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# Stopping the Boats, Changing the Narrative: How the Migrant Refugee *Bildungsroman* Became a Ghost Story

David Gurnham 

**Abstract**, What literary conventions best help us understand the migrant refugee's claim for protection, and the terms on which law claims to offer it? One contender to have attracted attention recently is "bildungsroman" ("formation novel"), since the narrative of the refugee escaping danger and oppression to find safety and stability within a host state arguably maps onto bildungsroman's themes of a protagonist's difficult personal journey from margins to social acceptance and flourishing. However, this view is now seriously undermined by legislative initiatives in the UK aimed at ensuring migrant refugees who cross the English Channel in small boats should have no cause to hope for such a happy ending. By way of a close reading of the narrative implications of these initiatives, this article proposes a thorough rethink of our approach to figuring the irregular migrant refugee. Rejecting bildungsroman as now implausibly optimistic, the article suggests we look instead to the ghost, whose "presence" is typically the chief problem for those to whom it appears, whose "shape" is uncertain, and whose complaints and demands inspire dread and strenuous efforts to make it disappear. The article employs these conventions to draw a new relationship between refugee migration law and the arts, and argues that if the UK's policies for "stopping the boats" may be characterized as an attempt to effect such a disappearance, then the migrant refugee's reappearance in visual art offers a ghostly figuration of resistance and of admonishment at injustice unredressed and obligations unfulfilled. The article traces these qualities and explores their critical potential through two recent works of visual art, namely "The Walk" (2021-22) and Gideon Mendel's "Dzhangal" ["Jungle"] (2016-17). Both of these works admit of multiple readings, but both also crucially resist the punitive and reductive framing of migrants in law in some surprising ways.

**Keywords**, ghosts, bildungsroman, genre, figuring, metaphor, refugees, migration, immigration

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If refugee migration and legal responses to it constitute a story, then what kind of story is this? To put it another way, what literary conventions best help us understand the migrant refugee's claim for protection, and the terms on which law claims to offer it? One contender to have attracted attention recently is "*bildungsroman*" ("formation novel"), since the narrative of the refugee escaping danger and oppression to find safety and security within a host state arguably maps onto *bildungsroman*'s themes of a protagonist's difficult personal journey from margins to social acceptance and flourishing. Viewed in this way, the moral trajectory of both stories is underpinned by what Slaughter called the "mutually enabling fictions" of the person as bearer of inherent value and dignity, recognized and realized in the liberal state through human rights.<sup>1</sup> But how plausible is this narrative? Certainly, *bildungsroman*'s focus on the individual's own story of development and integration makes it an appealing intellectual advance on metaphors of environmental and other threats (overwhelming tides, invasions, hordes, etc.) typically associated with border control discourse. Furthermore, if we imagine that migrants arriving at the shore are given an opportunity to tell their story in an interview (or series of interviews) through which meritorious claims are identified, then this too may be thought of as analogous to the *bildungsroman* narration's implicit claim to plausibility, integrity and reliability.<sup>2</sup>

The suitability of *bildungsroman* in the refugee context depends on asylum systems of liberal nation states in the West continuing to accommodate some version of the asylum interview scene, and thereby give effect to international rights for persecuted people to travel to seek safety.<sup>3</sup> While this remains the case, it will be appropriate to think of refugee migration as *bildungsroman*, notwithstanding concerted efforts by nation states to make the journey towards final acceptance more difficult, more painful and less rewarding.<sup>4</sup> However, this view is now seriously undermined by legislative initiatives in the UK aimed at closing off the UK's asylum system altogether to migrant refugees who cross the English Channel in small boats. The Nationality and Borders Act (NABA) 2022 and the Illegal Migration Bill (IMB) 2023<sup>5</sup> aim to deter people from seeking refuge in the UK by convincing them that they have *no* cause to hope for acceptance and incorporation in the UK in the sense celebrated in *bildungsroman*, but that as "illegal migrants" they should expect instead to be arrested, detained, and sent away.

These developments are significant enough to force us to seek alternative literary forms and conventions for evolving a critical understanding of the figure of the migrant refugee and her story. In the wake of NABA 2022 and the IMB 2023, it is becoming clear that understanding refugee migration and the refugee migrant requires very different conceptual figurative tools to those afforded by *bildungsroman*. The article proposes therefore that we look instead to the figure of the *ghost*, whose "presence" is typically the chief problem for those to whom it appears, whose "shape" is uncertain, and whose complaints and demands inspire

dread and strenuous efforts to make it disappear. The article employs these conventions to draw a new relationship between refugee migration law and the arts, and argues that if the UK's policies for "stopping the boats" may be characterized as an attempt to effect such a disappearance, then the migrant refugee's reappearance in visual art offers a ghostly figuration of resistance and of admonishment at injustice unredressed and obligations unfulfilled. The article traces these qualities and explores their critical potential through two recent works of visual art, namely "*The Walk*" (2021–22)<sup>6</sup> and Gideon Mendel's "*Dzhangal*" ["Jungle"] (2016–17)<sup>7</sup>. Both of these works admit of multiple readings, but both also crucially resist the punitive and reductive framing of migrants in law in some surprising ways.

The three main sections of the present discussion unfold as follows. [Section 1](#) describes three different conceptual metaphors that might be deployed in figuring the migrant refugee and the story of refugee migration: the environmental or inhuman threat metaphor typically associated with border control and national security discourses, the *bildungsroman* metaphor through which the migrant refugee reclaims a degree of moral agency, responsibility and value (a narrative reclamation arguably found in *The Walk* and *Dzhangal*), and the spectral metaphor that draws attention to the migrant's marginality, insubstantiality and potential for disappearance and reappearance. In light of these metaphorical frameworks, [Section 2](#) then considers the narrative and figurative implication of recent developments in UK border law and policy. It observes that the expulsion of the irregular migrant refugee represented by the NABA and (more vociferously, and more radically) the IMB effectively renders a *bildungsroman* narrative untenable, and invites us to think instead of legal policy in terms of "ghosting" the migrant refugee in the sense of making her disappear. [Section 3](#) follows this figurative path a little further, reading the "reappearance" of the migrant refugee in creative visual arts as a confounding of attempts to be rid of her and affording a valuable opportunity for critique. This third section therefore re-reads our two visual arts representations of migrant refugees and offers some historical context for this reading by reconsidering two classic Twentieth Century fictions that figure migrants through the metaphor of the ghost, namely George Orwell's 1949 novel *Nineteen Eighty-Four*<sup>8</sup> and Gassan Kanafani's 1962 novella, *Men in the Sun*<sup>9</sup>.

## 1. THE MIGRANT REFUGEE IN THREE METAPHORS: OVERWHELMING TIDES, BILDUNGSROMAN, AND LIVING GHOSTS

This section introduces the question of figuring the migrant refugee by reviewing three different kinds of conceptual metaphor: the metaphor of natural or unnatural external threats, the metaphor of the protagonist of a *bildungsroman*, and the metaphor of the ghost. The first two of these are or have been prominent

cultural reference points for understanding our topic in terms of a story; all three of them have different implications and applications. Our purpose in outlining them now is to set up the discussion in Sections 2 and 3 that explain why it is the third of these that is most appropriate and most useful in the refugee migration context.

First then, the expression of anxieties and potential negative impacts of large-scale refugee migration typically draws on metaphors of natural, and sometimes also *unnatural*, forces and entities with a propensity to become dangerous and destructive. Border control and national security discourses are replete with imagery of bodies of water that build and swell to an overwhelming and unmanageable size, encouraging citizens to worry about being overwhelmed, flooded or “washed away” by an influx of migrants.<sup>10</sup> For El Refaie, there is an aesthetic basis for the apparent suitability of water metaphors since “the fact that the refugees actually came across the sea seems to have created a particularly strong sense of a ‘natural’ thematic link between the people and water.”<sup>11</sup> More dramatic and more extreme, the zombie as a metaphor for the irregular refugee is also now a familiar trope, and one that is regularly reinforced when political leaders and policymakers resort to figures of speech that explicitly or implicitly construe refugees as a threatening or overwhelming incoming “horde”. It is a metaphor that even further minimizes individual differences and personal histories. It erodes any sense of a common humanity or shared history, legitimizing punitive policy responses to their apparent preparedness and ability to run mortal risks and suffer hardships that would be horrifying to anyone else.<sup>12</sup>

So framed, restrictive border and immigration policies respond to a purely external, foreign, impersonal threat, and represent a basic “human need for separation, enclosure, and boundary setting [and] the necessity of constructing a difference between self and environment”.<sup>13</sup> Commenting on the character of Frontex interceptions of migrants in international Mediterranean waters, Itamar Mann complains of the withdrawal of the “human” from such an encounter between migrant and responsible officials of their desired destination, observing that there seems increasingly to be “no place for a powerful party ... and a disempowered party seeking protection to meet each other.”<sup>14</sup>

For these reasons then, *bildungsroman* as an alternative model for figuring the migrant refugee is attractive inasmuch as it re-personalizes and rehumanizes the story. For Slaughter, the conventions of *bildungsroman* are the imaginative glue that holds together the cultural, moral and legal apparatus of international human rights, and that affirm the idea that a person can claim legal protection *qua* person-before-the-law:

The *Bildungsroman* has been doing some of the sociocultural work that human rights law cannot do for itself to extend its incorporative franchise and to make its tautologies compelling ...

As one of the primary carriers of human rights culture, the novel of demarginalization, more than any other genre, is said to perform what it thematizes, imagined to effect in the reader the modernizing process of personality development that it narrates for the protagonist.<sup>15</sup>

The temptation to buy into the notion of the migrant refugee as the heroic protagonist of *bildungsroman* – literally and figuratively journeying from marginalization toward final incorporation and self-realization in a new nation state, and imbued there with dignity and human rights – is very strong. A burgeoning and diverse range of refugee stories following this broad trajectory – fictional, factual and everything in between – are evidence of this.<sup>16</sup> As Woolley has observed, migrant refugee testimony, for example memoir, bears an obvious relation to the legal contexts of asylum and human rights claims, the distinguishing feature of the latter being the legal consequences that flow from the attitude and actions of an official who reads or hears the story.<sup>17</sup>

Beyond the written word, visual figuring of the migrant refugee tends also to draw on the narrative form of *bildungsroman*, as Vogl notes with reference to the poster campaign “I Came By Boat”, celebrating migrants who had settled successfully in Australia.<sup>18</sup> Arguably the most well-known example in Europe of recent times is *The Walk* (2021–22) (see [Figure 1](#)), an ambitious work combining art, puppetry and performance to highlight child refugees making the difficult journey from Syria to find safety and integration finally in the UK. Preceding *The Walk* and sharing some of its key qualities is Gideon Mendel’s 2016/17 photographic migrant art exhibition *Dzhangal*. Generating substantial attention in the press but so far comparably little in the way of sustained critical scholarly analysis,<sup>19</sup> we examine these two creative depictions of the migrant refugee, with an initial *bildungsroman*-informed reading in this section, and then returning to offer a different (and, I suggest, more satisfactory) reading in [Section 3](#), below.

*The Walk* featured the character known as “Little Amal” – a 3.5 m tall puppet controlled from within her body and at each arm by three human puppeteers, with responsive facial features, and in narrative terms a Syrian unaccompanied child refugee who walked from Gaziantep in Turkey near to the Syrian border, north and west through continental Europe, crossing the English Channel to Folkstone and finally resting in Manchester, reunited with her Mother who had travelled on ahead. The journey, punctuated by public appearances and performances at numerous cities, was intended to represent the many thousands of unaccompanied child refugees, and draw attention to their experiences and hardships. As is traditional in *bildungsroman*, Little Amal had to overcome difficulties and learn lessons along the way. Some of these were scripted (on Ludgate Hill, for example, I saw her leaning against a lamppost to catch her breath before



Figure 1. Little Amal – the 3.5 m high puppet child refugee at the centre of “The Walk”, on arrival at St Paul’s Cathedral, London, October 2021 (picture by David Gurnham).

ascending the stairs of St Paul’s Cathedral, apparently exhausted from so much walking already) and others were not (local councilors voted not to allow her to visit of the monasteries of Meteora in Greece, and then right-wing protestors in Larissa, also in Greece, threw stones).<sup>20</sup> Otherwise, almost everywhere that Little Amal appeared, she was greeted by crowds of people cheering and wishing her well. At St Paul’s Cathedral where I and several hundred others turned out to see her (Figure 1), speeches from local faith and community leaders predicted that the story would end well for her: the British being a kind people, she would find welcome and sanctuary here. So far, so *bildungsroman*.

A few years prior to Little Amal’s walk across Europe, Gideon Mendel’s exhibition *Dzhangal* featured studio-produced “still-life” photographs of various objects that the artist collected at a dismantled migrant camp at Calais. Although the book containing the images in Mendel’s collection is now out of print, highlights can still be seen in the 2016 *Guardian* article published at the time of its first exhibition,<sup>21</sup> as well as on the publisher’s website, and more extensively on Mendel’s own website.<sup>22</sup> Viewers notice the variety of different objects on display, as well as evidence of objects having been creatively transformed to serve new purposes in their lifetime (such as the collection of used teargas canisters that

had been painted and turned into hanging plant pots). Most of the images in Mendel's collection depict rows of multiple objects of the same type; one image depicts a number of shoes, and others likewise display collections of clothes, toothbrushes, teddies, children's books, and so on. They each invite the viewer to think about the people who might have handled them and dropped them there in the Calais mud, and who travelled away from home in search of safety and protection. It is difficult to look, in other words, without creating a personal human narrative in one's mind's eye. One of the most arresting of these images is a photograph depicting just one object: the disembodied head of a child's doll with flame-red hair flowing from its scalp, and bright eyes looking directly back at the viewer. The uncanny, life-like quality of the face, appealing as it does to viewers conditioned to find the life of a person in the eyes, makes that image strongly metonymic, not only for migrant lives in general, but for a single human being on the move.<sup>23</sup> As with Little Amal, it is tempting to see individual and personal narratives in these images – the fabric of *bildungsroman*.

Neither *The Walk* nor *Dzhangal* concern themselves directly with the tribulations associated with immigration and asylum processes: Little Amal's progress was not hampered by border controls on migrants, and the legal fates of the former owners of the objects Mendel retrieved from the site of the Calais migrant camp is not known. For some commentators, immigration and border laws are themselves an obstacle to the descriptive power of *bildungsroman*, since while the reader of *bildungsroman* expects the protagonist finally to be accepted and incorporated into the state, such a happy ending is far from certain in the migrant refugee's case. Stephen Clingman, for example, asks:

If the human rights story is one of incorporation, then it is incorporation into a society which recognizes (certain) human subjects: the state is the horizon of their recognition. But what of the state founded on the exclusion of some, for whom incorporation is not an option, at least not in their lifetimes? What is their narrative of human rights? And what literary forms might correspond to such a story, or allow us to see a story not foretold in the existing human rights script?<sup>24</sup>

But contra Clingman, I would argue that it is entirely consistent with *bildungsroman* narrative that journeys toward safe harbour, or claims for legal sanctuary should fail, provided that such failure is not a necessary or foregone conclusion. *Bildungsroman* retains its descriptive significance so long as the person arriving (albeit without lawful permission) at a potential host state has the opportunity to have their asylum application considered and evaluated there, and for what Mann calls “the human rights encounter” to take place.<sup>25</sup> Indeed, a skeptical



evaluation of the refugee's claim arguably only strengthens the descriptive suitability of the genre, since as Vogl has observed in the Australian asylum context, the sometimes unrealistically stiff tests of integrity, plausibility and coherence applied to asylum claimants itself reflects conventional expectations placed on the narrator-protagonist of *bildungsroman*.<sup>26</sup> It is only when domestic border laws are used to make passing such tests *impossible* that the *bildungsroman* model runs onto the rocks, as we shall see in the next section.

A third potential metaphor for the figuring the migrant refugee, and the one we shall argue is most suited to the task in the current UK policy climate, is that of the ghost. The ghost has for some time now been a familiar metaphor for people seemingly rendered less than fully real or substantial by marginalization. For example, Esther Peeren uses the term "living ghosts" to refer to undocumented migrants: people whose lack of legal status effectively makes them invisible, who are routinely "ignored and considered expendable"<sup>27</sup> and "avoided, exploited and abjected".<sup>28</sup> In the context of refugee migration, this "spectral" metaphor is sometimes invoked in photographic images. Consider, for instance, the distant and receding migrant bodies in the English Channel in Samar Al-Doumy's photographs for the *Guardian* article "Risking the Channel 'death route' to Britain – a photo essay" (2020).<sup>29</sup> One of Al-Doumy's images shows a small boat containing six or so blank-faced migrants in hoodies, surrounded on all sides by vast indifferent waves (*Migrants on board a boat in the English Channel*); in another image a migrant boat is shown being put out to sea at night: the craft is so small and low in the water as to be almost invisible and its several occupants dim and insubstantial dark shapes, contrasting pathetically against the huge and brightly-lit ocean liner in the middle distance (*Migrants prepare their own crossing on the beach of Gravelines as a ferry passes in the Channel*).<sup>30</sup>

The same kind of spectral reading might also be applied to George Mendel's *Dzhangal*, previously read as *bildungsroman*. As signs of human lives now moved on, the objects on display in Mendel's work are all importantly *disembodied* and *lost*. They cannot tell us where to find their former owners, if they are even still alive. There is no way to reconnect the absent people to these present objects, such that displaying those objects carries a disturbing suggestion that they are substitutes for people who have altogether vanished. Read in this light, the flame-red-haired doll's head that we described above so vividly provocative of speculation about its former owner can equally disturb in that its own disembodiment serves as a brutal reminder of the *absence* of that former owner. The former owners may have drowned, returned home to be mistreated or killed, indefinitely detained, or, even if having escaped those fates, then disappeared into the oblivion of exploitative labour practices. The depiction of the migrant body in both Al Doumy's and Mendel's images as so ready to disappear and be absorbed by the "deathfulness of the open, deep, illimitable sea"<sup>31</sup> implies a sense of the spectral that is primarily descriptive and negative.

But interest in the figure of the ghost is not confined to its tendency to (be made to) disappear. The ghost also *appears*, and that appearance is traditionally associated with a demand for justice in the form of redress or reparation for past hurts and wrongs, but which ordinary justice procedures seem incapable of providing.<sup>32</sup> In any case, the appearance of the ghost in fiction tends to inspire, at the very least, feelings of uncertainty as to its true form and intentions – its “questionable shape”, as Hamlet puts it when first addressing his own Father’s unhappy ghost.<sup>33</sup> That questionable shape carries disruptive intellectual possibilities that are familiar now on account of the “spectral turn” instigated by Derrida’s reflections on Marx (and the famous opening of *The Communist Manifesto* – “A spectre is haunting Europe ...”).<sup>34</sup> In *Specters of Marx*, Derrida described the ghost as that which is “*more than one / no more one [le plus d’un]*”<sup>35</sup>, in other words that which eludes the oppositional logic of the “traditional scholar” and her belief in “the sharp distinction between the real and the unreal, the actual and the inactual, the living and the non-living, being and non-being ...”<sup>36</sup> Derrida was explicit that his own interest in this sense of spectral uncertainty – the ghost’s disappearance and reappearance, its queer resistance to settled definition – was a concern about “justice”, and justice as “responsibility” to those who may be marginalized, unknown, dead or unborn.<sup>37</sup> In our case, figuring the migrant refugee through the conceptual metaphor of the ghost and the traditions of the ghost story also necessarily concerns justice, because it gives us the framework we need for understanding two specific and crucial parts of the contemporary refugee migration story playing out in the English Channel. The first of these (described in [Section 2](#), below) is what I see as lawmakers’ obsessive drive toward ever more extreme measures to *rid* the nation state of the presence of migrant refugees. The second (which we come to in [Section 3](#)), is the migrant refugee’s recalcitrant reappearance in visual art, revived and reconstituted as bearer of an admonishing reminder of humanitarian and human rights obligations unfulfilled.

There are admittedly other qualities traditionally associated with the ghost that do not obviously or readily apply to the figure of the migrant refugee. For example, ghosts tend to be associated with a particular haunted place or locality, whereas the migrant refugee is characterized by dislocation, displacement and movement. For now though, we set this objection aside, and the remainder of this article sets out the reasons why we can and should understand the figure of the migrant refugee as a subject of law (at least as she appears now in UK law and policy) and art through that of the ghost rather than *bildungsroman*.

## 2. FIGURING THE MIGRANT BY “GHOSTING” THE REFUGEE: A RECENT HISTORY OF UK BORDER LAW AND POLICY

Clingman’s skeptical query about the suitability of *bildungsroman* as a narrative framework in the case of “the state founded on the exclusion of some, for whom

incorporation is not an option”<sup>38</sup> has now been made painfully pertinent in the wake of two legislative initiatives in the UK designed to prevent the majority of migrant refugees from presenting their asylum claim in the UK. These are the Nationality and Borders Act (NABA) 2022, and, following closely on its heels, the Illegal Migration Bill (IMB) 2023: both symptoms of a national political context still dominated by questions about what the referendum result in 2016 in favour of leaving the European Union should mean for immigration and asylum policy.<sup>39</sup> While the measures contained in the NABA have yet to be applied in full force, and the IMB yet to complete its passage towards becoming law, the policy trajectory represented in these developments threatens to make the *bildungsroman* narrative of a journey toward acceptance essentially redundant for migrant crossings in the English Channel. To understand better the story of refugee migration, and the figure of the refugee migrant in the UK now therefore, we are required to consider other narrative forms, and this means taking seriously the metaphor of the ghost. In this section, the ghost “appears” only in a negative sense, that is, as the figure of the refugee made less real, less visible and less substantial by the punitive and exclusionary measures in the NABA and IMB. This is followed (in Section 3) with a discussion of more positively dynamic and creative qualities of the ghost to be found in her reappearance in visual arts.

First then to the figuring of the migrant refugee subject of law, about which I use the term “ghosting” to capture some of the techniques through which law renders that subject less real or substantial. Examples of these techniques have been documented elsewhere. For instance, Corina Stan reads the German legal label *fictionsbescheinigung* – translating literally as “fiction certificate”, designating a person as not yet having attained refugee status – as a mechanism that pejoratively “stamps the existence of human persons by certifying them as ‘fiction’ (with its connotations of pretence, of made-up stories)”.<sup>40</sup> In Australia, Justine Poon has argued that the legal term “unauthorized maritime arrival” is a metaphor that effects the “disappearance” of the refugee as a person with a legal and moral claim, putting in her place a *mere thing in the water*, and thus vulnerable to mistreatment:

The legal subject that might be able to assert a claim under international law becomes an object whose only significance is its presence within the territory. It is the subject with political life that disappears and an object, a pure presence upon which the law acts, which emerges.<sup>41</sup>

The sense of the “ghostly” in these contexts arises from the way that law is able to replace that which is essentially “human” about the migrant (her unique experience, her flesh and blood materiality) with objectifying, depersonalizing

and technical abstractions designed to legitimize exclusion. In the UK, NABA, and to a greater extent the IMB, achieve this in the way that they frame the refugee as *essentially* an illegal immigrant, and hence beyond Convention protections against punitive sanctions.

Article 31(1) of the 1951 UN Refugee Convention was drafted to protect refugees from punitive treatment by host states on account of their irregular transit and arrival, or as Lord Bingham put it some years ago: “to protect refugees from the imposition of criminal penalties for breaches of the law reasonably or necessarily committed in the course of flight from persecution or threatened persecution.”<sup>42</sup> The Article stipulates that:

...states shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.<sup>43</sup>

Thus drafted, Article 31(1) simultaneously maintains *two* identities with respect to those who flee persecution by crossing borders using irregular means: as refugees (with a claim on a host country’s asylum system) *and* as migrants operating outside of immigration laws. It is clear from Parliamentary speeches by the ministerial sponsors of the (then) Nationality and Border Bill (NABB) in 2021, that this dual identity for irregular migrant refugees posed a problem for the UK’s ability to impose its own restrictions: a problem that came to be framed in terms of “*fairness*”. The government’s view was that it must be unfair for migrants who pay smugglers to gain illegal entry to the UK to have their asylum claims heard alongside refugees who did not break the law. The then Home Secretary Priti Patel put the case more dramatically:

Enough of people trying to gain entry illegally, ahead of those who play by the rules. ... The very principle of seeking refuge has been undermined by those who pay their way to travel through safe countries to then come to the UK to claim asylum. ... British people object to illegal entry, and they are absolutely right.<sup>44</sup>

The government’s approach to achieving the desired “*fairness*”, and for ensuring refugees “*play by the rules*”, has been to turn the Refugee Convention’s protections on their head. Instead of protection for refugees *against* punitive treatment, NABA and subsequently the IMB treat the formulation of Article 31(1) as implicitly *licensing* the punitive treatment of refugees who travel through some *other*

safe country before crossing the English Channel, since such a person is not coming to the UK “directly” from the place they were facing persecution. The principal innovation in drafting of the NABA was thus to create a two-tier asylum system based on a refugee’s mode of arrival in the UK. On the one hand, “group 1 refugees” who are resettled in the UK *via* an official government-approved resettlement scheme can enjoy full access to asylum and a route to settled status in the UK.<sup>45</sup> On the other hand, “group 2 refugees” who make illegal entry, typically in small boats launched from France, should expect much less favourable treatment including criminal prosecution<sup>46</sup> and removal to Rwanda.<sup>47</sup>

Answering criticisms that the punitive and exclusionary measures in NABA are more a matter of rhetoric than reality (eight months after the Act’s passing, less than half of 1% of migrants arriving illegally had been prosecuted for it and none had been removed to Rwanda<sup>48</sup>), a change of Home Secretary and Prime Minister on 25<sup>th</sup> October 2022 led to a further hardening of government’s resolve to “stop the boats”. A December 2022 policy paper endorsed by the Home Secretary called for legislation to be introduced to make it “*impossible in law* to claim asylum in the UK after travelling from a safe country, and *no migrant who arrives here illegally should ever be allowed to settle here.*”<sup>49</sup> The following week, the Prime Minister confirmed this as government policy:

Early next year we will introduce new legislation to make unambiguously clear that if you enter the UK illegally *you should not be able to remain here.* ... And once removed you should have *no right to re-entry, settlement, or citizenship.*<sup>50</sup>

Following through on that resolution, the Illegal Migration Bill (IMB) was introduced on 7<sup>th</sup> March 2023, proposing a duty on the Home Secretary to ensure the detention and removal of all migrants arriving illegally (cl. 2). Beyond this apparently categorical and comprehensive exclusion of “small boat” migrants from UK asylum, the bill is noteworthy for the fact that it finds no use whatsoever for the term “refugee”. While the language of NABA at least acknowledges that the people targeted for punitive treatment are refugees, the IMB refers only to “*persons*” (cl. 2), “*certain persons*” (cl. 1), and “*migrants*” (cl. 15–17). The “refugee” thus drops out of legal lexicon altogether.

If NABA’s two tier approach saw the irregular migrant’s claim to refugee status in the UK put seriously into question therefore, the IMB seems to settle that question in the negative, effectively amounting to a denial of any state responsibility to hear the asylum claims of migrants reaching the UK by irregular means, no matter how “well-founded” their fear may turn out to be. This is an approach that takes full advantage of the relative geographical remoteness and separateness of the UK off the north-west corner of Europe and the very limited range and seaworthiness of the

small dinghies used by people-smugglers. These factors in combination make reaching the UK “directly from a territory where their life or freedom was threatened” (in the sense that the UK government takes Article 31(1) to mean) effectively impossible, and Convention protections inapplicable. Rather than uncertainty as to whether any individual claim will lead to incorporation into the UK as the new host society (a narrative which we described, contra Clingman, as consistent with *bildungsroman*), the UK’s legislative initiatives aim to ensure that apart from the small minority of refugees placed in one of the limited official resettlement schemes, *certain failure* should be the only plausible outcome for anyone seeking refuge in the UK.

Understanding this drive toward such an extreme state of clarity, and this desire to make it “*impossible*” for the migrant refugee to find acceptance and incorporation in the country she has risked life and limb to reach, requires us to take seriously its radical departure from the *bildungsroman* narrative. The legislative removal of (and withdrawal from) the “refugee”, first by NABA’s ambivalent “group 2 refugee” (acknowledging the migrant’s refugee status whilst also exposing her to punitive treatment), and then the IMB’s “certain persons” (entirely blocked from claiming asylum in the UK), betrays a desire for the kind of certainty and “sharp distinctions” that Derrida attributes to the categorising, rationalizing mind that “does not believe in ghosts”.<sup>51</sup>

But like all good ghost stories, this sad fading away of our subject is not the final word, since we detect signs that the refugee persists even after the IMB’s “unambiguously clear” attempt at expulsion and erasure. For a start, and most prosaically, if the intention of parliament really is to expel the irregular-migrant-refugee from UK asylum, this remains to be tested in the courts. Furthermore, the refugee’s reappearance outside of legal discourse, for example in visual art and other creative forms, also has an important role to play in ensuring this “living on”. As explored in the next (final) section, figuring the refugee as ghost is not entirely negative therefore. Rather, it engages a positive creativity through which the refugee demands recognition, and rebels against the oppositional logic of *either* “refugee” *or* “illegal migrant” (the IMB’s logic of “to be or not to be”<sup>52</sup>). **Section 3** now follows this line of thought with respect to the visual arts depictions already considered above (namely *The Walk* and *Dzhangal*), and supporting roles supplied by a fresh re-reading of two Twentieth Century novels: Orwell’s *Nineteen Eighty-Four* and Kanafani’s *Men in the Sun*.

### 3. “DON’T FORGET ABOUT ME!”: THE REAPPEARANCE OF THE MIGRANT REFUGEE IN VISUAL ART

Little Amal’s arrival in the UK was uncannily timed in terms of relevant political and legal developments then underway. As the same time that, according to her story, Amal was supposedly settling down in the north of England with her mother, the bill that would become the NABA was passing its final hurdles in parliament,

receiving royal assent in April 2022.<sup>53</sup> Her subsequent journey across the Atlantic to “Walk New York” in Autumn of that year carrying the message “*Don’t Forget About Me*”, then coincided with the Home Secretary’s speech to her party’s conference at which she strongly affirmed her desire to see the full realization of the Rwanda removals policy (which at that point had been delayed by human rights legal challenge).<sup>54</sup> In the light of this affirmation of the desire to be rid of refugees traveling by the irregular route that Amal herself followed, the expression *Don’t Forget About Me* becomes oddly marked by ambiguity and affect. In this return to reading migrant art, I want to dwell a little on these qualities, albeit without making any claim about what the directors of the project themselves intended for it.

In the first place then, who is the “me” of Little Amal’s message about whom we are reminded not to forget? Where, and *when*, are they? It is difficult to read Little Amal’s message without being reminded that the intended consequence of strictly applying the UK’s migration policies at that point signed into law (NABA) and in preparation (proposals that later crystalized as the IMB) would be to make refugees that arrive on the southern shore of England *disappear* as a domestic concern, and remarginalized by detention and removal before having any opportunity to make an asylum claim. Being categorized out of and away from the UK asylum system in this way means effecting a disappearance that makes meaningful an insistence that they must be remembered, and *not* forgotten. “*Don’t Forget About Me*” disorients the spectator by breaking the life-creating spell that Little Amal’s appearances (so expressive and vivacious as they are) are so good at casting on audiences. The phrase jars against the notion (entertained above, in the previous section) of *The Walk* as *bildungsroman* and Amal herself as its protagonist-author, since it reminds spectators that we are after all only seeing an image that stands as a substitute for, an apparition of, a refugee who in fact is somewhere (or somewhen) else, possibly dead, possibly yet unborn. Standing in for child refugees currently living, dying or already dead, and for whom she appears to ensure none are forgotten, Little Amal demonstrates an important quality of the ghost. In her repeated reappearances in different cities along the migrant route from Syria, she is (as Manderson puts it in another context) a “persistent after-image of a prior event”.<sup>55</sup> She performs for audiences the migrant journey as if it is her own story, but is at the same time a reminder that she is merely a sign that such a journey was made by innumerable others previously, and in all likelihood in the future too. She is, in other words, the “slip in time” that characterizes the returning ghost.<sup>56</sup>

The refugee as the ghost who appears to call viewers positively to remember is there also in Gideon Mendel’s still-life photographic art project *Dzhangal*, which as we have seen (also in [Section 2](#), above), featured numerous lost and discarded objects retrieved by the artist from a dismantled Calais migrant camp. We acknowledged already that this project may plausibly be read both as the

migrant story as *bildungsroman* (since the viewer is invited to treat the visible objects as evidence of a journey that might have ended in newfound safety, acceptance and incorporation in a new country), and also as figuring the spectral disappearance of the migrant. But if the collection and display of these objects speak of death and disappearance (Mendel cannot have been unaware that the rows of objects separated from their former owners would put some viewers in mind of images of clothes and shoes removed from victims of the Nazi death camps), this is not *all* they speak of. Viewed as objects with a story of tell in their own right rather than as a trail of clues that we imagine leading to a human subject (living or dead), we can nonetheless perceive a demand that emanates from them: a demand for recognition, remembrance, responsibility.

Thus viewed, Mendel's collected objects, and Little Amal's admonishing reminder "Don't Forget About *Me*" connect to a tradition of narratives of spectral apparitions that return to issue complaints, demands, commands. In different ways, they both oddly recreate the terrifying imperative to "Mark me!" and "Remember me!", issued by the ghost of Old Hamlet urging his son to avenge the murder of his "dear father", and not to resemble "the fat weed" rotting in the mythological Greek river of forgetfulness.<sup>57</sup> They also share with the ghost of *Hamlet* a sense of a unity between the personal and the public – appealing both to personal feelings and to a broader sense of justice that is also the mark of the ghost that cries of wrongs warranting correction. In these ways, the spectral metaphor as a frame for reading depictions of refugee migration does not merely describe the desire for erasure and excision we found in punitive law, but also prescribes positive opportunities to reintroduce the migrant refugee. Such reintroductions neither heroize nor decry the migrant refugee's story. Another photograph we referred to in the previous section, the night-time image that captured the huge ocean liner cruising in apparent serenity in the background of Al-Doumy's *Migrants prepare their own crossing on the beach of Gravelines as a ferry passes in the Channel*, is significant because it offers a chance to see the comparatively tiny craft and human shapes on the water that probably could not have been seen by the people on board the liner. As an image in which those dark shapes and their movements are foregrounded, it is "spectral" in that it makes a "spectacle" of those made invisible by marginalization, or as Derrida has it, "visible only insofar as it is not visible in flesh and blood":

We are already transfixed by a disappearance [*une disparition*] which promises and conceals in advance another magic "apparition," a ghostly "re-apparition" which is in truth properly miraculous, something to see, as admirable as it is incredible...<sup>58</sup>

This reading of our visual depictions of the migrant refugee by way of the figure of the ghost-as-reminder draws on a literary tradition, the relevance of which for



this topic is typically overlooked. For example, neither Orwell's *Nineteen Eighty-Four* or Kanafani's *Men in the Sun* are ostensibly 'about' the figure of the ghost (or the refugee) at all. However, both tellingly yield a reading that helps to enrich the perspective advanced here. In an early scene of *Nineteen-Eighty-Four*, the protagonist Winston Smith recalls watching a propaganda film depicting the sinking of a refugee boat, in which a mother, "who might have been a jewess", vainly tries to protect her infant child from bullets and bombs with her arm. The novel later describes Winston's guilty childhood reminiscences and dreams of his own mother and sister, with whom Winston had competed for food (of which there was "never enough"), and for whose deaths he had ever since blamed himself. He recalls how his mother had also adopted a futile gesture with her arm to try to protect her daughter when the ravenous eleven-year-old Winston stole her meagre chocolate ration, and that this gesture reminded him of the gesture of the Jewish mother in the sinking refugee boat:

At this moment his mother was sitting in some place deep down beneath him, with his young sister in her arms. ... He was out in the light and air while they were being sucked down to death, and they were down there because he was up here. He knew it and they knew it, and he could see the knowledge in their faces. There was no reproach either in their faces or in their hearts, only the knowledge that they must die in order that he might remain alive, and that this was part of the unavoidable order of things.<sup>59</sup>

Against the grain of the broadly liberal humanist reading of *Nineteen Eighty-Four* (namely as a story of the destruction of individual moral integrity, solidarity and kindness by totalitarian brutality),<sup>60</sup> Lynsey Stonebridge has argued that the juxtaposition of these two scenes represents the west's guilty conscience about its own failure to uphold humanitarian ideals in the case of stateless Jewish refugees seeking refuge after the Second World War and its insistence on closing the door to "economic" migrants.<sup>61</sup> Why else, asks Stonebridge, should Winston dream of his family *drowning* in a "sunken ship", and feel so sure that their deaths were "unavoidable" and necessary for his own survival ("*they were down there because he was up here*")?<sup>62</sup> For our purposes, the refugees of *Nineteen-Eighty-Four*, like Winston's dead mother and sister, speak to the characterization of the migrant subject in UK law as an irritant to be made to go away (as disfavored "group 2 refugees" for the NABA, and subsequently as mere "illegal migrants" for the IMB) but who nonetheless retain residual refugee status (remaining putative refugees at least in international law and permitted to claim asylum outside of the UK). Orwell's refugee-mother imposes a moral imperative on Winston, but at the same time she does not exist in the world depicted in the novel. Despite her imposing

presence, she is a figure remembered from a film and that intrudes on a memory of his own family, thus occupying a separate plane of reality without substantial corporeal existence in the narrative of the novel. The memories of the two mothers' arms resonate together only in the realm of dreams, and the sound they make there is always "Remember me!", the guilty conscience of the citizen standing in for the haunted place of ghost-fiction.

My own reading of the novella *Men in the Sun* by Palestinian writer, editor, refugee and activist Ghassan Kanafani draws on the same line of thought, and for this reason departs from extant readings. Kanafani's novel involves three Palestinian men hiding in a hot and airless metal water tank on the back of a lorry crossing the border from Iraq to Kuwait, where they hope to begin a new life. The conditions of their journey across the desert in the heat of the sun are hellish, and the men all suffocate to death in the tank during a short delay at the border crossing (the driver of the lorry, also Palestinian, having been detained by bantering interrogation in the officials' office). The final lines of the story are the thoughts of the driver, who eventually dumps the three bodies in the garbage: "Why didn't you knock on the sides of the tank? Why didn't you bang the sides of the tank? Why? Why? Why?"<sup>63</sup>

Like *Nineteen-Eighty-Four*, *Men in the Sun* has been the subject of interpretations that diverge mainly on the novel's historical, geographic, and moral specificity. Some readings focus on the story as a parable specifically about Palestine and Palestinians: the question of whether to leave or stay to fight for the Palestinian homeland; the roasting, unforgiving sun a trial of fire for every Palestinian; the banging or not banging on the side of the tank figuring the question of whether Palestinians fight for survival or submit to death.<sup>64</sup> Other readings focus on the broader plight of migrant refugees in general, and the uneasy relationship between the stateless individual and legal structures and mechanisms. For example, reading the story as a critique of the fiction of universal human dignity and international rights, Bishupal Limbu argues that the deaths of the three men could not have been averted because all they had to offer was their humanity,<sup>65</sup> and (as Arendt previously put it): "a man who is nothing but a man has lost the very qualities which make it possible for other people to treat him as a fellow-man".<sup>66</sup>

But taking the story as a living and a mobile text, I would suggest that neither of these readings captures its most relevant aspect or quality in the policy context that we find ourselves in the UK in the wake of the NABA and the IMB. For me, extant readings of *Men in the Sun* accord too much attention to the attempts (if any) by the men to alert people outside to the danger they were in, and conversely too little attention to two other aspects of the latter half of Kanafani's novella and its sad conclusion, which seem previously to have escaped attention. The first of these is the haunting quality of Kanafani's strangely "other-worldly" metaphors for the conditions into which the men are put when

they attempt to cross the border. The second is the effect of their deaths on the lorry driver in whose hands they placed their lives.

First then, on Kanafani's use of metaphor. It is clear from the narrative that the tank's sealable lid effectively turns it into a tomb for the men hiding in there, symbolizing the fundamental separation of the refugee from the ordinary world. The tank itself is never described in the story except through similes and metaphors of radical separation from the everyday world: it is "like the next world in there" (56), a "hell" (57), an "accursed well" (58) and a "terrible prison" (65) from which its unfortunate inhabitants' voices echo "as if from a great depth" (58). Having spent several minutes inside it during an initial stage of their journey, the three migrants emerge with "faces seeming ... yellow and mummified" giving the driver the impression that already "they were dead" (61) – a macabre premonition for their real deaths later that day. In other words, being sealed in there, the men inhabited a tomb – a separate world with passage between the two worlds impossible for ordinary human bodies. It makes sense then that the only message that does actually escape from inside that space happens after the men die, and as such issues from the supernatural "beyond" in the form of the haunting of one already psychically disturbed by guilt.

Indeed, this is what happens in the final scene, and this takes us to the second important aspect of the story's conclusion, namely the effect of the migrants' deaths upon the driver. Upon returning to the lorry after finally getting his paperwork cleared by the border officials and finding the three men dead from suffocation, the driver's guilty self-reproaches at having let them perish are presented as the stubbornly lingering *presence* of one of the victims:

Marwan's face came into his mind for some reason, and wouldn't go away. He felt the face take possession of him from within, like a fresco shimmering on a wall ... Marwan's face had surged up to take complete possession of his mind, like a spring that bursts from the earth ... (71).

The dead migrant's appearance to the guilty man puts us in mind of other literary ghosts (Shakespeare's Banquo and Dickens's Jacob Marley, for example) in which former acquaintances appear to work on a character's conscience. The very last scene, the distraught driver now alone, is not most significant for his final unanswerable question ("Why didn't you bang the sides of the tank?") that Limbu focuses on. Rather, it is for the fact that he gives up on his plan to bury the bodies, deciding simply to leave them lying on the ground at a rubbish dump – a serious indignity given the importance that the characters would all have attached to prompt burial. The implication is that the driver's haunting by the spirit of the dead migrant has robbed him of his usual strength and courage, and

despite his initial resolve to give this final dignity to the dead men, he finds he is “consumed with exhaustion, as though a drug had been injected into his arms.” (72). Physically and morally defeated by this unnatural lethargy, all he can manage to do is to pull the three bodies out of the tank in the night and throw them down in-front of a garbage heap for the collectors to find in the morning. Given his abject failure, not only to prevent the men from perishing, but furthermore to ensure the dead’s most basic due, we can imagine that the disappeared migrant’s spirit will continue to “take possession” of this driver for some time. “Remember me!”, “do not forget me!”, again, are the words of the migrant as ghost that resists efforts to make her disappear.

#### 4. CONCLUSIONS

The UK government’s radical policy of not merely narrowing access to its asylum system but altogether closing it off from irregular migrant refugees gives us reason to reopen the question about the kind genre conventions currently finding their way into legal forms. The article has proposed that if we are to look outside of law for a cultural or literary basis for the figure and story of the migrant refugee before the law, it is not in the protagonist of *bildungsroman* forging her way to self-realization within the state that we find it, but rather in the much more uncertain, unsettling, disorienting figure of the ghost. As we have seen, the primary critical and ethical significance of recent visual depictions of the migrant refugee is that they offer apt resistance to efforts on the part of the state to use legal techniques to make her disappear. The migrant refugee’s reappearance in visual art draws our attention to a figure we are admonished not to forget, who haunts the consciences of host nations and demands recognition.

This article has sought to take seriously the implications of reading legal and creative-arts depictions of the migrant refugee in this way. To be sure, it is an approach that is not unproblematic: the migrant refugee is unlike the more traditional ghost of genre fiction at least in terms of seeming to be “placeless”, and the ghost’s insubstantiality arguably accentuates her invisibility, inaudibility and hence marginality. But this article has sought to redirect the figurative quality of the ghost in a way that I believe affords fresh scope for appreciating and countering the discursive violence of legal policy and that helps to reorient critical appraisal of creative arts responses. Justine Poon’s characterisation of law’s response to migrant refugees as a problem of unwanted “presence within the territory” (quoted in [Section 2](#) above) is evocatively suggestive for our purposes: of a problem not merely about how legal categorisation assists efficient removal, but also about the unsettling, discomfiting effect of the presence of the migrant refugee as a reminder of a moral duty unfulfilled.

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1. "Bildungsroman, n." OED Online, Oxford University Press, May 2023, [www.oed.com/view/Entry/18946](http://www.oed.com/view/Entry/18946). Accessed 22 May 2023. The ideological territory shared by *bildungsroman* and the liberal nation state and their co-emergence in the nineteenth and twentieth centuries is described by Joseph R Slaughter, "Enabling Fictions and Novel Subjects: The Bildungsroman and International Human Rights Law," *Publications of the Modern Language Association* 121, no. 5 (2006): 1405. Charles Dickens's *Great Expectations*, Charlotte Bronte's *Jane Eyre* and J.K. Rowling's *Harry Potter* series may all be thought of as examples of *bildungsroman*.
2. Anthea Vogl, "The Genres and Politics of Refugee Testimony," *Law & Literature* 30, no. 1 (2018): 81-104; Agnes Woolley, "Narrating the 'Asylum Story': Between Literary and Legal Storytelling," *Interventions* 19, no. 3 (2017): 376-394.
3. *Convention Relating to the Status of Refugees* (UN, 1951).
4. For critical commentary on the use of state machinery against irregular refugee migration, see Cetta Mainwaring and Margaret Walton-Roberts, "Governing Migration from the Margins," *Social & Legal Studies* 27, no. 2 (2018): 131; also Tazreena Sajjad, "What's in a name? 'Refugees', 'migrants' and the politics of labelling," *Race & Class* 60, no. 2 (2018): 40; also Liza Schuster, "Turning refugees into 'illegal migrants': Afghan asylum-seekers in Europe," *Journal of Ethnic and Racial Studies* 34, no. 8 (2011): 1392.
5. At time of submission of the revised version of this article (25 May, 2023), the Illegal Migration Bill had cleared its Second Reading in the House of Lords and had just begun its Lords Committee stage. The bill is expected to complete its passage and attain royal assent before the end of 2023.
6. *The Walk*, Amir Nizar Zuabi (artistic director), David Lan and Tracey Seaward (producers), The Walk Productions, 2021.
7. Gideon Mendel, *Dzhangal* (London: Gost, 2017). Images available to view on the websites of the publisher and the artist himself: Gost, <https://gostbooks.com/product/dzhangal/> (accessed May 22, 2023); *Dzhangal: The Act of Collecting* (Gideon Mendel, 2016), <https://gideonmendel.com/dzhangal/> (accessed May 22, 2023).
8. George Orwell, *Nineteen Eighty-Four* (Project Gutenberg 2001), <https://gutenberg.net.au/ebooks01/0100021h.html> (accessed May 22, 2023).
9. Gassan Kanafani, *Men in the Sun and Other Palestinian Stories*, trans. H. Kilpatrick (London: Lynne Rienner, 1999).
10. Gerald V. O'Brien, "Indigestible Food, Conquering Hordes, and Waste Materials: Metaphors of Immigrants and the Early Immigration Restriction Debate in the United States," *Metaphor and Symbol* 18, no. 1 (2003) 33, 41ff; Theresa Catalano and Andreas Musolff, "Taking the Shackles off: Metaphor and Metonymy of Migrant Children and Border Officials in the U.S.," *DigitalCommons@University of Nebraska - Lincoln* (2019): 25-6; Ana Otto Santa, "Empirical analysis of anti-immigrant metaphor in political discourse," *University of Pennsylvania Working Papers in Linguistics*, Article 19, 4 no.1 (1997); Jonathan Charteris-Black, "Britain as a container: immigration metaphors in the 2005 election campaign," *Discourse & Society* 17, no. 5 (2006): 563-572.

11. Elisabeth El Refaie, "Metaphors we discriminate by: Naturalized themes in Austrian newspaper articles about asylum seekers," *Journal of Sociolinguistics* 5, no. 3 (2001): 352.
12. See Jon Stratton, "Zombie Trouble: Zombie texts, bare life and displaced people," *European Journal of Cultural Studies* 14, no.3 (2011): 265-281; Penny Crofts and Anthea Vogl, "Dehumanized and demonized refugees, zombies and World War Z," *Law and Humanities* 13, no. 1 (2019): 29-51.
13. Andreas Philippopoulos-Mihalopoulos, "Flesh of the Law: Material Legal Metaphors," *Journal of Law and Society* 43, no. 1 (2016): 45-65, 54.
14. Itamar Mann, *Humanity at Sea: Maritime Migration and the Foundations of International Law* (Cambridge: Cambridge University Press, 2016), 174.
15. Slaughter, 'Enabling Fictions and Novel Subjects', 1417.
16. For an example of the refugee story in the form of memoir, see Behrouz Boochani, *No Friend but the Mountains: The True Story of an Illegally Imprisoned Refugee*, trans. O. Tofighian (Basingstoke: Picador, 2019) and the biographical film *The Swimmers* (El Hosaini, Working Title/Netflix, 2022). For testimonies translated into activist creative writing, see David Herd and Anna Pincus, eds., *Refugee Tales* (Manchester: Comma Press, 2016) and Loraine Masiya Mponela, *I Was Not Born a Sad Poet* (Kindle Direct Publishing, and Counterpoint Arts, 2022); for a collection of entirely imaginative representations of refugees, see Lucy Popescu, *A Country to Call Home: An anthology on the experiences of young refugees and asylum seekers* (E-book: Unbound, 2018).
17. Woolley, "Narrating the 'Asylum Story'". To this we might add that, if Slaughter's view is correct, then *all* accounts of refugee migration, including fictional ones, have legal consequences in the broader sense of repeated affirmation of the essential rightness and vitality of human rights and the importance that domestic laws should give effect to them.
18. Vogl, "The Genres and Politics," 82-3.
19. See Joe Murphy and Joe Robertson, "The first steps: across Europe with Little Amal," *Index on Censorship* 50, no. 4 (2022): 66-69; Janet Banfield, "Walking with Amal: the politics of the stranger," *Cultural Geographies* 29, no. 4 (2022): 603-609.
20. Amelia Gentleman, "'People felt threatened even by a puppet refugee': Little Amal's epic walk through love and fear," *Guardian*, October 18, 2021, <https://www.theguardian.com/stage/2021/oct/18/threatened-puppet-refugee-little-amals-epic-walk> (accessed May 22, 2023).
21. Amelia Gentleman, "Teddies and teargas canisters: what remained in the Calais camp," *Guardian*, December 30, 2016, <https://www.theguardian.com/world/2016/dec/30/teddies-tear-gas-canisters-what-remained-calais-camp> (accessed May 22, 2023).
22. Gost, <https://gostbooks.com/product/dzhangal/> (accessed May 22, 2023); *Dzanghal*, <https://gideonmendel.com/dzhangal/> (accessed May 22, 2023).
23. In using the word "uncanny" here, I merely mean to describe the arresting effect produced by encountering a lifeless, inanimate object that seems oddly life-like, rather than the more specific meaning attached to it by Freud as the effect of a return of repressed infantile complexes or primitive beliefs (Sigmund Freud, *The Uncanny*, trans. David McLintock (London: Penguin, 2003): 121). Having said that, however, I would also agree that when the object in question is a child's doll, Freud's ideas are not irrelevant.
24. Stephen Clingman, "Rights, Routes, and Refugees: The Fiction of Caryl Phillips," *Law & Literature* 27, no. 3 (2015): 365, 368.
25. Mann, *Humanity at Sea*, ch.5 and ch.6.
26. Vogl, "The Genres and Politics".
27. Esther Peeren, *The Spectral Metaphor: Living Ghosts and the Agency of Invisibility* (Palgrave Macmillan, 2014), 14.
28. *Ibid*, 17.
29. Clement Melki, Sameer Al-Doumy, Thomas Bernardi, "Risking the Channel 'death route' to Britain - a photo essay," *Guardian*, September 23, 2020, <https://www.theguardian.com/artanddesign/2020/sep/23/risking-the-channel-death-route-to-britain-a-photo-essay> (accessed May 22, 2023). All the images of this collection can be viewed online via this link.
30. *Ibid*.
31. Desmond Manderson, "Bodies in the Water: On Reading Images More Sensibly," *Law & Literature* 27, no. 2 (2015): 279, 284. The phrase is a quotation of John Ruskin's commenting on JMW

- Turner's controversial 1840 painting of slaves being thrown into the sea from a ship.
32. See Giorgio Fabio Colombo, "Sakura Sogoro: Law and Justice in Tokugawa Japan through the Mirror of a Ghost Story," *Law and Literature* 29, no. 2 (2017): 329-344 – on the role of the ghost as a popular imaginative agent of redress for criminal wrongs that went unpunished in 17<sup>th</sup>-19<sup>th</sup> Century Japan. For a recent reworking of this tradition in a western context, see Percival Everett's novel *The Trees* (Influx, 2022), which opens with the bizarre and gruesome killing of two white men in a small town in Mississippi that leads an elderly resident of that town (who in her youth had made a false accusation of impropriety against the black man, Emmett Till, precipitating his lynching in 1955), and some of the local law enforcement officers as well, to believe that she and her family were being menaced by Till's ghost returning to seek retribution.
33. Shakespeare, *Hamlet*, Act I, scene iv.
34. Karl Marx and Friedrich Engels, *The Communist Manifesto*, trans. Samuel Moore (London: Penguin Classics, 2015). For a collection of essays illustrating something of the intellectual breadth of the 'spectral turn' of the 1990s, including its roots in psychoanalysis and Marxism, and its theoretical, political and ethical applications, see, María del Pilar Blanco and Esther Peeren, eds., *The Spectralities Reader: Ghosts and Haunting in Contemporary Cultural Theory* (New York: Bloomsbury Academic, 2013).
35. J. Derrida, *Specters of Marx: the state of the debt, the work of mourning and the new international*, Peggy Kamuf (trans.) Routledge, New York and London 1994), xx.
36. *Ibid*, 11.
37. *Ibid*, xix: "If I am getting ready to speak at length about ghosts, ... it is in the names of justice. Of justice where it is not yet, not yet there, where it is no longer ... No justice... seems possible or thinkable without the principle of some responsibility ... before the ghosts of those who are not yet born or who are already dead...". Cf María del Pilar Blanco and Esther Peeren, "Introduction: Conceptualizing Spectralities." In Blanco and Peeren, eds., *The Spectralities Reader*, 1-28.
38. Clingman, "Rights, Routes, and Refugees," 368.
39. "In 2016, the British people withdrew their consent to be governed – in part – by the European Union. They also withdraw their support for a broken immigration system. We, therefore, have a democratic mandate and imperative to fix it." (Rt Hon Priti Patel MP, 'Home Secretary Priti Patel speech on immigration', *Home Office*, May 24, 2021, <https://www.gov.uk/government/speeches/home-secretary-priti-patel-speech-on-immigration> (accessed May 22, 2023).
40. Corina Stan, "A life without a shoreline: Tropes of refugee literature in Jenny Erpenbeck's *Go, Went, Gone*," *Journal of Postcolonial Writing* 54, no. 6 (2018): 802.
41. Justine Poon, "How a Body becomes a Boat: The Asylum Seeker in Law and Images," *Law & Literature* 30, no. 1 (2018): 105, 109, 110-111.
42. *R v Asfaw* [2008] UKHL 31, para 9. Cf Cathryn Costello, "Article 31 of the 1951 Convention Relating to the Status of Refugees" (UNHRC, 2017) PPLA/2017/01, who summarizes the object of Article 31 as "non-penalization", 5ff.
43. *Convention Relating to the Status of Refugees* (UN, 1951), Article 31(1).
44. Rt Hon Priti Patel MP, "Home Secretary opening speech for Nationality and Borders Bill" (Home Office, July 19, 2021), <https://www.gov.uk/government/speeches/home-secretary-opening-speech-for-nationality-borders-bill> (accessed May 22, 2023), emphasis added.
45. According to Section 12 of NABA, a refugee so categorised can expect to be given leave to remain in order to make an asylum claim without being detained, to have their family join them in the UK, and, if their application is successful, apply successfully for indefinite leave to remain.
46. A 'group 2 refugee' would expect at most short term leave to remain in the UK without recourse to public funds and without a right to bring family members (NABA, s.12(5)), possible prosecution and imprisonment for up to four years for the offence of "knowingly entering", "knowingly arriving" or "knowingly remaining" without leave to do so (s.40(2)) and then deportation – as a foreign "serious criminal" (i.e. convicted of any offence punishable for 12 months or more) and exclusion from the UK asylum system as "inadmissible" (s.38).
47. "Borders Act to overhaul asylum system becomes law" (Home Office, 28 April 2022), <https://www.gov.uk/government/news/borders-act-to-overhaul-asylum-system-becomes-law> (accessed May 22, 2023).
48. Dominic Casciani, "Fewer than 100 migrants arrested for arriving in UK illegally" (BBC News, December 12, 2022), <https://www.bbc.co.uk/>

- news/uk-63938698 (accessed May 22, 2023). The first flight to Rwanda, scheduled for 14 June 2022, was stopped at the last minute after an interim measure by the European Court of Human Rights in *K.N. vs United Kingdom* (app. 28774/22, 14 June 2022) stipulating that the deportation must be paused to allow time for an ongoing judicial review to complete, in order to avoid 'a real risk of irreparable damage'.
49. Nick Timothy and Karl William, "Stopping the Crossings: How Britain can take back control of its immigration and asylum system," *Centre for Policy Studies*, December 5, 2022, [https://cps.org.uk/wp-content/uploads/2022/12/CPS\\_STOPPING\\_THE\\_CROSSINGS-V2.pdf](https://cps.org.uk/wp-content/uploads/2022/12/CPS_STOPPING_THE_CROSSINGS-V2.pdf) (accessed May 22, 2023), emphasis added.
50. Quoted by Andrew Sparrow, "What Sunak said about proposed new law to stop people arriving in UK illegally remaining in country," *Guardian*, December 13, 2022, <https://www.theguardian.com/politics/live/2022/dec/13/rishi-sunak-conservatives-tory-labour-strikes-latest-updates?filterKeyEvents=false&page=with:block-63987b9b8f085e682053ee37#block-63987b9b8f085e682053ee37> (accessed May 22, 2023) (emphasis added).
51. Derrida, *Specters*, 11.
52. Ibid.
53. Again, describing such coincidence as "uncanny" is intended to draw on commonly accepted and understood meaning of the word, rather than to invoke Freud's description of coincidences having an uncanny effect due to unconscious repetition compulsion (Freud, *The Uncanny*).
54. At a speech to the Conservative Party conference in October 2022, Home Secretary Suella Bravaman was reported to have announced: "I would love to have a front page of the *Telegraph* with a plane taking off to Rwanda. That's my dream, it's my obsession." (John Elledge, "Suella Braverman dreams of a flight to Rwanda because it could never come true," *New Statesman*, Oct 5, 2022, <https://www.newstatesman.com/quickfire/2022/10/suella-braverman-immigration-rwanda-flights-dreams> (accessed May 22, 2023).
55. Desmond Manderson, "Force of Wall," *Law & Literature* 33, no. 3 (2021): 365-388.
56. Ibid, 375. In this sense, the appearance of Little Amal conforms to Gordon's description of the ghost, as "just the sign, or the empirical evidence if you like, that tells you a haunting is taking place": Avery F. Gordon, "from Her Shape and His Hand.", in *The Spectralities Reader*, Ed. Blanco and Peeren: 103-130, 107.
57. Shakespeare, *Hamlet*, Act I, scene v.
58. Bernard Stiegler and Jacques Derrida, "Spectrographies," in Blanco and Peeren, *The Spectralities Reader*, 38.
59. Orwell, *Nineteen Eighty-Four*.
60. See Martha C. Nussbaum, "The Death of Pity: Orwell and American Political Life," in *On Nineteen Eighty-Four: Orwell and Our Future*, ed. Abott Gleason, Jack Goldsmith and Martha C. Nussbaum (Princeton, NJ: Princeton University Press 2005): 279.
61. On this 'zero-sum' logic in the context of political rhetoric on migrants and Orwell, see Janice Ho, "Europe, Refugees and Nineteen Eighty-Four," in *The Cambridge Companion to Nineteen Eighty-Four*, ed. Nathan Waddell (Cambridge: Cambridge University Press, 2020): 141.
62. Lyndsey Stonebridge, *Placeless People: Writing, Rights, and Refugees* (Oxford: Oxford University Press, 2018): 89ff.
63. Kanafani, *Men in the Sun*, 74.
64. Ibid, Hilary Kilpatrick, Introduction, 9-15. Kilpatrick notes that, in response to criticism of the story's suggestion that the men would simply expire in silence with no protest, the film adaptation of the novel (*The Deceived*, 1972) changes the ending to show the men loudly banging on the side of the tank (11).
65. Bishupal Limbu, "Illegible Humanity: The Refugee, Human Rights, and the Question of Representation," *Journal of Refugee Studies* 22, no. 3 (2009): 257.
66. Hannah Arendt, *The Origins of Totalitarianism* (London: Allen & Unwin, 1958), 300.

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