



Safety of Rwanda (Asylum and Immigration) Bill

House of Commons – Consideration of Lords amendments

March 2024

Introduction

1. JUSTICE is a cross-party law reform and human rights organisation working to strengthen the justice system. It is the UK section of the International Commission of Jurists. Our vision is of fair, accessible and efficient legal processes in which the individual's rights are protected and which reflect the country's international reputation for upholding and promoting the rule of law.
2. As we have set out [previously](#), JUSTICE has very serious concerns about the Rwanda Bill as it is an attack on independent judicial scrutiny, contrary to the rule of law and in breach of the UK's international legal obligations.
3. In light of these concerns, JUSTICE supports amendments which would ensure there is greater consideration of the factual situation in Rwanda, that domestic courts are able to fulfil their proper constitutional role in compliance with the rule of law, that the UK remains compliant with our international legal obligations and greater Parliamentary oversight.

Amendments

The Supreme Court declared that Rwanda was not a safe country

4. The highest court in the UK recently comprehensively ruled that Rwanda is not a safe place to send people seeking asylum. Its findings have since been updated and reinforced by the recent expert opinion of the [UN High Commissioner for Refugees](#) (UNHCR) and the [House of Lords International Agreements Committee \(IAC\)](#). As JUSTICE and ILPA [submitted in joint evidence to the International Agreements Committee](#), the newly agreed Treaty it is unlikely to be enough to overcome the significant concerns of the Supreme Court, especially over such a short period of time. The [International Agreements Committee concluded](#) that the Treaty was '*unlikely to result in fundamental change in the short term*'.
5. On this basis, we would support the following amendments which would require greater scrutiny of the Government's assertion that Rwanda is a safe country on the basis of the agreed Treaty:
 - a) **Amendments 2 and 3** which state that removals to Rwanda should not take place until the Secretary of State confirms to Parliament that the Rwanda Treaty has been fully implemented. This is important because much of the proposed legal changes in the Treaty, for example the new proposed asylum law in Rwanda have yet to be published.

The rule of law and domestic court oversight

6. The Bill writes into the statute book that Rwanda is *permanently safe* for the purposes of meeting the UK's obligations under the European Convention on Human Rights and the Refugee Convention, among other international conventions. Even if it were true that Rwanda is *currently* a 'safe country' in this sense, and we are not satisfied that it is in light of the Supreme Court's judgment and our concerns about the Treaty, we support amendments that would allow domestic courts to review whether they considered Rwanda to be now a safe country.
7. As set out in our [briefing](#) specifically on Clause 2 of the Bill, independent, judicial scrutiny is at the heart of the UK's constitution and its longstanding commitment to the rule of law. As John Laws said, '*judges must ensure, and have the power to ensure, that State action*

falls within the terms of the relevant published law' (The Constitutional Balance, 2021). At heart of any definition of the rule of law is the notion '*that here every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals*' (A.V. Dicey, Introduction to the Study of Law of the Constitution, 1915).

8. We therefore urge MPs to support the following amendments which would restore the longstanding constitutional role of domestic courts to review the legality of government policy, ensuring the Government is not 'above the law':
 - a) **Amendments 4 and 5** which make the declaration that Rwanda is a safe country rebuttable by credible evidence to the contrary. This would ensure that individuals could put forward evidence to challenge the Government's statutory presumption that Rwanda was a safe country, avoiding for example the perverse situation where Rwanda had to be treated as safe in domestic law even if there was current evidence of refoulement or human rights breaches.
 - b) **Amendment 6** which restores the proper role of domestic courts and tribunals to consider whether Rwanda is a safe country for the individual person or a group of persons to which they belong and whether Rwanda will remove them to another country in breach of its international obligations. It also removes the restrictions on the courts ability to grant interim relief to prevent or delay removal. Interim relief powers are of critical importance to prevent potential serious ill-harm in Rwanda and ensure the UK complies with its international law obligations.

The UK's international law obligations

9. As the Supreme Court noted, the principle of non-refoulement is found in numerous international law agreements the UK is a signatory to including the Refugee Convention, the ECHR, the UN Convention against Torture, the UN International Covenant on Civil and Political Rights and arguably customary international law. By turning the UK's back on the principle of non-refoulement, denying people sent to Rwanda effective remedies for potential and/or actual breaches of their rights, and giving legislative validation to a Minister to ignore interim measures of the European Court of Human Rights, the Bill is abandoning the UK's international obligations and the UK's place on the international stage.

10. Such a cavalier attitude towards international law is as reckless as it is dangerous. Respect for the ECHR is integral to the Good Friday Agreement, which underpins peace in Northern Ireland. More widely, reneging on conventions which the UK played an instrumental role in drafting and to which it freely entered will undermine its ability to champion the rule of law and human rights abroad.
11. On this basis, we would support the following amendments that seek to ensure the Bill is compatible with international law:
 - a) **Amendment 1** which stresses that one of the purposes of the legislation is to maintain full compliance with domestic law and the UK's international law obligations.

Conclusion

12. JUSTICE urges MPs to consider the serious consequences for the rule of law in this country if the Bill is passed unamended. The above amendments would address some of the serious consequences of the Bill being passed into law.
13. If you have any questions about this briefing, or the Bill more generally, please do not hesitate to contact Philip Armitage, Public and Administrative Lawyer at JUSTICE by email - parmitage@justice.org.uk.

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