

UK plan to deport asylum seekers to Rwanda ruled unlawful by Court of Appeal

Robert Stevens
29 June 2023

In a blow to the Conservative government, the Court of Appeal in London ruled Thursday that its plan to relocate asylum seekers to Rwanda is unlawful.

In a two-to-one majority decision, the ruling by Lord Burnett of Maldon, Sir Geoffrey Vos, and Lord Justice Underhill was handed down following a four-day hearing in April. The Court of Appeal was hearing the case after the High Court had ruled, last December, that the Rwanda policy was lawful. That decision was challenged by 10 asylum-seeker appellants and a charity, Asylum Aid, after the High Court left open the possibility of an appeal.

The court cases stem from the eleventh-hour ruling last June by the European Court of Human Rights to stop a deportation flight to Rwanda, after an appeal was made by asylum seekers. Hailing from Syria, Iraq, Iran, Vietnam, Sudan and Albania, they had arrived in Britain by crossing the English Channel from France in small boats. Central to the government's Illegal Migrants Bill is a policy allowing the deportation of asylum seekers who reach the UK via the Channel to Rwanda and other destinations deemed "safe third countries".

Prime Minister Rishi Sunak has made one of his five policy promises a pledge to "Stop the Boats", appearing at press conferences and other events with the slogan on podiums and backdrops.

The Court of Appeal's response was given in a 161-page judgement. It ruled that "there are substantial grounds for believing that there is a real risk that persons sent to Rwanda will be returned to their home countries where they faced persecution or other inhumane treatment, when, in fact, they have a good claim for asylum".

In their five-page summary judgement, the judges said, "The central issue before the High Court and before the Court of Appeal was whether the asylum system in Rwanda was capable of delivering reliable outcomes. The Appellants' case is that there are substantial grounds for

believing that there is a real risk that any persons sent to Rwanda will be removed to their home country when, in fact, they have a good claim for asylum. Sending them to Rwanda in those circumstances would breach article 3 of the European Convention on Human Rights. In that sense, the appellants submitted that Rwanda is not a 'safe third country'."

The summary judgment states, "That conclusion is founded on the evidence which was before the High Court that Rwanda's system for deciding asylum claims was, in the period up to the conclusion of the Rwanda agreement, inadequate."

While "accepting that the assurances given by the Rwandan government were made in good faith and were intended to address any defects in its asylum processes," the judges believed "that the evidence does not establish that the necessary changes had by then been reliably effected or would have been at the time of the proposed removals. In consequence sending anyone to Rwanda would constitute a breach of article 3 of the European Convention on Human Rights, with which Parliament has required that the Government must comply (Human Rights Act 1998, section 6)."

Lord Burnett dissented and "reached the opposite conclusion," the summary explains. "He agrees that the procedures put in place under the Rwanda agreement and the assurances given by the Rwandan government are sufficient to ensure that there is no real risk that asylum-seekers relocated under the Rwanda policy will be wrongly returned to countries where they face persecution or other inhumane treatment."

The judgement gave the government immediate grounds to appeal, ruling out other grounds on which the appellant's case was founded. These were centred on issues of law relating to the effect of the Refugee Convention, retained EU law, the designation of a country as a safe third country, data protection, and the fairness of

procedures.

Moreover, the summary judgment concluded, “the Court of Appeal makes clear that its decision implies no view whatever about the political merits or otherwise of the Rwanda policy. Those are entirely a matter for the Government, on which the Court has nothing to say. The Court’s concern is only whether the policy complies with the law as laid down by Parliament.”

Teeing up a government appeal, it added, “a deliberately tight timetable has been set for consequential orders and directions, partly so that any application for permission to appeal to the Supreme Court can be decided promptly.”

Sunak responded that his government “fundamentally disagrees” with the decision, would challenge it and would consider an appeal to the Supreme Court. Home Secretary Suella Braverman said she was “determined” to stick with the Rwanda policy. Seizing the opportunity to whip up further hostility to refugees among the Tories’ right-wing constituency, she told a reporter, “We need to change the system, we need to change our laws, that’s how we’re going to stop the boats”. Taxpayers were paying £6 million a day in hotels for asylum seekers, she continued, and the “problem is out of control”.

This far-right sociopath, who said at the Tory Party conference last October that her “dream” and “obsession” was to deport asylum seekers to Rwanda, doubled down on her incendiary language, telling Parliament Thursday that the government had to stop providing hotel accommodation for asylum seekers and putting up people who have “broken into this country”. To do so was “madness” and the government would do “whatever it takes to stop the boats”.

The Tories used the Court of Appeal judgement to justify an appeal to strike it out completely, saying that it “broadly agreed” with the government and found it is “lawful in principle for the government to relocate people who come illegally to a safe third country”. Sunak noted also that it was not a unanimous verdict.

The government is intent on pushing through its reactionary law, as a right-wing media echo chamber churns out non-stop vitriol about the UK being “invaded.” This is the case even though only a few tens of thousands of people attempt to make the hazardous Channel crossing each year. The Tories are proceeding despite the Home Office’s own official economic assessment of the Illegal Migration Bill showing that it would cost £169,000 per person to send an asylum seeker to Rwanda—£63,000 more per person than allowing them to remain in Britain.

The government has until July 6 to lodge an appeal. While it is unlikely to be heard until the autumn, the Tories intend to have their legislation in place, up to and including the UK leaving the European Convention on Human Rights if that is required.

A substantial body of Tory MPs would back such a move, with Sunak declaring, “The policy of this government is very simple: it is this country—and your government—who should decide who comes here, not criminal gangs. And I will do whatever is necessary to make that happen.” Braverman has supported leaving the European Convention on Human Rights. Were the government to win the case at appeal in the Supreme Court, the appellants could take the case to the European Court of Human Rights (ECHR).

Every person on the planet has a right to asylum under international law stretching back decades. The Court of Appeal ruling noted, “The United Nations High Commissioner for Refugees was permitted to make submissions as an interested party and evidence filed on behalf of the UNHCR formed the foundation for much of the Appellants’ case.”

The UNHCR statement released after the Court of Appeal judgement said there were “longstanding and well-known concerns about the ‘externalization’ of asylum obligations” by states seeking to offload their responsibilities to people seeking refugee status to other nations.

None of the parties of the ruling elite have any fundamental differences with the Tories. Labour Shadow Home Secretary Yvette Cooper called for a stricter enforcing of current anti-immigrant legislation, saying, “Time and again, ministers have gone for gimmicks instead of getting a grip, and slogans instead of solutions, while the Tory boats chaos has got worse.”

Party leader Sir Keir Starmer said, “The government hasn’t got a plan. It’s had one gimmick, one headline-grabbing gimmick, Rwanda, which has already cost the taxpayer £140 million without anybody having gone to Rwanda. What the court’s judgment shows is they’ve spent that £140 million of taxpayers’ money without even doing the basics to see whether the scheme was really fit for purpose.”



To contact the WSWs and the
Socialist Equality Party visit:

wsws.org/contact