

# SOAS ICOP Policy Briefings

To Inform Government and Parliamentary Debates



**Safety of Rwanda (Asylum and Immigration) Bill** by *Irena Sabic KC and Grace Capel, Garden Court Chambers* (4<sup>th</sup> March 2024)

In 2023, [the Supreme Court ruled](#) that the Government's policy of removing asylum-seekers arriving in the UK via irregular routes to Rwanda was unlawful because of a real risk that they would be *refouled*, i.e., returned to countries where they may face serious harm. The Safety of Rwanda (Asylum and Immigration) Bill, which is underpinned by a [recently signed treaty with Rwanda](#), is the Government's response to the Supreme Court's judgment. Its aim is to insulate the policy from any meaningful legal challenge or oversight despite the Supreme Court's factual finding that Rwanda is not safe:

- **Decision-makers are required to “conclusively treat the Republic of Rwanda as a safe country”.** This irrebuttable presumption is premised on Rwanda's compliance with the Treaty – but this cannot be assumed. That is because the [risk of refoulement identified by the Supreme Court](#) arose not only from deficiencies in asylum decision-making procedure and practice ([which UNHCR says has not yet been resolved](#)) but also from Rwanda's breaches of treaty obligations and human rights commitments.
- **The Bill expressly excludes any challenge to removal to Rwanda based on general safety concerns, including a risk of refoulement.** The Courts must treat Rwanda as a safe country, whatever the evidence placed before them, even if new facts come to light. This exposes asylum-seekers to a risk of serious harm and undermines the UK's compliance with human rights obligations and other international obligations on non-refoulement.
- **[The Bill undermines the rule of law by usurping the role of the domestic courts](#) as the proper forum for determining the factual question of safety of Rwanda in the context of challenges to the application of the policy.** It contains extraordinary 'notwithstanding' clauses, which disapply parts of the Human Rights Act 1998 and override domestic and international law. It imposes unjustified restrictions on granting domestic interim remedies and requires courts to ignore interim measures of the European Court of Human Rights (ECtHR).

**Peers are encouraged to lend their support to amendments which:**

- **Restore the proper constitutional role of the courts and maintain independent judicial oversight which is fundamental to the rule of law and access to justice.**
- **Uphold the UK's human rights obligations and other international obligations, including those relating to non-refoulement.**
- **Ensure the availability of effective remedies, including interim remedies.**
- **Protect most vulnerable groups, such as victims of trafficking and unaccompanied children.**

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