

# UK Tories promise deportations and other anti-migrant attacks will proceed following Supreme Court ruling against Rwanda policy

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Britain's Conservative government has responded to the Supreme Court ruling against its plan to deport asylum seekers to Rwanda with a sharp lurch to the right.

The court judgment last Wednesday came just days after Prime Minister Rishi Sunak sacked Home Secretary Suella Braverman. Braverman's response letter attacking Sunak on immigration and other policies cements her position as the figurehead of an increasingly fascistic Tory right. But Sunak's own response to the Supreme Court demonstrates that any differences are purely tactical.

Braverman's letter cited alleged agreements reached between her and Sunak to ensure a tightening of anti-immigration legislation. Centred on deporting asylum seekers to Rwanda she claimed these were the conditions on which she agreed to take the home office portfolio. While denying any such agreements were in place, Sunak has defended senior Tories who called for her Rwanda policy to be pursued after the ruling. The government has now indicated that it will push for new legislation to make this possible.

The Supreme Court judgment followed an appeal court challenge to the government's Illegal Migration Act, threatening asylum seekers with homelessness and destitution if they refuse to board unsafe barges or live in tents as they await deportation to Rwanda or other countries.

In a plan first floated under Boris Johnson, an agreement was reached with the Rwandan government to deport refugees to the impoverished African country. Braverman, at the 2022 Tory conference, gave free rein to her fascistic fantasies, calling deportations on flights to Rwanda her "dream" and "obsession."

More than £140 million has already been paid to the Rwandan government for the scheme, begun by Braverman's predecessor Priti Patel. Last-minute legal challenges stopped the first flight on the runway on the basis of Rule 39 of the European Court of Human Rights Rules of Court. Under Rule 39, the Court may intervene and "indicate

interim measures to any State" in cases "when the applicants [in this case the asylum seekers being deported] would otherwise face a real risk of irreversible harm."

The unanimous judgment by the five members of the Supreme Court agreed with the court of appeal that there was a risk of claims being wrongly determined in Rwanda, resulting in *refoulement*—asylum seekers being wrongly returned, either directly or indirectly, to the country they had left where they might face persecution.

Their ruling was based on evidence from the United Nations High Commissioner for Refugees (UNHCR) noting the failures of a secretive "voluntary" scheme of relocation to Rwanda of around 4,000 Eritrean and Sudanese migrants from Israel between 2013 and 2017. On arrival, the migrants were charged up to \$500 to be driven to the Ugandan border, then charged again to be driven out of Rwanda.

"If we lose in the supreme court," Braverman wrote in anticipation, "an outcome that I have consistently argued we must be prepared for, you [Sunak] will have wasted a year and an act of parliament, only to arrive back at square one."

She accused Sunak of having no "credible plan B," having broken his agreement to create clauses in UK law that would have "blocked off" legal challenges under the European Convention on Human Rights (ECHR) and the UK Human Rights Act (HRA).

She described "a document with clear terms that you agreed in October 2022," citing four conditions for her becoming home secretary. The first two were concerned with migration: "Reduce overall migration as set out in the 2019 manifesto..." and "Include specific "notwithstanding clauses" into new legislation to stop the boats, i.e., exclude the operation of the European convention on human rights, Human Rights Act and other international law that had thus far obstructed progress on this issue."

Noting that Sunak had "no personal mandate to be prime minister" following his poor showing in the leadership contest, Braverman took credit for being "a pivotal factor in

winning the leadership contest and thus enabling you to become prime minister.”

Braverman’s repeatedly challenged Sunak’s authority until he was forced reluctantly to sack her. She now wields the twin weapons of her “martyrdom” and the Supreme Court ruling against him. Her ally, Sir John Hayes, announced 24 hours before the judgment that if the court ruled against it, ministers should table a narrow piece of legislation to enact the Rwanda plan, and move to include withdrawal from the ECHR as a Tory manifesto pledge.

Braverman made this argument in a *Daily Telegraph* op-ed, writing, “There is no longer any chance of stopping the boats within the current legal framework.” She insisted, “The entirety of the Human Rights Act and European Convention on Human Rights, and other relevant international obligations, or legislation, including the Refugee Convention, must be disapplied.”

Her other suggestions for “excluding all legal avenues of challenge” included amending the Immigration Act so arrivals are removed more quickly, giving less time for defences to be mounted. She also called for excluding legal challenges to detention on arrival, claiming this would “avoid burdening the courts.” It is a proposal to strip legal and human rights from some of the most vulnerable. Braverman demanded this be fast-tracked through parliament over Christmas.

The New Conservatives faction of the Tories have written to Sunak demanding that new legislation be “over-engineered” to prevent further legal challenges. Along with “disapplying” the HRA, they are calling for the inclusion of the “notwithstanding” clauses to override any international treaties or legislation that could interfere with their plans, and for ministers to have the right to ignore last-minute injunctions that would prevent planes taking off. They insisted that there must be “simply no opportunity for rights-based claims against deportation.”

Tory MPs have been tweeting screenshots of a 2016 *Daily Mail* headline calling judges “Enemies of the People.” Tory deputy chair Lee Anderson said bluntly that the government should ignore the law, “just put the planes in the air” and “send [asylum seekers] back on the same day [they arrive in Britain].”

In line with his own “stop the boats” mantra, Sunak’s office refused to criticise Anderson, with his spokesperson saying, “We appreciate that our MPs have strong views on this because, frankly, the country cares about this.”

Braverman’s replacement as home secretary, James Cleverly, described the “bold and ambitious” Rwanda plan as “just one part of a vehicle of measures to stop the boats and tackle illegal migration.” He appealed to “an appetite for this concept across Europe,” with other governments

pursuing the same policy including Germany.

Chancellor Jeremy Hunt told the BBC’s *Sunday with Laura Kuenssberg* that the government would “do whatever it takes” to ensure the Rwanda deportation flights took off. After the court verdict Hunt had said the government could not guarantee deportation flights to Rwanda before the next election, which must be held by January 2025, but, “We expect planes to be flying to Rwanda in the spring. We will change the law as necessary.”

Sunak’s office said the Supreme Court decision “Crucially... has confirmed that the principle of sending illegal migrants to a safe third country is lawful.” The government’s mistake, Sunak, et al, have concluded, was not passing legislation declaring Rwanda safe before the arrangement was made.

This Kafkaesque legal provision already exists, courtesy of Tony Blair’s Labour government, in Schedule 3 of the 2004 Asylum and Immigration Act. Boris Johnson tweeted an article he had written after the appeal court ruling, noting that Schedule 3 enables government to ask parliament to deem Rwanda safe. “This has not so far been done and it should now be done—immediately,” he wrote. “Yes, of course there would be a row. The House of Lords might well be difficult—but we have been here before. It is time for the Government to settle the legal position.”

The only way of ending “the legal blockade on Rwanda,” Johnson posted on X, “is to do exactly what this piece [Johnson’s own article] proposes—and do it NOW.”

Sunak has already promised to bring forward emergency legislation on that front, saying the “extraordinary step... will ensure that people cannot further delay flights by bringing systemic challenges in our domestic courts and stop our policy being repeatedly blocked.”

Toufique Hossain of Duncan Lewis solicitors, who represented some asylum seekers who brought the legal challenge, declared it “a victory for the rule of law itself... a timely reminder that governments must operate within the law.” The ferocious response of the Tories in proposing to ditch adherence to international law demonstrates that there exists no significant constituency within the ruling class for any such conception. It is of a piece with the enacting of the framework of a police state, via a raft of draconian legislation, in which attacks on refugees and asylum seekers are the spearhead of a broader assault against the entire working class.



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