accepted, 2023/24 figures would indicate that only around 300 could be sent back per year, while some 2600 could be returned to the UK.¹⁷⁶ Based on a 12.9% mandatory fair share of the EU's 966,000 applicants, the UK would have to take 124,614 illegal migrants via the quota scheme as a quid-pro-quo, meaning net migration would increase by around 127,214 based on the EU returns policy alone.

¹⁷⁰ Kiran Stacey, "EU quota scheme not part of Labour asylum plans, says Cooper".

¹⁷¹ Alexandra Rogers, "Labour says it would be open to EU migrants quota - sparking Tory criticism", *Sky News*, 14 September 2023, <https://news.sky.com/story/labour-confirms-it-would-look-for-eu-returns-deal-for-migrants-crossing-channel-sparking-tory-criticism-12960740>.

¹⁷² Arj Singh, "UK will have to take thousands of migrants in any EU asylum deal, Rishi Sunak and Keir Starmer warned", *iNews*, 14 September 2023, <https://inews.co.uk/news/politics/uk-take-thousands-migrants-eu-asylum-deal-rishi-sunak-keir-starmer-2617720>.

¹⁷³ "Proposal for a Regulation of the European Parliament and of the Council on asylum and migration management and amending Council Directive (EC) 2003/109 and the proposed Regulation (EU)", Council of the European Union, 13 June 2023, <https://data.consilium.europa.eu/doc/document/ST-10443-2023-INIT/en/pdf>.

¹⁷⁴ *Ibid.*

¹⁷⁵ "Population estimates for the UK, England, Wales, Scotland and Northern Ireland: mid-2021", ONS, 21 December 2022, <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/annualmidyearpopulationestimates/mid2021>; "EU population increases again after two years decrease", EuroStat, 11 July 2023, <https://ec.europa.eu/eurostat/web/products-eurostat-news/w/edn-20230711-1>.

¹⁷⁶ "Channel Crossing Tracker", Migration Watch UK, n.d., accessed 1 February 2024, <https://migrationwatchuk.org/channel-crossings-tracker>.

It cannot be concluded, however, that all returns agreements are ineffective. The Albanian returns agreement has successfully cut illegal entries. Immigration Minister Robert Jenrick MP stated that: "As the success of our Albania returns agreement has shown, with swift removals driving a 90% reduction in the number of illegal migrants seeking to enter the UK: deterrence works."¹⁷⁷ A basic analysis tracks common sense, that a bilateral returns agreement freely entered into between two countries will gain the cooperation of both sets of authorities, but that the imposition of a multilateral one which serves the interests of some states, but not others, will suffer tremendously to be even fractionally as effective.

¹⁷⁷ Robert Jenrick, "Exit from asylum hotels shows progress on illegal migration", GOV.UK, 24 October 2023, <https://www.gov.uk/government/speeches/exit-from-asylum-hotels-shows-progress-on-illegal-migration>.

Conclusions: Labour's Inferred Immigration Policy

Pinning Labour down to a consistent set of policies over the years is a formidable task, as this study has demonstrated, yet it is vital and has wide implications. The UK's immigration policy under Starmer will have tremendous impact on businesses and the labour market in the UK, on UK-EU relations, on domestic politics and on the public perception. It is, therefore, of the utmost importance to understand the Labour Party's approach in general and Starmer's possible policies in particular.

The most consequential differences concern Labour's returns policy with the EU and the Rwanda scheme.

In the hypothetical version of a returns agreement that the Conservatives have been trying to agree,¹⁷⁸ one which doesn't include an EU migrant quota, the net increase in migration would be around 2300 per year. Yet, as extensively discussed, such an agreement is fundamentally implausible and would require such a fundamental paradigm shift in EU, and French, policy thought that it borders on fantasy. There is a reason the Conservatives have not been able to negotiate one under these terms. At any rate, Starmer has on several occasions accepted that such a returns agreement would require the acceptance of a quota of EU migrants.¹⁷⁹

Under this more likely returns deal, made even more feasible by Starmer's diplomatic rapprochement with the EU, the UK can expect a net immigration increase of 127,214 per year, depending on many factors, for, as demonstrated at the end of the previous chapter. Yet this figure comes with a certain set of assumptions about how such an EU returns policy would affect the small boats crisis. With a low anticipated returns rate to EU countries, given the history of such regimes under the Dublin III regulation, the deterrent effect would be small, at best. Already in France, the worst-case scenario is that they are returned to the EU country of first entry, and the most likely scenario is that they end up in processing in the UK. Under an offshore processing scheme, would-be crossers would not be returned to Europe but sent to Rwanda, from where their recourse to subsequent asylum claims would be diminished. It remains to be established what proportion of the 33,085 people identified as eligible for transfer to Rwanda will realistically be sent, which we shall address in this section.¹⁸⁰

The success of either policy should be measured not by the number of migrants returned, but by the reduction in the number of small boat and other clandestine crossings. For the purposes of increasing immigration, a returned migrant is the same as a deterred migrant, but in financial and humanitarian terms, a returned migrant will have risked his life and will cost the UK in hotel and deportation costs. In the case of such processing costs, the estimate for Rwanda is similar to the current UK processing costs, at around £12,000 per person.¹⁸¹ Detering the crossing in the first place is optimal by every metric. Following the Greek approach,¹⁸² as the Prime Minister Rishi Sunak appears to be doing, would resuscitate the scheme.

¹⁷⁸ Ben Quinn, "Asylum policies open up pre-election divisions between Labour and Tories", *The Guardian*, 14 September 2023, <https://www.theguardian.com/politics/2023/sep/14/labour-will-treat-channel-people-smugglers-as-terrorists-says-starmer>.

¹⁷⁹ Ibid.

¹⁸⁰ Sam Blewett, "33,000 asylum seekers face deportation to Rwanda under Sunak's £240m scheme, Cleverly says", *Evening Standard*, 31 January 2024, <https://www.standard.co.uk/news/politics/asylum-rwanda-home-office-deportation-james-cleverly-home-secretary-rishi-sunak-b1136027.html>.

¹⁸¹ Lauren Said-Moorhouse, et al., "Controversial UK deportation flight to Rwanda grounded after all asylum-seekers removed", *CNN*, 15 June 2022, <https://edition.cnn.com/2022/06/14/uk/rwanda-asylum-flight-uk-intl-gbr/index.html>.

¹⁸² "Overview of the main changes since the previous report update: Greece", Asylum Information Database, May 2022, <https://asylumineurope.org/reports/country/greece/overview-main-changes-previous-report-update/>.

As *The Independent* reported, “up to 130 people were initially told they could be on the inaugural Rwanda flight”¹⁸³ that was blocked by an out-of-hours ECHR judge on a case-by-case basis for each would-be deportee. With these numbers, in a single flight exceeding what was possible under the Dublin III returns agreement within the EU, it is abundantly clear that the returns rate would be substantially higher than a comparable EU returns agreement. Boris Johnson had been advised that “tens of thousands” could be deported through the scheme once the 2022 Nationality and Borders Bill became law. Even before the legislation, the Refugee Council, an organisation set up to help refugees which opposes the Rwanda policy, admitted that 2% were eligible, amounting to 582 transfers to Rwanda in the year 2023 (based on 29,090 Channel crossings) even on the most pessimistic assumptions.¹⁸⁴

Taking forward these most pessimistic of assumptions, and comparing them to the returns agreement with Albania, where 49% of removals were voluntary, in a worst case scenario we could expect the Rwanda scheme to reduce UK illegal immigration by approximately 1160 people. Given that the Nationality and Borders Act 2022 significantly increases applicability of transfer to Rwanda (indeed that was a principal intended function of the legislation), it is not reasonable to estimate that a figure of 10,000, as indicated by the Government initially, could be made eligible for transfer to Rwanda, but there is no evidence at this stage to indicate whether Kigali could or could not initially accommodate as large a number as 10,000. Indeed, there is also little in the way of quantitative evidence available to estimate how significant the deterrence impact would be on the number of crossings as a dynamic prediction. The number indeed will depend on other decisions made within the immigration system, in terms of returns agreements with specific high-volume origin and transit countries.

Taken together, the most likely policy position of an incoming Labour government would be to seek a returns agreement which would increase net immigration by 127,214 per year, and to cancel Rwanda, which would increase net immigration by a further 1160 per year as a minimum and 10,000 as a reasonable maximum, with a returns rate of between 4 and 34%, assuming Rwanda has no deterrence impact at all.

Another straightforward inference would be that Labour would oppose and seek to reverse rule changes that prevent overseas care workers from bringing family dependants and require social care firms in England to undertake Care Quality Commission registered activities to sponsor visas. The Government points out that “Last year 120,000 dependants came via this route” but this isn’t a good enough reason to believe that immigration would therefore be reduced by 120,000, all else being equal.¹⁸⁵ Those who qualify for bringing family dependants under the current regime may be eligible for other visas which could be applied for instead, while those seeking to take advantage of the system will be channelled towards different applications. With the caveat that the numbers of migrants taking alternative legal immigration routes covary, and that some may show up elsewhere in the numbers, the 120,000 figure is otherwise a reasonable estimation of the net impact of the policy change.

Despite an outpouring of criticism of the “cruel plans [that] spell total disaster for the NHS and social care” from the left generally, and the unions and the Labour Party specifically,¹⁸⁶ there

¹⁸³ Andrew Woodcock, Adam Forrest and Emily Atkinson, “Rwanda deportation flight grounded after dramatic last-minute ECHR intervention”, *The Independent*, 15 June 2022, <https://www.independent.co.uk/news/uk/politics/rwanda-priti-patel-asylum-seekers-b2101017.html>.

¹⁸⁴ “How many people cross the Channel in small boats and how many claim asylum in the UK?”, *BBC News*, 23 January 2024, <https://www.bbc.co.uk/news/uk-53699511>.

¹⁸⁵ “Reducing Net Migration Factsheet – February 2024”, Home Office in the Media, 1 February 2024, <https://homeofficemedia.blog.gov.uk/2023/12/08/reducing-net-migration-factsheet-december-2023/>.

¹⁸⁶ Joshua Neveit and Paul Seddon, “Tougher visa rules unveiled in plan to cut migration”, *BBC News*, 5 December 2023, <https://www.bbc.co.uk/news/uk-politics-67612106>.

has not been an unambiguous statement that Labour would reverse the change and allow care workers to bring family dependants. Yvette Cooper MP, the Shadow Home Secretary, said that the changes were “an admission of years of Tory failure on both the immigration system and the economy” but stopped short of explicitly committing to a policy reversal. She continued to criticise the Conservatives for “failing to introduce more substantial reforms that link immigration to training and fair pay requirements in the UK, meaning many sectors will continue to see rising numbers of work visas because of skills shortages.”¹⁸⁷

The difficulty in pinning a potential Labour policy down is, indeed, the point. The electoral strategy precludes explicit statements of policy in order to keep open as many avenues as possible for political opportunism, and to deny the Conservatives a policy platform to argue against for as long as possible. A wider assessment of the kind undertaken in this paper is therefore necessary. Attempting to reconcile Starmer's belief that the NHS hires “too many people from overseas”¹⁸⁸ (though not directly pertinent to the question of their dependants) with his claims that he wants to hire 10,000 more nurses is hard enough¹⁸⁹ without considering the lack of a credible announcement about how it could be paid for. The flagship announcement of a “national care service” was quietly dropped¹⁹⁰ mere weeks before the publication of this paper. Indeed, the very language used shows the priority is to win the election and not to announce anything that might jeopardise that goal. Many of these care-related policies are undeliverable in the short term without migrant labour. As Care England points out, “53,000 domestic workers [stopped] working in the care sector, but we have also seen an increase of 70,000 people from overseas starting in care-providing roles in the adult social care sector.”¹⁹¹ Furthermore, a key announced policy, *A future where families come first*,¹⁹² is very much incompatible with a refusal to allow families to be united.

An assessment amidst apparent contradiction on this matter is hardly the basis for a reliable prediction. As Professor Martin Green pointed out in oral evidence to the Social Care Committee, “we have chronic workforce shortages in social care.”¹⁹³ Starmer's compassionate overtures from the camps in 2015, once central to his moral case for asylum, have ceased.¹⁹⁴ He argued for post-Brexit free movement with the EU only to drop the idea when it became electorally damaging.¹⁹⁵ That Starmer would be able to resist pressure from his backbench MPs and the unions to reverse the policy, especially in light of his desire to hire *more* such workers, seems unlikely. On the other hand, an announcement of this intention before the general election, to allow 120,000 dependants a year, of which “only 25% ... are estimated to be in work”,¹⁹⁶ given

¹⁸⁷ Joshua Nevett and Paul Seddon, “Tougher visa rules unveiled in plan to cut migration”.

¹⁸⁸ Kevin Schofield, “Keir Starmer Criticised For Saying The NHS Is Recruiting ‘Too Many People from Overseas’”, *HuffPost UK*, 6 November 2022, https://www.huffingtonpost.co.uk/entry/keir-starmer-says-nhs-recruiting-too-many-people-from-overseas_uk_6367eac4e4b08f849aac5e68.

¹⁸⁹ Chloe Chaplain, “What are Labour's plans for the NHS? Keir Starmer's pledges explained and whether he can implement them”, *iNews*, 22 May 2023, <https://inews.co.uk/news/politics/labour-nhs-plans-keir-starmer-fact-check-2357323>.

¹⁹⁰ Toby Helm and Michael Savage, “Labour ditches radical reforms as it prepares ‘bombproof’ election manifesto”, *The Observer*, 3 February 2024, <https://www.theguardian.com/politics/2024/feb/03/labour-ditches-radical-reforms-as-it-prepares-bombproof-election-manifesto>.

¹⁹¹ “Care England Comments: Changes to Immigration”, Care England, 5 December 2023, <https://www.careengland.org.uk/care-england-comments-changes-to-immigration/>.

¹⁹² “A future where families come first”, Labour Policy Forum, n.d., <https://policyforum.labour.org.uk/commissions/a-future-where-families-come-first>.

¹⁹³ “19 December 2023 – Social care: changes to legal migration measures – Oral evidence”, UK Parliament, 19 December 2023, <https://committees.parliament.uk/event/20138/formal-meeting-oral-evidence-session/>.

¹⁹⁴ Keir Starmer, “Weekly update 18th March 2016”.

¹⁹⁵ Chaminda Jayanetti, “For Labour, immigration must be a moral issue, not an electoral gambit”, *The Guardian*, 1 February 2021, <https://www.theguardian.com/commentisfree/2021/feb/01/labour-immigration-keir-starmer>.

¹⁹⁶ “19 December 2023 – Social care: changes to legal migration measures – Oral evidence”, UK Parliament, 19 December 2023, <https://committees.parliament.uk/event/20138/formal-meeting-oral-evidence-session/>.

Starmer's priority for winning the election, is equally unlikely. One plausible route would be that, having won an election, the electoral calculations would change, and Starmer, apparently ever-changing for expediency's sake, would reverse the policy once in power.

Changes to the earning threshold for overseas workers by nearly 50% from its current position of £26,200 to £38,700 from April 2024 are, on the balance of evidence discussed above, unlikely to be changed by an incoming Labour government. The Labour Party appears to have accepted the principle of minimum salary requirements, accepting the advice of the Migration Advisory Committee,¹⁹⁷ and has shown considerable restraint in criticising the move, despite Starmer having made arguments against such requirements in the past, for instance in his British American Business Immigration Conference speech where he criticised the "damage" of the "current approach to Tier 2 Visas".¹⁹⁸ He will be unwilling, on an electoral level, to concede additional ammunition to the Conservatives on immigration, and appears reconciled to the benefits of such a cap when it comes to encouraging businesses to develop homegrown talent.

Starmer's policy of removing the 20% going rate salary discount has been adopted by the Conservatives. There is no chance that this policy, announced on 8 December 2023,¹⁹⁹ will be reversed given the sound economic principles supporting it, and the detrimental effect the discount has on the hiring of British workers. Likewise, proposed reviews by the MAC of abuse through the graduate route will likely be accepted with equal enthusiasm by either a Conservative or a Starmer government.

One second clear point of difference announced in the most recent changes on 8 December²⁰⁰ is the minimum income threshold change for family visas from the low £20,000s up to the 50th percentile, £38,700. In the absence of "key" industries like nursing and care work, the idea is to "ensure people only bring dependants to the UK they can support financially".²⁰¹ Indeed, the operating principle behind the change is that:

Family life must not be established here at the taxpayer's expense and family migrants must be able to integrate if they are to play a full part in British life. The Minimum Income Requirement has not been increased for over a decade and no longer reflects the level of income required by a family to ensure they are self-sufficient and do not need to rely on public funds.²⁰²

It would be quite difficult for Starmer to resist pressure from his MPs to reverse this change. One of his flagship policy outputs, *A future where families come first*,²⁰³ is very much at odds in spirit and letter with additional barriers to the reunification of families, even if the family immigration rules contain a provision for exceptional circumstances where there would be unjustifiably harsh consequences for the applicant's family. Professor Madeleine Sumption of the Oxford Migration Observatory says that she "think(s) probably the most radical piece of the announcement is the more than doubling of the family income threshold which governs whether British people who marry someone from overseas are able to live with them in the UK at a level of more than £38,000."²⁰⁴ "I think that would effectively eliminate a potentially quite substantial proportion of family immigration for people joining Brits in the UK."

¹⁹⁷ Morton, "Labour says it 'won't set arbitrary target' on migration".

¹⁹⁸ Starmer, "Keir Starmer gives keynote speech".

¹⁹⁹ "Reducing Net Migration Factsheet".

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² Ibid.

²⁰³ "A future where families come first".

²⁰⁴ Ibid.

The estimation given by the Government for the anticipated impact of the change is, again, difficult to have complete confidence in due to a range of measurement errors and dynamic factors. The impact assessment reads that the “lack of specific information on family migrants and their sources of income, along with obligations under Article 8 ECHR, mean expected impacts are uncertain and only very broad estimates of impact can be made.”²⁰⁵ It concludes that “an estimated range of between 10,000 to 30,000 people who may otherwise have qualified via the family route would be unable to do so,” with the mean of the range at 20,000.

When only considering those changes with which we have a very high degree of certainty, the net difference in total immigration under a Starmer government compared to the policies announced in the status quo would be in the range of 148,374 to 158,214 per year. When we include the reversal of the rule blocking care workers from bringing their dependants, which, while the most likely outcome, is by no means certain, the yearly net figures would increase by a further 120,000. In that plausible scenario, the net migration difference between a Labour government and the status quo would be over 250,000 a year.

The largest determinants of the difference are from the EU returns scheme deal and from blocking overseas care workers from bringing their dependants. Again, it is likely that the impact of the Rwanda scheme is underestimated since no deterrent impact has been modelled. It is understandable, given these estimations, that Keir Starmer refuses to commit to cutting total UK migration numbers.²⁰⁶

With these impacts having been assessed, the Labour Party immigration policy which can be inferred from history, law, communications and political realities broadly resembles the political body language displayed by Sir Keir Starmer. His priorities, as indeed he has made clear in party political communications, concern human rights and the wages of British workers more than net migration numbers. The legal and historical evidence suggests that he has miscalculated in his expectation that any EU returns agreement he was able to negotiate would result in any significant number of removals to Europe, and therefore it is unlikely to affect either clandestine immigration or the operation of international criminal networks.

For more clarity, we may yet have to wait for the election period itself and the Labour Manifesto, at which point the issues raised above will either be confirmed or replaced with others that offer the final word on how a future Labour Government would conduct itself.

²⁰⁵ “Legal migration statement: estimated immigration impacts (accessible)”, Home Office, 21 December 2023, <https://www.gov.uk/government/publications/legal-migration-statement-estimated-immigration-impacts/legal-migration-statement-estimated-immigration-impacts-accessible>.

²⁰⁶ Ben Riley-Smith and Jack Maidment, “Keir Starmer refuses to commit to cutting total UK migration numbers”, *The Telegraph*, 22 November 2022, <https://www.telegraph.co.uk/politics/2022/11/22/keir-starmer-refuses-commit-cutting-total-uk-migration-numbers/>.

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