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When Safety Is a Fiction: Passing the UK's Rwanda Bill

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What a stinking story of inhumanity. A country intent on sending asylum seekers to one whose residents have actually applied for asylum and sanctuary in other states. But the UK-Rwanda deal, having stalled and stuttered before various courts and found wanting for reasons of human rights, has become law with the passage of the Safety of Rwanda (Asylum and Immigration) Bill.

The story of this deal has been a long one. On April 14, 2022, the government of Boris Johnson announced the Asylum Partnership Arrangement with Rwanda, which was intended "to contribute to the prevention and combating of illegally facilitated and unlawful cross border migration by establishing a bilateral asylum partnership". Rwanda, for a princely sum, would receive those whose asylum claims would be otherwise processed in the UK through the "Rwanda domestic asylum system" and have the responsibility for settling and protecting applicants.

This cynical effort of deferring human rights obligations and not guarding asylum seekers and refugees from harm has been made all the more hideous by Kigali's less than savoury reputation in the field. Refugees have been shot for protesting over reduced food rations (twelve from the Democratic Republic of Congo died in February 2018). Refugees have also been arrested for allegedly spreading misinformation about Rwanda's less than spotless human rights record. And that's just a smidgen of a significantly blotted copybook.

Notwithstanding this, UK home secretaries have gushed over Kigali's seemingly falsified credentials. Suella Braverman, who formerly occupied the post, was jaw dropping in her claim that "Rwanda has a track record of successfully resettling and integrating people who are refugees or asylum seekers". This is markedly ironic given that the Rwandan government has been accused of creating its own complement of refugees running into the tens of thousands.

The UK government has a patchy legal record in trying to defend the legitimacy of the exchange with Rwanda. The Court of Appeal in June 2023 reversed a lower court decision on the grounds that those asylum seekers sent to Rwanda faced real risks of mistreatment prohibited by Article 3 of the European Convention on Human Rights. Rwanda, it was noted, was "intolerant of dissent; that there are restrictions on the right of peaceful assembly, freedom of the press and freedom of speech; and that political opponents have been detained in unofficial detention centres and have been subjected to torture and Article 3 ill-treatment short of torture."

The government also failed to convince the UK Supreme Court, which similarly found in November 2023 that people removed to Rwanda faced a real risk of being returned to their countries of origin in violation of the principle of non-refoulement. That principle, by which persons are not to be sent to their countries of origin or third countries if they would be placed at risk of harm, is a cardinal rule in several instruments of international law and enshrined in British law.

In what can only be regarded as a legal absurdity, the Safety of Rwanda bill essentially directs the home secretary, immigration officials, courts and tribunals to deem Rwanda a safe country in accordance with UK law and UK obligations to protect asylum seekers. It also bars decision makers from considering the risk of refugees being sent by Rwanda to other countries and disallows UK courts from drawing upon interpretations of international law, including the European Convention of Human Rights. Effectively, a sizeable portion of the UK's own Human Rights Act 1998 has been rendered inconsequential in these determinations.

A final, nasty feature of the legislation is the grant of power to a Minister of the Crown to decide whether to abide by interim measures made by the European Court of Human Rights regarding any removal to Rwanda. This is astonishing on several levels, not least because it repudiates the binding nature of such interim measures.

Michael O'Flaherty, the Council of Europe Commissioner for Human Rights, could barely believe the passage of such an obnoxious bit of legislation. Not only did it fly in the face of obligations to protect refugees, it constituted a direct interference in the judicial process. "The United Kingdom government should refrain from removing people under the Rwanda policy and reverse the Bill's effective infringement of judicial independence."

Shadowing these proceedings is an unmistakable, ghoulish legacy of Australian origin. The former Home Secretary Priti Patel openly acknowledged that elements of the "Australian model" of processing asylum claims in third countries were appealing and something to emulate. The particularly attractive element of the plan was the refusal by Canberra to ever permit those found to be refugees to ever settle on Australian soil. Other countries, including such European states as Denmark, have also chosen Rwanda as an appropriate destination for unwanted asylum seekers.

The entire affair is a stunning example of political entropy, a howl from an administration marching before the firing squad. With each failure, the Tories have tried to claw back respectability in the hope of appearing muscular in the face of irregular migration. They have accordingly cooked up a scheme that is not merely cruel, but one of staggering cost (each asylum seeker of the current cohort promises to cost the British taxpayer £1.8 million) and ineffectualness. Sunak, a laughably weak and unpopular prime minister, is, politically speaking, at death's door. Despite getting the legislation through, legal struggles from

potential deportees are bound to tear into the arrangements. What Britain's judges do will prove a true test of character.

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