

TORTURE IN RWANDA

REDRESS Briefing on the Safety of Rwanda (Asylum and Immigration) Bill

December 2023

OUR KEY CONCERNS

There have been consistent reports of torture being used in Rwanda by both the military and the police. The United Nations has concluded that Rwanda does not have in place the necessary safeguards against torture or the structures to respond to it.

1. The UK Government must adhere to its international legal obligations including the absolute prohibition on torture: the Bill (if enacted) will cause these obligations to be breached.
2. The Bill seeks to assert that Rwanda is free of torture and ill-treatment when the evidence does not support this. Such an assertion is not true just because the Government says it is.
3. The Bill sends out a dangerous signal that the UK is willing to circumvent the rule of law, and so undermines the international rules-based order. The UK has historically led the way in establishing the rule of law, and should not now contribute to the threats it faces.

THE ABSOLUTE PROHIBITION ON TORTURE

The prohibition of torture and ill-treatment is guaranteed by the United Kingdom by virtue of customary international law and the ratification of various international and regional human rights instruments, including the Refugee Convention, the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).

The prohibition is absolute and non-derogable, meaning that it cannot be suspended or restricted under any circumstances. These obligations apply at all stages of the asylum-seeking process regardless of a person's citizenship status.

The prohibition incorporates a ban on sending someone to a country where he or she is at risk of torture (*refoulement*), or where there is a possibility that they will be sent on to another third country where such a risk may exist. The absolute prohibition of refoulement to torture is even stronger in UNCAT than in the Refugee Convention, as it means that individuals cannot be returned or expelled to torture even when they might not otherwise qualify for refugee status under the Refugee Convention.

THE BILL

The Bill relies on the following:

- An assertion that international law (including the prohibition on torture) is irrelevant to decisions on these issues - **"...the validity of an Act is unaffected by international law"** (clause 1(4)(b))
- An assertion that torture and ill-treatment does not exist in Rwanda, despite the existence of evidence to the contrary (see below) - **"...every decision-maker must conclusively treat the Republic of Rwanda as a safe country"** (clause 2(1))

TORTURE IN RWANDA

Recent reports confirm that torture persists in Rwanda, along with continued risks of refoulement to third countries. It is clear that Rwanda does not have in place safeguards against torture, or an effective process for responding to allegations of torture.

- In November 2023, the Supreme Court [*R (AAA & others) v Secretary of State for the Home Department* [2023] UKSC 42] pointed out that
 - evidence of human rights violations “raises serious questions as to its compliance with [Rwanda’s] international obligations”, since this has occurred despite the country having ratified many international human rights conventions (para. 76);
 - Rwanda’s previous transfer scheme with Israel in 2015/16 showed clear risks of refoulement (para. 96, see also: Haaretz, [Asylum seekers Deported From Israel to Rwanda Warn Those Remaining: ‘Don’t Come Here’](#), 2 February 2018) and that there was evidence of “past and continuing practice of refoulement” (para. 102) requiring changes of approach and attitudes in asylum procedures (paras. 104-105).
- Human Rights Watch reports on Rwanda (part of their World Reports series) published in [2023](#), [2022](#) and [2021](#) all include examples of torture.
- United States Department of State, [2022 Country Reports on Human Rights Practices: Rwanda](#). Includes reports of torture or cruel, inhuman, or degrading treatment or punishment by government officials.
- United States Department of State, [2022 Trafficking in Persons Report](#). Includes concerns that Rwanda continued operating transit centres detaining vulnerable persons and potential trafficking victims.
- Human Rights Watch, [Rwanda, Jailed Critic Denounces Torture in Prison](#), 13 June 2022. A prominent commentator accuses prison authorities of torturing him and other jailed critics.
- UNHCR, [Analysis of the Legality and Appropriateness of the Transfer of Asylum Seekers under the UK-Rwanda arrangement](#), 8 June 2022. Outlines shortcomings in the Rwandan asylum system, running the risk of refoulement.
- The Home Office’s own [Equality Impact Assessment on the Migration and Economic Development Partnership with Rwanda](#) (9 May 2022) states that homosexuality was only decriminalized in 2010, and that there is evidence of ongoing “victimisation” and “ill-treatment” of LGBTIQ+ people (p10) and those who have undergone gender reassignment (p7).
- At the [UN Human Rights Council’s Universal Periodic Review of Rwanda in January 2021](#), the United Kingdom government criticised Rwanda for “extrajudicial killings, deaths in custody, enforced disappearances and torture” (para. 135.33).
- Human Rights Watch, [Rwanda, A Year On, No Justice for Refugee Killings](#), 23 February 2019. Reports on the Rwandan military shooting dead at least 12 refugees as they protested in front of a UNHCR Office in February 2018.
- UN Committee against Torture, [Concluding Observations on the Second Periodic Report of Rwanda](#), 21 December 2017. The report concludes that Rwanda does not have in

place an adequate framework against torture. Their concerns focus on (a) the inadequacy of the criminal definition of torture in Rwanda; (b) the continued use of unofficial detention; (c) the continued failure to investigate cases of torture in military camps between 2010-2016; (d) the very limited number of convictions in relation to torture (only 6 in the period 2012-2017); (e) the delegation's approach which was that the onus to prove torture should be on the victim (rather than on the State to investigate and prosecute). They also cite reports of forcible expulsion of asylum seekers.

- United Nations OHCHR, Prevention of Torture, [UN human rights body suspends Rwanda visit citing obstructions](#), 20 October 2017. This report records the unprecedented early termination of the visit to Rwanda of the UN Subcommittee for the Prevention of Torture (SPT) in October 2017 due to a series of obstructions imposed by authorities, such as accessing some places of detention, confidentiality of certain interviews and over concerns that some interviewees could face reprisals.
- Human Rights Watch, [We Will Force You to Confess](#), 10 October 2017. This report concludes that Rwanda's military has routinely tortured detainees, and that torture by the military is widespread and systematic.

THE IMPLICATIONS OF THE BILL

Non-refoulement requires a proper assessment of someone's individual circumstances and the situation in their destination country. The combination of the impact of this Bill alongside the Illegal Immigration Act will mean that:

- the UK is unlikely to be able to assess the risks of transferring someone to Rwanda, running the risk of refoulement on the part of the UK government. The new UK-Rwanda Treaty does not require the UK to undertake such a comprehensive assessment before relocation to Rwanda. The Illegal Migration Act detains asylum-seekers, and requires them to challenge removal decisions within 8 days, during which time the vast majority will be unable to access a lawyer or obtain evidence about their own vulnerabilities or the likely impact on them of transfer to Rwanda); and
- refoulement from Rwanda to a third country is very likely if Rwanda's asylum system is not working properly, since the system is unlikely to be able to undertake the required assessment or respect its outcome.

The recently signed [bi-lateral treaty between the UK and Rwanda](#) expresses Rwanda's intention to comply with international obligations, but effectively admits that there is no adequate system at present – for example:

- Rwanda commits to future cooperation with the UK “to agree an effective system” to avoid refoulement (Article 10(3));
- Rwanda commits to establishing an Appeal Body for rejected cases (Annex B, 4.2).

CONCLUSION

The recent examples of torture and ill-treatment in Rwanda cannot be overcome by a simple assertion that it does not exist. Neither can the deficiencies in the present Rwandan asylum system immediately be overcome by the bi-lateral Treaty, which effectively admits that the present system is inadequate.