



Safety of Rwanda (Asylum and Immigration) Bill

House of Commons – Consideration of Lords amendments

April 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 urge MPs to 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 3B and 3C** which provide that Rwanda will only be considered a safe country when the Rwanda Treaty has been fully implemented, as confirmed by a statement from the independent Monitoring Committee (formed under Article 15 of the Treaty). This is important because many of the proposed legal changes in the Treaty have yet to take effect, for example the new asylum law in Rwanda have yet to be passed by the Rwandan Parliament. The Treaty will not be treated as fully implemented if Parliament subsequently decides, on the advice of the Monitoring Committee, that the Treaty provisions are not being followed in practice.
 - b) **Amendment 9**, which the Lords have insisted on, seeks to ensure that victims of modern slavery and human trafficking are protected. It would mean that a person with a positive reasonable grounds decision must not be removed from the UK to Rwanda until a conclusive grounds decision has been made. A person with a positive conclusive grounds decision could not be removed under the Rwanda Treaty without consideration by the Home Office of the potential negative impact on their physical health, mental health or safety in Rwanda, in particular the risk of re-trafficking. Where removal would negatively impact the person, they must not be removed to Rwanda without their consent.

- c) **Amendment 10B** which ensures individuals who have supported UK armed forces abroad or have been employed by the UK Government, and their partners/ dependent family members could not be removed to Rwanda. This includes, but is not limited to, individuals who would be eligible under the various Afghan resettlement schemes. In setting up these schemes, the Government has already accepted that these individuals should be relocated to the UK. However, as JUSTICE set out in a [recent report](#), due to flaws with the schemes, despite having over 100,000 applications, only a small proportion have been able to come to the UK. Since many of these individuals are at risk in Afghanistan, this amendment is an important safeguard to protect those who supported the UK Government but, due to issues with the Afghan schemes, have had to come to the UK by irregular routes.

The rule of law and domestic court oversight

6. The Bill requires domestic courts to ignore the facts on the ground and conclusively treat Rwanda as generally a 'safe country'. Further, 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, the Bill would not allow the domestic courts' to consider any changes in factual circumstances.
7. This is an extraordinary usurpation of the courts' constitutional role of making legal and factual rulings based on available evidence. 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 amendment 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) **Amendment 6B** 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 for '*no longer than strictly necessary for the fair and expeditious determination of the case*'. 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 to which the UK is a signatory, 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 reckless. 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 urge MPs to support the following amendment that emphasises the importance of international law:
 - a) **Amendment 1B** which stresses that one of the purposes of the legislation is to have due regard for 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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