

Assessment as Information-Sharing: Student-ed Education on Refugee Protection

THE UK'S RWANDA PLAN: WHY WAS IT CANCELLED?

A quick guide on the UK's former policy to send asylum seekers to Rwanda and its cancellation.

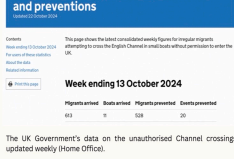
BACKGROUND

In 2022, the UK (Boris Johnson's government) entered into the Migration and Economic Development Partnership (MEDP) with Rwanda to tackle the issue of rising unauthorised English Channel crossings into the UK, which reached 12,477 people by June 2024 (BBC). The Rwanda Plan (the policy) proposed sending certain asylum seekers arriving in the UK to Rwanda, where they would process their claims and, if successful, remain there permanently. As a result, they will not be allowed to return to the UK (Gover 2).



The UK Supreme Court ("UKSC") has held in R (AA and others) v Secretary of State for the Home Department [2024] UKSC 42 that the government's policy of sending certain people claiming asylum in the UK to Rwanda for their claims to be considered by the Rwandan authorities was unlawful. Subsequently, the Court of Appeal ruled the approach unlawful due to inadequate human rights safeguards in Rwanda (explained below). The policy was cancelled in July 2024 following the 2024 UK General Election (Gover 2).

Weekly summary of small boat arrivals and preventions



The UK Government's data on the unauthorised Channel crossings, updated weekly (Home Office).

EXTERNALIZATION OF ASYLUM SEEKERS

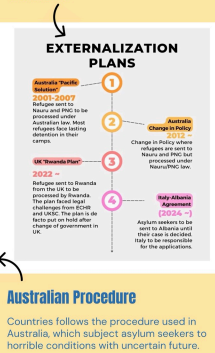
TIMELINE

Asylum Seeker Arriving Australia by Boat



Externalization Trend

Externalization of Asylum Seekers has been an ongoing international trend. Australia pioneered the plan and other countries followed suit.



Australian Procedure

Countries follow the procedure used in Australia, which subject asylum seekers to hostile conditions with uncertain future.

BREACH OF INTERNATIONAL LAW

Western Countries including Australia and the UK have signed on these legal obligations, which would be breached with externalization of refugees.

- NON-REFOULEMENT:** Principle enshrined in Refugee Convention, Convention Against Torture (CAT), Convention of Rights of Child (CRC), ICCPR, Direct Refoulement - Asylum seekers are sent to third countries that they may be persecuted/tortured. Constructive Refoulement - Facing asylum seekers to go back home with horrible conditions in camps.
- BAN ON TORTURE:** Torture is banned in CAT, ICCPR, and European Convention of Human Rights (ECHR). Inhumane conditions in detention camps amount to torture since it is suffering inflicted based on illegal entry of asylum seekers to the destination country.
- ARBITRARY DETENTION:** Arbitrary detention is not allowed without a valid reason or criminal conviction. Most asylum seekers in detention have uncertain future as decision takes a very long time, amounting to arbitrary and long-term detention.
- RIGHT OF CHILDREN:** CRC mandates that children should not be separated with parents unless it's for their best interest. Children are sometimes separated for logistics purposes to various externalization destinations and have little chance for family reunion.
- JURISDICTION:** Both the original country and the host country are responsible for the refugees. CRC and ICCPR both have provision for anyone under the jurisdiction of a country shall be responsibility of that country. The original country usually controls the running of the camps, so that the asylum seekers are under their control and hence are their responsibility.

These international legal obligations should be fulfilled without reservations, cancelling externalization schemes would be the only way for compliance.

THE ROLE OF THE UNHCR

The 1951 Convention relating to the Status of Refugees ("1951 Convention") expresses that asylum seekers must be protected in the country in which they arrive and cannot be forcibly sent to unsafe places. Rwanda has a proven track record of being unsafe for refugees.

CANCELLATION: UK SUPREME COURT JUDGMENT

The UKSC found that there are substantial grounds for believing that the asylum seekers would face a real risk of ill-treatment and potentially face refoulement to their country of origin if they were sent to Rwanda, and below outlines the major factors that led to the cancellation of the policy.

The Supreme Court's judgment focuses primarily on the grounds of appeal concerning:

- 1. Refoulement:** The principle of non-refoulement provides crucial protection for asylum seekers through several international treaties that the UK has ratified. Refoulement is enshrined in Article 33(1) of the 1951 Convention and its 1967 Protocol, in addition to Article 3 of the European Convention on Human Rights (ECHR). Both the UK and Rwanda are signatories to the 1951 Refugee Convention, which guarantees that asylum seekers cannot be returned to countries where they may face persecution (191-26).
- 2. Retained EU law:** The Court of Appeal dismissed the claim that the Rwanda Plan conflicts with EU law, specifically the Procedures Directive from December 2005. This directive states that asylum seekers can only be sent to a safe third country if they have a connection to said country. In this case, none of the asylum seekers had any connection to Rwanda.

Assessment of Rwanda's history of dealing with refugees (144-149) of UKSC judgment:

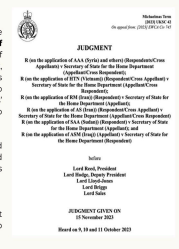
- Evidence that Rwanda had failed to abide by assurances that it had given to the government of Israel under an agreement for the removal of asylum seekers from Israel to Rwanda.
- The UNHCR has evidence of Rwanda's history of refusing incoming refugees in its asylum system. It was concluded that Rwanda could not be relied upon to comply with its obligations under the 1951 Convention.

WIDER IMPLICATIONS

On a global level, the UN had deep concerns about how the Rwanda Plan could undermine the foundations of international refugee protection and human rights if implemented, the policy could set a dangerous precedent, potentially triggering a domino effect where wealthy nations attempt to outsource their moral and legal obligations to protect refugees. This 'externalisation' of states' responsibilities and international obligations threatens to erode the global refugee protection system.

On a UK level, the plan has sparked a constitutional crisis and raises alarming questions about the separation of powers and the rule of law - cornerstone principles of a democracy such as the UK.

Further reflections: In a world facing unprecedented levels of displacement, what are better options for states to uphold their commitments to human rights and shared responsibility?



Course: International Protection of Refugees & Displaced Persons

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CAN CONSCIENTIOUS OBJECTORS IN KOREA CLAIM REFUGEE STATUS?

Hwang Junhyuk

BRIEF HISTORY OF KOREA

- Mandatory conscription since the Korean War in 1950 - Arranged in 1953, but Korea is still officially in a state of war.
- Article 1 of the Military Service Act (MSA) "Every male Korean citizen of 20 or 21 shall perform mandatory military service."
- Article 89 of MSA "Any citizen, who fails to enter in the military... shall be punished by imprisonment with labor for not more than three years."

WHO HAS TO GO TO THE MILITARY?

- Article 1 of the Korea Constitution "All citizens shall have the duty of national defence."
- Article 3 of the Military Service Act (MSA) "Every male Korean citizen of 20 or 21 shall perform mandatory military service."

BRIEF INTRO OF YEOO LEE'S CASE

YeoOo Lee, born in 1996, was 21 years old in 2017 when he chose to seek asylum in France.

YeoOo Lee, who is a conscientious objector, was arrested in 2017 in France. He is currently in custody in a detention center. He is not a citizen of South Korea, but he is a citizen of South Korea.

CONSCIENTIOUS OBJECTION?

- One who is opposed to serving in the armed forces...
- Not to be confused with religious or political beliefs.
- To analyse if conscientious objection in South Korea can claim refugee status.

BT'S Sensitive Migration Choice

Has history a special connection from military service since the BT's having public opinion turn against them at home in South Korea.

SUCCESSFUL REFUGEE CLAIMS

A few religious claims were successful for conscientious objection from South Korea.

IMMIGRATION AND REFUGEE BOARD OF CANADA

- Based of Approval: The conservative nature of Korean society and the subsequent preservation of social norms.
- The legal protection is guaranteed to object?

THE NEXUS

Nexus: Social group

Persecution: Sexual orientation, Military service was mandatory.

Particular Objectives: Nexus, Religion, Nationality

Subjective fear? Expressed hatred of military (but wishes to return to Korea)

Objective fear? The Vietnam War occurred half a century ago, and during the Iraq War, the Korean Army did not carry weapons; they primarily drew trucks and required water pipes.

Future fear? In 2007, the government announced policies to allow alternative military service for conscientious objectors.

EXPLAIN THE LAW

Korean Law

- Korean Constitution's International law
- Article 4 "Conventionally recognized rules of international law shall have the force of law within the domestic law."
- Article 60 "The National Assembly has the right to consent and disapprove the conclusion and modification of treaties pertaining to important international organizations."

International Law

- International Covenant on Civil and Political Rights (ICCPR) - Article 18 "Everyone shall have the right to freedom of thought, conscience and religion..."
- UNHCR issued 4 warnings: Mandatory conscription without alternate service is a violation of ICCPR Article 18(2).

Potential Political Influence

- BQ was known for his radical political opinions, particularly extolling North Korea, which he described as a "model of development."

- President of Franco-Korea (North) Friendship Association

- He rejected the Korean military, viewing it as ineffective and obsolete, and argued that North Korea's governance and development should be examined.

Arrested in 2018 on suspicion of passing confidential information to North Korea. Lost his job in the Senat for advocating NK

- YeoOo received assistance with his refugee claim from the NGO of which BQ was the president

- YeoOo started public alliance activities with BQ after his successful refugee claims

- Encouraged Unpop ideas of lowering military budget to support the world

Never openly voiced his beliefs in Korea

- YeoOo's claim was successful after 17 months which is unusually fast

- YeoOo openly encouraged people to object to the military and seek refugee status

- BQ: people applied after YeoOo, but NCIS succeeded

Is it a mere Coincidence?

Timeline: 1. YeoOo's claim, 2. BQ's arrest, 3. YeoOo's public alliance, 4. BQ's advocacy, 5. YeoOo's success, 6. BQ's influence.

Political Scheme?

WHEN CAN GOVERNMENT TRUMP INDIVIDUAL RIGHTS?

IS IT A PERSECUTION OR A CONVENIENT ESCAPE OF PROSECUTION?

REFUGEES AND ASYLUM-SEEKERS: NON-REFOULEMENT CLAIMANTS IN HONG KONG

ROLES OF MEDIA

1. INFORMATION DISTRIBUTION
2. OPINION FRAMING
3. AGENDA SETTING

BALANCED/ POSITIVE COVERAGE

NEGATIVE COVERAGE

THE ROLE OF MEDIA

- Media from Chinese news
- Use of negative language (e.g. take refugees to social security, kidnapping)
- Threats to social security
- Societal burden
- Consistent stigmatization
- Dehumanization
- Stigmatization

CHALLENGE EFFECT

Reduced reporting about marginalized communities, including refugees and asylum-seekers since the implementation of the National Security Law.

SIGNIFICANCE OF MEDIA'S INFLUENCE

SELF-FILTERING & SELECTIVE EXPOSURE

Frame issues in a more visceral and moralistic way.

INTERRELATED

OTHER FACTORS

- SCHOOL EDUCATION
- LAGK OF KNOWLEDGE
- CRG-CREATING CULTURAL BIASES AND STEREOTYPES
- GOVERNMENT POLICIES
- NO COMMUNITY ENGAGEMENT

REFUGEES AND ASYLUM-SEEKERS: NON-REFOULEMENT CLAIMANTS IN HONG KONG

DIRECT EFFECT

- MSA signatory to the 1951 UN Refugee Convention and its 1967 Protocol
- Does not conduct refugee status determination
- Practices the United States Screening Mechanism (USM) since 2014 for non-refugee claimants
- USM processes claims on the basis that removing claimants to another country would expose them to risks of torture or cruel, inhuman or degrading treatment or punishment and persecution
- Very low substantiation rate ~5%

WHAT HAS THE GOVERNMENT DONE?

GOVERNMENT SUPPORT

- Monthly:
 - Supplemental voucher \$1200
 - Rental allowance \$1000
 - Utilities \$300
- Transportation allowance \$200 to \$400

SOCIAL INTEGRATION

- NO CAS INVOLED
- AYOJ PLACING IN "BAGNET"
- NO INCENTIVE TO ATTRACT MORE CLAIMANTS

SOCIAL EXCLUSION

- Individuals with a record have earned social non-refugee claimants
- No legal status regardless of the result of USM
- Limited social interaction and contribution
- Psychological distress
- Sense of helplessness

INDIRECT EFFECT

NEGATIVE PUBLIC COVERAGE

- Foster negative public opinion
- Influence legislative action
- As a reference point for policymakers

WHAT CAN WE DO?

HONG KONG AS AN INCLUSIVE AND DIVERSE SOCIETY

- Gain our own understanding of the issue
- Maintain a critical attitude
- Show compassion and understanding
- Support and empower the real refugees and asylum-seekers
- Engage in NGO Initiatives

THE ROOT CAUSE

- The main aim of the USM is to screen for potential economic and security concerns
- Government support: exclusionary in nature and not aimed at promoting integration
- Not aiming to promote integration

MAKE GOOD USE OF THE MEDIA

- Recognize the influence of media on framing our perceptions
- Combat misinformation
- Promote social cohesion

Human Rights Violation Crisis In Nauru Island

Access to Newby's rights is being controlled while many living persons with a connection to Nauru. Australian Law, service providers and other who work on the island have been charged with their disclosure information about conditions for human beings. Accessing to independent external news is being blocked by the Australian government.

On the Island.

- The island is a small, remote island in the Pacific Ocean.
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The case of Abram

Abram is a 30-year-old man who was born in Nauru. He has been living in Nauru since he was a child. He has been living in Nauru since he was a child.

Child Abuse Incidents on Nauru

233, 33, 128

Sanctuary and Self-Harm, the Mental Health Crisis

62% of refugees on Nauru suffered from depression to some extent.

30% of refugees on Nauru attempted suicide.

Moral/Ethical Issues Involved

CONSEQUENTIALISM

refers to the idea that the right or wrong of an action depends on the consequences of an act, and that the more good consequences are produced, the better the act. In the context of Nauru Island...

OUTWEIGHS

- Violation of human rights
- Sanction against self-harm
- Assault against children and sexual assault incidents
- Breach of international law

LEGAL POSITIVISM

- ARGUES THAT WHETHER SOME NORM IS "LAW" IS SEPARATE FROM THE QUESTION OF THE MERITS OF THAT NORM OR SYSTEM
- NO NECESSARY CONNECTION BETWEEN LAW AND MORALITY

ETHICS

- THAT WHICH FULFILLS LEGAL VALIDITY WITHIN THE "LAW"
- MORALITY IS BASED ON HUMAN NATURE AND NOT KNOWN IN NATURAL BORN
- THAT WHICH FULFILLS LEGAL VALIDITY WITHIN THE "LAW"
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NATURAL LAW THEORY

- THAT WHICH FULFILLS LEGAL VALIDITY WITHIN THE "LAW"
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IN THE CONTEXT OF NAURU ISLAND

- LEGAL POSITIVISTS WOULD ARGUE THAT THE MIGRATION DEFERENCE CASES OF NAURU ISLAND ARE SEPARATE FROM THE HUMAN RIGHTS CASES AND THE EFFECTIVENESS OF THE ISLAND AS A PROCESSING CENTER
- HONORING THIS CONTRIBUTES TO SOCIAL RECOGNITION FROM THE AGENCY IN CHARGE OF DETAINING REFUGEE IN NAURU
- IT ALSO ENTAILS THE LACK OF TRANSPARENCY AND ACCOUNTABILITY BY THE AUSTRALIAN GOVERNMENT

THE SOLUTION TO NAURU ISLAND

Australian Government to end its policy of offshore processing and the endorsement of such centers internationally, recognize that it is unwise to use the land and pursue an end to refugee resettlement solutions.

Recognize individuals' right to seek refuge from persecution no matter their mode of arrival, and treat them humanely through asylum procedures.