



HOUSES OF PARLIAMENT

## Joint Committee on Human Rights

Oral evidence: [The UK-Rwanda Migration and Economic Development Partnership and Human Rights](#), HC 293

Wednesday 8 June 2022

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Members present: Ms Harriet Harman MP (Chair); Joanna Cherry MP; Lord Dubs; Lord Henley; Baroness Ludford; Baroness Massey of Darwen; Dean Russell MP; David Simmonds MP; Lord Singh of Wimbledon.

Questions 1 - 10

### Witnesses

[I](#): Dr Hazel Cameron, Academic Researcher, Pearl International Insights; Stephanie Harrison QC, Barrister, Garden Court Chambers; Colin Yeo, Barrister, Garden Court Chambers.

## Examination of witnesses

Dr Hazel Cameron, Colin Yeo and Stephanie Harrison.

**Q1 Chair:** Welcome to this afternoon's session of the Joint Committee on Human Rights. We are a committee of half Members of the House of Lords and half Members of the House of Commons and we look at things with a specific concern about human rights. The subject of this afternoon's evidence session is the UK-Rwanda agreement for dealing with those who come to the UK illegally and are then under this agreement transferred to Rwanda.

We are very grateful to our witnesses, our expert witnesses, both practitioners in the law and an academic. They are, first, Stephanie Harrison, who is a barrister at Garden Court Chambers and has a great deal of experience dealing with complex immigration and asylum claims. Stephanie is joining us virtually. Thank you very much indeed for bringing your expertise to the committee. We have Dr Hazel Cameron, who is the CEO of Pearl International Insights, which is an academic consultancy. She is also an honorary senior research fellow at the University of Stirling and a visiting scholar at Queen Mary University of London. Thank you, Hazel, for coming to give your evidence to us virtually. We are also joined in person by Colin Yeo who is a barrister at Garden Court Chambers and a specialist in immigration.

Perhaps I can start by setting the scene—or asking you to say, Colin, whether or not I am setting the scene correctly.

What we are talking about here is an agreement between the UK Government and Rwanda. It has not been the subject of legislation, either primary or secondary legislation. It has been discussed and debated in Parliament, including being scrutinised by the Home Affairs Committee, but it is executive action. It is not a new law passed. It is executive action taken by the UK Government pursuant to existing laws.

I think people are familiar with what they understand the situation in relation to Australia is. Australia sent those who were trying to enter Australia illegally to Nauru or to an island off Papua New Guinea in order to have their Australian asylum applications processed. We all heard about that, but I think this is different—is it not?—because here people who are arriving supposedly illegally are transferred to Rwanda and then become part of the Rwanda asylum system. They are no longer part of the UK asylum system and, when they apply for asylum, it is under the Rwandan system and they are applying for asylum in Rwanda. They are no longer anything to do with the UK asylum system. Is that the correct picture that I have set out there?

**Colin Yeo:** Yes, that is my understanding. They will have the option to apply for asylum in Rwanda, but they do not have to.

**Chair:** They will not have the option to apply for asylum in the UK? Okay. Perhaps I can start by asking you, Colin, which are the specific human rights that might be at issue for an asylum seeker under this agreement? Does it involve human rights and which human rights are at issue?

**Colin Yeo:** Yes, it does involve human rights, but it would involve human rights in respect of what will happen to them in Rwanda rather than what would happen to them in the country of origin that they fled from. Maybe that is self-evident, but it may be worth stating.

They would have to argue that there would be a breach of their human rights either in the process of being removed to Rwanda or after their removal to Rwanda. The main human right on which people would rely, I would anticipate, would be Article 3 of the European Convention on Human Rights, which is the right to freedom from torture or inhuman or degrading treatment or punishment.

**Chair:** You mentioned human rights engaged in relation to the process of their removal. Which rights would that engage?

**Colin Yeo:** There is a line of cases suggesting that, where you are seriously ill already and the flight would make you worse, or whether there is a suicide risk, for example, because you are in such a state that there is an enhanced risk of suicide during the flight or immediately after the flight, something like that could also be engaged. There could be a breach of human rights in the process of your removal.

**Chair:** What about the right to family life? Would that be engaged in the process?

**Colin Yeo:** In theory, yes. Any person who is facing removal from the UK can argue Article 8, but, as I understand it, the people who are being targeted under this scheme would be people who have arrived relatively recently. I would imagine—it is impossible to know without having a specific case in front of me; it is very hard to generalise in this kind of situation but I would anticipate—that most of the people who seem to be being targeted by the Home Office for this would not have already established Article 8 rights of private life or family life in the UK.

**Chair:** They might not have those rights by virtue of having established them during the time they were here, but might they not have family here and argue that they want to enjoy their Article 8 right to family life by virtue of not being removed to Rwanda?

**Colin Yeo:** If, for example, we were talking about a child who had family here in the UK, that might be a very good argument, but most of them will have arrived relatively recently. They will not have strong family links in the UK, according to what I am reading about the people who have been targeted. One of the difficulties in talking about this scheme is that there is a lot that we do not know about who is being picked on here for removal. For example, the memorandum of understanding applies to all asylum seekers who arrive in the UK, but, as I understand it, only a very narrow class of those people is being targeted by the Home Office for removal.

One of the issues that is raised by that is, if you have a very large class of people to whom a law or an agreement or whatever applies but you

only select a handful of them for targeting, there is an obvious risk of discrimination there.

**Chair:** Thank you. Stephanie, would have anything to add to that, about which human rights might be vulnerable under this scheme?

**Stephanie Harrison:** Before we get into the detail of the substantive rights that are engaged and which you have discussed, I want to start from the premise that a fundamental right—and one guaranteed since 1948 by the Universal Declaration of Human Rights—is the right to seek and to enjoy asylum. You observed at the outset that this is different from the Australian model, where Australia was processing the claim in a particular territory but it still remained the obligation of the Australians to determine the claim and to provide protection for those who were entitled to it. This is a fundamentally different scheme.

I think we have to start from the premise, when we are looking at international law obligations, of the significance of the fact that the United Kingdom is effectively offloading to another country its international law obligation to offer asylum to those who make it to the shores of the UK and claim it. In my view, that is a significant inroad in what was perhaps the most important human rights statement following fascism and the Second World War.

Article 14 of the 1948 Universal Declaration of Human Rights made the declaration that any person who is not able to enjoy minimum core fundamental rights in their own state will be provided with those rights in another country in which they make a claim—so I think we should not start off from anything other than recognising that this is a very substantial departure from a core aspect of the universality of fundamental rights and the UK's commitment to ensuring that those rights are provided by the United Kingdom and not offloaded to a third state. That would be my general proposition.

We can all think of historical examples of why it was so important to provide in international law the right not only to seek asylum but to enjoy it because of the images of boats being turned back from harbours filled with Jewish refugees who then went back into the death camps in Germany, all of whom would have travelled overland and would have had an opportunity to escape physically from persecution but sought asylum elsewhere and were, nevertheless, turned back. So we should not underestimate the gravity of what this administrative arrangement with another state means in terms of our commitment to international human rights law.

The specific additional rights that I think are in play are, first, the core right under the refugee convention for non-refoulement because we do not know—and we only have a paper guarantee—that Rwanda will in fact properly apply the refugee convention accurately and in accordance with its international obligations and its interpretation. That proved quite a difficult challenge even for member states of the European Union to get right and required harmonisation of the criteria and procedures. Of

course, we have no such harmonisation or common criteria with Rwanda, which has no established jurisprudence on the convention. We are pretty much in the dark as to what its procedural protections are going to be, although there is some very basic reference to it in the MoU.

In my view, the core issue will be the central actual protection in the refugee convention of whether refugees who are entitled to that status will in fact be provided with it by Rwanda, and the UK's act of removal to Rwanda can engage its own obligations through indirect refoulement to persecution.

**Chair:** Do the UK's human rights obligations end once it has taken the action, as the UK state, to transfer somebody to Rwanda? Can a state wash its hands of its human rights obligations by sending somebody to another country?

**Stephanie Harrison:** In principle, no, they do not, because it has been long established in a case before the European Convention on Human Rights that indirect refoulement—if the state is responsible for sending a person to another country and that country then does not properly comply with the obligations, whether it is under the refugee or human rights conventions, and sends the person on to the state where they are at risk of harm, that will be the responsibility of the first state. That would be the responsibility of the United Kingdom. That is well established, going back to the 1980s.

**Chair:** Thank you very much. That is very clear.

Q2 **Lord Singh of Wimbledon:** I am a Cross Bench Member of the House of Lords. Perhaps I can address this to Colin Yeo in the first instance. The Home Office has made clear that the UK-Rwanda agreement is aimed at asylum seekers who arrive in this country illegally. Which asylum seekers fall into this category, and how can an asylum seeker come to this country legally?

**Colin Yeo:** That is a very important question. The word "illegal" in this context is, I think, a slightly difficult one, because I think that is the word that is commonly used for asylum seekers who are crossing the Channel, but a very lawyerly answer would be to say that it is not illegal because they are protected from prosecution—but I think what we mean by "illegal" is essentially "unauthorised".

To go back to what I said previously, it is important to understand that the agreement is not limited to those who arrive unlawfully or in an unauthorised manner. It is any asylum seeker, which is defined as a person who is seeking refuge in the United Kingdom.

We are talking about 35,000 or so people a year. The numbers change year on year. The Home Office is selecting a small group of them for removal. The Home Office has said it is targeting people who arrive by dangerous and illegal journeys. That is the language that the Home Office uses. The Home Office has not published the formal documents that set out the criteria. We are having to read a little bit in between the lines.

That is the phrase that is used in the equality impact assessment. It is a phrase that is used in the information leaflets that are being handed out to people who are being told that they might be at risk of being removed to Rwanda. We think that that is the main criterion that is being used by the Home Office, but it would be a lot more helpful if the Home Office was clearer and more transparent about what the criteria are.

**Chair:** Can I cut in and ask something because I do not want to have misunderstood? Are you saying that the agreement does not limit it to those who have entered illegally—

**Colin Yeo:** No.

**Chair:** —but that it applies only to those who are applying for asylum?

**Colin Yeo:** Exactly. If we look at the memorandum agreement itself, it applies to any asylum seeker. An asylum seeker is a defined term under the agreement and it is basically anybody who is seeking protection in the United Kingdom.

**Chair:** Anybody who is seeking asylum could, according to the agreement, end up being in Rwanda, and we are subsequently talking about what the Government say about how they will operate that but, within the terms of the agreement, they have the ability to send any asylum seeker there, even if they have not entered illegally.

**Colin Yeo:** Exactly. We have seen a number of public statements at different times about who will or will not be targeted. This dangerous and illegal journey criteria is one of them. We have also seen it said at times that Ukrainians will not be targeted for removal.

**Chair:** That is not in the agreement.

**Colin Yeo:** That is not in the agreement, no.

**Chair:** No, “Ukrainians” is not in the agreement. “Dangerous and illegal” is not in the agreement?

**Colin Yeo:** No. I think it was said at one point that women and children would not be targeted for removal. But, again, it applies to them just as it applies to others.

**Lord Singh of Wimbledon:** Yesterday in the Lords, the Minister gave a categorical assurance that asylum seekers from Ukraine will not be sent to Rwanda. Does that not suggest a two-tier system?

**Colin Yeo:** It absolutely does. The UK’s position seems to be that some refugees of some nationalities can benefit from uncapped visa schemes to come to the UK, but some refugees of other nationalities will be removed to Rwanda in order to deter them from coming in the first place.

**Lord Singh of Wimbledon:** That goes against the European Convention on Human Rights, where there is a right not to be discriminated against.

**Colin Yeo:** There is a very strong legal argument that that is the case, and there is also a non-discrimination article in the refugee convention itself as well, at Article 3 of the refugee convention.

**Lord Singh of Wimbledon:** Thank you. Stephanie, would you like to comment further?

**Stephanie Harrison:** The only thing I would like to add about that is that it is important to be precise about who is an illegal entrant, because the law is clear that any person, even if they have travelled through unauthorised means, if they claim asylum at the point of arrival, they are not illegally present and they are not illegal entrants. They have to physically enter the country in order to meet that. Therefore, any person, even if they travelled in a small boat, if they were intercepted and claimed asylum or were stopped at the port, or travelled by lorry and were stopped at the port and did not enter, is not illegally in the United Kingdom and does not commit the offence of illegal entry. It is very important to make sure that that distinction is made—although, in my view, the distinction itself is not a valid basis on which to determine how to treat so fundamentally different—

**Chair:** It sounds like that distinction is not in the agreement, anyway. That is an important distinction. However, it is not germane to this agreement. It is not in the agreement; it is any asylum seeker.

**Stephanie Harrison:** Yes, that is true.

**Chair:** So the Government do not have to go as far as proving that somebody is here illegally, because they just have to prove they are an asylum seeker.

**Stephanie Harrison:** Yes, those phrases are being used as a means of objectifying or discrediting people who are seeking asylum, and there is an important distinction in the law. In any event, how you travel to the United Kingdom is usually and generally irrelevant to whether you have a valid and meritorious claim because, as we know, the vast majority of people will be forced to use unsafe and unauthorised means to leave their country of origin—and until they do so, they cannot even claim asylum.

**Lord Singh of Wimbledon:** Hazel, would you like to say anything further on this topic?

**Dr Hazel Cameron:** Yes, I have my preparation for the questions with regards to human rights conditions in Rwanda.

**Chair:** Shall we get to that a bit later?

**Dr Hazel Cameron:** Okay.

Q3 **Lord Dubs:** What ability, if any, do individuals have to challenge their relocation to Rwanda while they are in the UK, and does this not engage the right to a fair hearing? Hazel, would you like to start with that one?

**Chair:** Shall we ask Stephanie and Colin from the legal side?

**Dr Hazel Cameron:** I am not a lawyer, so I am not qualified to answer those questions.

**Chair:** Let us start with Colin and then go to Stephanie on that. We are going to hear from Hazel about what is the anticipation of what the circumstances will be for those who are removed to Rwanda with your great expertise, Hazel, on that country and its systems.

**Colin Yeo:** The people we are talking about, we are referring to them as “asylum seekers”. Another way to refer to them, frankly, is “refugees”. According to the latest Home Office statistics, 75% of asylum decisions are positive at the moment, which is something that a lot of people do not appreciate, and then a further half of the people who appeal ultimately win their cases on appeal. So it is actually higher than 75% of people who are winning their asylum cases, and it is even higher than that for people of some nationalities, for example, with Syrians and others.

These are the people who, according to the press, are receiving these notices of removal. So we are talking about the removal of genuine refugees. They do not have a right of appeal in the United Kingdom; however, they can bring a legal challenge by way of an application for judicial review. That undoubtedly is a fair hearing, in a broad sense. But what really matters from a lawyer’s point of view, if instructed by one of these people, “I do not want to go to Rwanda. It is really dangerous. It will breach my human rights”, or something like that, is: what are the legal hooks from which to hang a case? What is the domestic law that would be used in order to bring a challenge? It is a very difficult question to answer at the moment, because the Home Office is being very unclear about what legal powers it is using to conduct the removals of the initial flight, which we are told is going to be on 14 June. That is before the commencement of the Nationality and Borders Act 2022.

That was a much-vaunted piece of legislation. It was pushed through Parliament so that the Rwanda deal could be realised in reality, although it does not commence until two weeks later, on 28 June. It looks like the Home Office is using existing powers to conduct these removals, and my colleagues and myself have been looking through the various Acts of Parliament to try to work out how the Home Office thinks it is lawful to do this, and look at how a challenge might be run, if we are instructed.

**Lord Dubs:** Stephanie, would you like to add anything to that?

**Stephanie Harrison:** Colin is correct that there are existing provisions within the legislation that would allow for removal if the Secretary of State certifies any human rights claim is clearly unfounded. Currently, that is—

**Chair:** Sorry, you were just a little bit indistinct there. Could you start that point again a bit slower and more clearly?

**Stephanie Harrison:** Sorry, yes. I was going to say that Colin is correct. It looks like at the moment the current legislation would permit the



transfer of someone to Rwanda if the Secretary of State certifies that their human rights claim is clearly unfounded. That gives rise, therefore, to an in-country right to judicial review, and it should be a suspensive right so that you are not removed before the court has determined the application. There is also an out of country right of appeal—which is not an alternative remedy—and that currently exists in the legislation.

That will be removed when the Borders Act comes into force. So it is judicial review and there is a real question mark about the process by which individuals are going to be able to pursue and advance their cases on judicial review and put forward the evidence that supports their human rights claim, whether it is about the country situation in Rwanda or is particular to themselves—which is where there is going to be a big challenge if you have a significant mental illness, including suicide or self-harm, if you have a serious medical condition, and if you have strong family ties. There will be people who do have family ties. They will need an opportunity to provide the evidence to challenge that, and all of these people are likely to be in detention.

That is going to present a significant obstacle to effectively being able to present your human rights case, and it is not clear yet—although I understand the process is going to be truncated and there will be something equivalent to what was previously a fast-tracked process where you are given a very limited amount of time and opportunity to put your case together.

So there is, in principle, a right to judicial review, though whether it is going to be effective will depend on what arrangements the Home Office puts in place to facilitate access to legal representation and a fair opportunity to put your case, and I think that is seriously in question at the moment.

**Q4 Chair:** We had a lot of evidence in relation to the Windrush Home Office errors, which raise the issue of whether or not people can challenge the Home Office if they think the Home Office has made a mistake. If people cannot challenge, the Home Office could pick somebody up just in error, and then say, “Well, you are an asylum seeker”, even if they might not be an asylum seeker. “We are going to send you off to Rwanda”. As far as you can detect at the moment, is judicial review the only right to challenge, and is that the High Court?

**Stephanie Harrison:** That is the High Court, and obviously it is not about the merits; it is about the procedure that has been adopted. It is not a court being able to weigh up the merits of the decision. However, in a human rights case, the court will scrutinise it carefully, although it has to have the material to do so. One of the other things that is important is recognising that these people will be in detention. The committee has also heard a lot of evidence about the lack of safeguards in detention and the kinds of issues that do not get picked up that lead to detention, like mental health problems and medical problems.

If you do not go into detention having that material in your possession—some people do go into detention with that material, but often the category of person who is likely to be covered by this policy will not be covered—the safeguards that are in place to seek to identify significant medical conditions do not operate effectively.

**Chair:** Do you think there should be a bespoke appeal system for those where the Home Office says, “You are an asylum seeker. We are going to move you to Rwanda”? Should there be a bespoke appeal system that allows somebody to say, “I am not an asylum seeker. I am perfectly entitled to be living here and I am not applying for asylum and you have made a mistake here”? Do you think there should be a bespoke appeal system under this agreement?

**Stephanie Harrison:** That would make sense. There was an appeal process for removals on third-country grounds that was in place until 2004, and the Government abolished it. They do complain about pressures on the High Court, in terms of judicial review and the courts being tied up with immigration-related cases. Whether that is valid or not, that is a concern. An appeal is a much more effective remedy; it is quicker and cheaper, and it is likely to result in a better outcome, so I think that that would be sensible.

**Chair:** Thank you.

Q5 **Baroness Ludford:** I am Sarah Ludford; I am a Liberal Democrat Member of the House of Lords. I want to ask about compliance with international obligations. Stephanie already cited the 1948 Universal Declaration of Human Rights. I wanted to ask about whether the Rwanda agreement is—I will come to Stephanie first, just to change the order—compatible with the refugee convention, which is binding on the UK as a matter of international law. Is it compatible for the UK to send asylum seekers who arrive here to Rwanda to claim asylum there instead? If you do not think it is compatible with the refugee convention, can you explain why?

**Stephanie Harrison:** Aside from the big picture about the importance of the UK honouring its obligations to those who claim asylum, in principle it has always been possible for the UK to have arrangements, as there were under the EU provisions, for somebody to have their claim decided elsewhere. It is critical and essential if Article 33—which is the non-refoulement obligation and the primary obligation—is to be honoured, that you can be satisfied that there is no risk, in sending that person in this context to Rwanda, of their claim not being determined in accordance with the refugee convention and there being no real risk that a refugee would be sent on and returned to their country of origin.

I do not think that the MoU provides us with that kind of basis for that conclusion. In principle, Article 33(1) is clearly in issue here. The other obligation that is an issue is Article 31 of the Convention, which prevents penalties being imposed for illegal entry or presence. If, as appears to be the case, the criteria being used for selecting those who are sent on to

Rwanda is their mode of travel or entry to the United Kingdom, there is a strongly arguable case that this is a penalty.

“Penalty” can have a broad definition, and there is some case law from Canada that suggests that depriving someone of the ability to claim asylum in the United Kingdom would constitute a penalty. The established case law from the High Court—the Division Court—in a case called *Adimi*, approved in the House of Lords in a later case, is that to seek to deny an individual the right to claim asylum in the United Kingdom, on the basis of their method of travel or entry, would breach Article 31 of the convention.

It is important to recognise that, although in international law there has been no principle against having arrangements such as the Dublin Convention, which allows for burden sharing in the determination of asylum claims, what you do have to bear in mind is that the refugee convention itself always contemplated that people had a choice.

In making that massive decision to be forced out of your country, there certain factors such as family members and cultural and historical ties to a country. In the United Kingdom that can often mean a colonial past and being part of a Commonwealth country. Those are factors that can be taken into account when people are forced to leave because of persecution, and the case law recognises that.

That does mean that simply saying, “You have travelled illegally”, is not a basis upon which the convention would currently permit a step such as this, such an adverse measure, to be taken, which in my view can constitute a penalty. There is a strong case that it is not compatible with Article 31 of the convention.

**Baroness Ludford:** Before I turn to Colin, perhaps I may come back on that point of choice. What is it that made the Dublin Regulation compatible with the refugee convention? You are depriving people of choice in that scenario—are you not?—because you are transferring them back to, when we were in the EU, another EU country. I am trying to remember from when I was an MEP and trying to recall UNHCR commentary on the Dublin Convention and then regulation. UNHCR sort of squeaked past, did it not? What is the essence of the difference between the Dublin Regulation and the Rwanda agreement in depriving choice?

**Stephanie Harrison:** First and foremost, here you are deliberately selecting people because of their method of entry. That was not a relevant factor under the Dublin Convention, so that is why it is a penalty for illegal presence, for example. Also, the Dublin Convention did allow for factors such as family ties to be taken into account, and compassionate factors such as health reasons—and children were not to be sent back to other countries. So within the Dublin system there was discretion, but it was also a system based upon both common criteria for what constitutes a refugee and common, basic, minimum procedural

protections. That cannot be compared with the very general, vague statements that are in this MoU.

**Baroness Ludford:** Colin, did you want to add to that?

**Colin Yeo:** I do not have a great deal to add. The arguments around this are complex. This is an unprecedented situation and there are arguments that, for example, the non-discrimination clause could be engaged because some people are being targeted effectively on the basis of their nationality. If you fence off some nationalities from removal and you say the scheme only applies to everybody else, I think there is a strong argument that you are discriminating against those other people on the grounds of their national origins, which is forbidden under the refugee convention.

It is important to recall the circumstances in which the refugee convention was drafted immediately after the Second World War, when literally tens of millions of refugees had fled across borders. It was a situation of mass displacement in Europe, and the relevant articles of the convention—Articles 31, 32 and 33—were carefully drafted by the people who put the refugee convention together to balance the individual rights of refugees against the rights of states to control their borders. States did not agree some responsibility allocation method or something like that because they wanted as many people to sign up to the refugee convention as possible.

However, as Stephanie has already described, they did build in at least an element of choice for refugees. Some of the people who were drafting the refugee convention were refugees themselves. They had fled during the war or before the war and they knew what it was to be a refugee. That is why those articles were included to allow refugees an element of choice about where they would claim asylum.

**Baroness Ludford:** Is that element of choice a possible relevant factor in any legal challenge: that you are depriving any element? You say it is a circumscribed choice, but there will not be any choice under this agreement—could that be a relevant factor in a legal challenge?

**Colin Yeo:** It might be. The question of whether the refugee convention would be breached by this arrangement is slightly different from the question of whether an individual can bring a legal challenge. If we are talking about a level of principle—because it would be bad for the United Kingdom to breach its international obligations—there are some very strong arguments that this arrangement does breach those international conventions and is contrary to the refugee convention. However, that is no consolation to an individual refugee who is facing removal, because they cannot put up their hand and say, “This breaches the refugee convention”. That will not get them pulled off the flight and get them to stay in the UK—so the arguments are quite complicated around that.

Q6 **David Simmonds:** In some ways, continuing a theme, the European Convention on Human Right and the refugee convention provide that

people should not be sent to a state where they face a real risk of treatment that amounts to a violation of their right to life, or the right to be free from torture, inhuman or degrading treatment or punishment. There has been a lot said about Rwanda and indeed, at Prime Minister's Questions earlier on today, Andrew Mitchell raised the point about rights violators who are currently in the UK and what more we should be doing about those individuals who are here.

On the question touching on what was raised earlier about the paper agreement and the substance of it, what is there in terms of legal steps that the Government could do that would ensure that the plans would not breach that legal obligation from the European Convention and the refugee convention?

**Chair:** Who would like to give the first answer on that? Is there anything that the Government could do?

**Colin Yeo:** It is fairly clear from the memorandum of agreement that the UK is essentially washing its hands of people once they reach Rwanda. The way that human rights law works is that, if there is a real risk of somebody having their human rights violated once they are in a country, they cannot be sent there. However, that is a slightly different issue from what happens if something unanticipated happens: if there did not seem to be a real risk but it happens anyway. It is very important to hedge these kinds of answers because it is not clear and this is an unusual situation in international law, but it does not look like the UK would retain jurisdiction over things that later happen in Rwanda.

If they could and should have been anticipated before the person was removed there while the person is still in the United Kingdom, they cannot be removed. However, once they are there, the UK has effectively lost control over what happens to them. One of the things that people have been trying to look into since this deal was announced is what happened with a similar arrangement between Israel and Rwanda in previous years, where allegedly voluntary removals took place of some refugees from Israel to Rwanda and it is not known what happened to them after that.

It is not thought that any of them are still in Rwanda. It is not thought that any of them were removed from Rwanda, either. They seem to have been removed there and then just left. What happened to them, whether they fell back into the hands of smugglers or traffickers or they travelled onwards to other countries, is unknown. If the Government of the United Kingdom is going to go through with something like this, where it is compulsory and people have no choice about it, one would have liked to have seen some research into what happened to people previously so that problems could be avoided this time around—but we have not seen anything like that.

**Stephanie Harrison:** Can I add something to that? The United Kingdom does not have a good record in terms of its position on memoranda of

understanding that it has agreed, even with its closest ally, the United States.

In 2013, in the Supreme Court, in a case called *Rahmatullah*—which concerned the arrangements that were agreed between the United States and the UK for the treatment of British citizens who were treated as prisoners of war in the context of Iraq—the British Government came to the Supreme Court and made it absolutely clear that the memorandum of understanding it had agreed for return of its citizens could not be enforced legally. It had no diplomatic means to put pressure on the US Government to hand over individuals who were held in Afghanistan, as it was, in custody for indefinite periods of time. They had no shame in saying to the Supreme Court, “It is not legally enforceable and there is nothing more we can do”.

So it is not legally binding. It also ought to be known that, even as far as the Dublin Convention provisions were concerned, the UK Government and Home Office argued consistently in cases in the court that those arrangements were not justiciable, so that even those arrangements, as far as an individual is concerned, could not rely upon the terms of that arrangement. Therefore, you would have to be very cautious and cynical about any suggestion that is made by the UK Government that this MoU will provide any effective means if it proves not to be complied with.

Of course, there are the practicalities. As Colin said, once the person has gone they will not continue to have legal representation in the United Kingdom. They do not have a locus to continue with lawyers in the UK. It is not the UK that is going to determine their claim. It is going to be extremely difficult to find out what happens.

One of the main reasons why MoUs in the context of deportation failed—and they did fail miserably—was that they cannot be verified. Even with the involvement of the British embassy, for example, in the MoU returning people to Algeria, the British embassy was not able to inform the court, reliably and effectively, what had happened to people who were returned under an MoU. It is not an effective regime at all for ensuring protection from real risks of harm.

**David Simmonds:** I am aware the Home Office maintains what might be described as a “safe list” of countries from which, for example, it would be presumed you would not be claiming asylum, because those countries are regarded as generally safe countries. I am not aware that we necessarily have a memorandum of understanding with each of those countries to set out our mutual obligations in respect of human rights.

Would you be able to say a little more about whether there are any agreements in place, or indeed an absence of agreements but a framework, that says there will be a general presumption about the safety of those places? That would potentially include a country such as Rwanda or indeed any other state. Or is it your view, essentially, that there is no way at all that an agreement could be reached that would be legally sufficiently watertight to enable someone who is a refugee and an

asylum seeker to have their application and the satisfaction of their asylum claim taking place in that third country?

**Stephanie Harrison:** The current legislation provides for statutory presumptions that countries are safe. Other EU member states were deemed safe states but, even in that context, it was a rebuttable presumption. For example, you may have a Romani Gypsy who was from the Czech Republic or from other parts of the EU who could establish on their individual facts that they were at risk of persecution in those countries—so it is always a rebuttable presumption and an evidential issue. Here, that is within a framework where there are common standards that are applied across the board in EU member states. In other countries there are evidential presumptions that can be rebutted as well.

In principle, it will be possible to rebut the presumption with regard to Rwanda. Dr Cameron will tell you about whether or not, in principle, there is a proper basis for presuming that Rwanda is a safe country. My concern would be that, at the moment, it is an absolutely unknown quantity and it is based on a document that literally is not worth the paper it is written on in terms of any effective or legally binding guarantee.

Q7 **Baroness Massey of Darwen:** The UK's anti-slavery commissioner has raised significant concerns that Rwanda has "detained thousands of potential trafficking victims without providing them with proper care in the past year". That is what Stephanie was saying, I think. Given this, do you think the Government's plans are compatible with Article 4 of the European Convention on Human Rights, which prohibits slavery and forced labour?

**Stephanie Harrison:** That is a real concern, and it is obviously contemplated because the MOU makes specific reference in Article 14 of it to victims of modern slavery being returned under this process. It is certainly not contemplated that that category of person, where there is a prima facie case that they are a victim of slavery and trafficking, will not be subject to transfer to Rwanda. So that is a real concern.

Article 4 is one of the other human rights articles that are in play. One has to remember that Article 4 is not just a protection for refoulement or for re-trafficking—that, of course, is one of its primary protections—but it is also about it has an investigative obligation. There is a very strong and powerful international law duty on the United Kingdom to ensure that it identifies, investigates and prosecutes modern slavery and trafficking.

That will not happen if you transfer the person who has a prima facie case to Rwanda. The investigative obligation cannot be transferred, because how will Rwanda investigate whether somebody being brought via Italy, or via the general trafficking routes that we are aware of—from Nigeria to Italy into the United Kingdom—it will not have that obligation and it will not practically be able to do it. That investigative duty, I think, will be breached.

**Colin Yeo:** This is an example of where it is important for people to have access to a lawyer. If somebody is a potential victim of trafficking and they face removal to Rwanda, if they have a lawyer, the lawyer will be able to highlight that, and there is a strong possibility that they will be taken off the flight and not be sent—I would hope, at least, because of the investigative obligations that Stephanie has just talked about. It would be a breach of the European convention against trafficking, and so on, for the UK not to investigate.

However, that will happen only if the person has access to a lawyer. The Home Office looks like it is detaining a range of different people, and probably not all of them will have access to a lawyer because it is hard to do that from detention and from prison sometimes. Therefore, there is a clear risk that victims of trafficking will be removed.

Q8 **Joanna Cherry:** This is a question for Stephanie and Colin about the memorandum of understanding—the agreement. Stephanie, I think you have already touched on the fact that the assurances the agreement contains, that Rwanda will comply with human rights law, are not legally binding on either party as a matter of domestic or international law, and that the agreement does not confer any rights on individuals; I think I am correct in saying that. So how can the terms of the agreement be enforced by either state or, perhaps more importantly, by individuals whose rights are breached once they reach Rwanda?

**Colin Yeo:** I can keep this one fairly short. I cannot see how anybody can enforce their rights, but these are not enforceable rights, essentially. One of the differences between this arrangement and, for example, Dublin—we have covered this ground already to some extent—is that where you have you a list of safe counties, it has typically been countries that are subject to the law of the European Union, where you have an enforcement system behind that, or the European Convention on Human Rights where, again, you have an enforcement system behind that.

I am not an expert on Rwanda, but it is not part of the same system as the United Kingdom, and I would be surprised if it was as effective a system of human rights oversight as the European Union and the European Convention on Human Rights have previously provided for other countries deemed safe.

**Stephanie Harrison:** We have an experience of memorandum of understanding that we used with deportation with assurances. There is a whole body of case law that shows that it was impossible to effectively verify what happened on return to people who voluntarily went back into those regimes. We were able to show over a long period of time—through confidential information provided by brave people who risked reprisal for giving that information—that the assurances did not hold water.

That was in circumstances where there was ongoing litigation in the United Kingdom, because people were in the UK and were resisting going back under these regimes. If you want to have a look at how ineffective these arrangements are—the real challenge is to obtain reliable evidence



about what happens to somebody once they go back—even when there is a process ongoing in the United Kingdom, that would be a good place to start. It will be impossible to effectively monitor and know what is happening to people once they have gone back to Rwanda. Of course, it will be contested, as happens in other contexts when people are returned and claim that they are ill-treated on return. You have a very big job to prove and to establish that, because they are present in the country.

**Joanna Cherry:** Effectively, once the individuals who are sent to Rwanda get there, they will be able to protect their rights only by accessing the domestic law of Rwanda.

**Stephanie Harrison:** Exactly.

**Joanna Cherry:** For example, when the Government Minister, Tom Pursglove, was giving evidence about these matters to the Home Affairs Committee—I was guest chairing on behalf of this committee—he was very keen to tell us that there is a non-discrimination law in Rwanda. However, and I am sure Hazel can confirm this, that non-discrimination law does not apply to LGBT people, so if an LGBT person is sent to Rwanda and is discriminated against on the grounds of their same-sex attraction or their gender identity, there is no discrimination law they can fall back on in Rwanda. Is that correct?

**Colin Yeo:** That is my understanding, yes.

**Joanna Cherry:** For example, when the Foreign Office is giving advice to British people travelling to Rwanda it says, "Individuals can experience discrimination and abuse including from local authorities. There are no specific anti-discrimination laws that protect LGBT individuals". Basically, we advise our own LGBT citizens to be aware that, if they go to Rwanda, there are no anti-discrimination laws, but we are quite happy to send people from other countries there. I think it was suggested initially by someone in Parliament that LGBT people would not be sent to Rwanda, but the Home Secretary has been quite clear now that they will.

On that more general point—the fact that there is no way of enforcing rights under the memorandum of understanding once people get to Rwanda—is that relevant to whether the United Kingdom has met its obligations under the refugee convention and the European Convention on Human Rights?

**Stephanie Harrison:** There are criteria that have been established by the European Court of Human Rights and our own domestic courts about whether an MOU that is designed to avoid risk of ill-treatment is effective. One of those criteria is whether it can be effectively verified. Verification will be a major problem, but I think you have identified a freestanding basis upon which you would challenge the removal of a person who would not get protection from the law because of some characteristic, like their sexual orientation or their gender identity.

**Joanna Cherry:** My question was whether what we just discussed is relevant to whether the UK has met its obligations under the refugee

convention and the ECHR.

**Colin Yeo:** There are two arguments here about *refoulement*, which is the Article 33 protection we were talking about earlier, which is essentially that nobody can be—the French term is used for reasons that have always escaped me—returned directly or indirectly. There is an argument that if you take somebody from a completely different country and continent and threaten to remove them to Rwanda, as the Government are explicitly saying, as a punishment essentially, to deter others from following in their footsteps, you are making their life deliberately very miserable, no matter what the Government says. At other times they are saying that this is a deterrent measure, which is the whole point of the policy, allegedly.

There is an argument that that amounts to what is sometimes called “constructive *refoulement*”, where you are saying to somebody, “You can either go to Rwanda or you can go to your home country where you will face persecution. Which would you prefer?” Some people might choose to go back to their own country and take their chances there. There is a risk that it breaches Article 33 in that sense of constructive *refoulement*.

The other sense in which it may breach Article 33 is that once people get to Rwanda, we do not know what will happen to them. These people will be human canaries in a human-rights coalmine, essentially. If they are very badly treated in Rwanda, if they are denied access to the asylum process, if their claims are wrongly refused, for example because Rwanda does not apply the normal interpretation of the refugee convention or because interpreters are not provided so that people cannot communicate their asylum claims effectively, if they do not use country information, it may turn out that the acceptance rates for these nationalities are much lower in Rwanda than they are in other countries—we do not know—and those people may end up being effectively forced onward back to their home countries. That would be a breach of the UK’s obligations.

It would be too late for those individuals. They would be in big trouble and the UK could do nothing about it, but other people who are facing a return to Rwanda would be able to point to their fate and say, “You can’t do the same thing to me” at least.

**Dr Hazel Cameron:** I want to clarify a point when we were talking about recourse with regard to any discrimination towards, for example, a member of the LGBT community. You are correct in saying that in Rwanda there is no non-discriminatory legislation towards LGBT persons. However, Rwanda’s National Commission for Human Rights—the NCHR—is engaged in the protection and monitoring of human rights in Rwanda. It encourages people to make complaints about human rights violations and it conducts investigations into those complaints. I will talk a bit more about that when we come to victims of torture.

If the person being discriminated against feels that they have not received any satisfaction in Rwanda with regard to their complaint to the

NCHR about discrimination, if local measures do not resolve the issue, the person has the right to access the African court on human rights.

**Joanna Cherry:** I do not know whether either of our legal experts want to comment on that. That is an option, clearly, but it is not the same as being able to go to court directly, as we can in this country, as I can as a lesbian and say, "I've been discriminated against on the grounds of my sexuality. What are you going to do about it?" A lesbian who has been sent to Rwanda by the British Government will not be able to do that, will she? It is not a right that can be accessed in the same way we can access our rights under the Equality Act here. Am I right in saying that?

**Stephanie Harrison:** Exactly. It is also indicative of the fact that the system that was operated in Europe operated because there were common criteria, common procedures and a certain common understanding of what a refugee is. I do not know what the position is in Rwanda and whether it recognises persecution on the grounds of your sexual orientation or your gender identity as falling within the convention. It may do, but if it starts from a very different premise than we do in the UK, we will have to wait and see. That is part of the difficulty, because the "wait and see" could mean the cost of someone's human rights.

**Joanna Cherry:** There will be a couple more questions about this to Dr Cameron in a moment, but I want to clarify one thing that I do not quite understand. This is my question, and I will explain why I am a bit confused about it. I was going to ask the lawyers whether the United Kingdom retains any legal responsibility under the ECHR or on any other basis if the rights of a person are breached once they reach Rwanda.

You have already explained how, once they are in Rwanda, they are outwith the jurisdiction of the United Kingdom, but, Stephanie, you said something much earlier in the session that I wanted to try to understand. You were asked whether the UK's human rights obligations end once we have transferred someone to Rwanda. You said no, in principle; that there was some case law going back to the 1980s that said that we still had a responsibility. Could you clarify that?

**Stephanie Harrison:** In principle, if the United Kingdom sends a person to a country where there is a real risk of a breach of their fundamental rights, our obligations continue to be engaged. It is a different question about what, practically, you do about that, but in principle we will be in breach of the refugee convention if it is refoulement, or the human rights convention if it is the wider protections that are there. If that happens at the moment, and somebody is wrongly sent back to a country and should not be, the High Court will have jurisdiction to make an order requiring the person to be returned. There is a jurisdiction in the United Kingdom to seek to do that. It is exercised in certain circumstances. It is not the case that our legal obligations will end, nor that the reach of the courts will necessarily end either.

There are complicated questions about jurisdiction when somebody is outside the country, if it is something unexpected in the way Colin

mentioned, but in principle the nexus remains because we have committed the act of removal. Therefore, that legal nexus will continue if you can show a causation and expose the risk to that person that occurs. There will be the means to do it.

The MOU does make provision for the UK to request a person to come back—to return a person. It is contemplated in the MOU that there will be a mechanism for somebody coming back. Obviously, if they have already been subject to the harm that is done, it will not protect them from that, but there is a mechanism. Certainly, if you have a client and you are able to monitor and get the evidence about what happens to them on return and keep in touch with them—difficult as that is—in principle you would be able to apply to the High Court for an injunction to require the Secretary of State to return them to the UK.

**Chair:** Can we look now specifically at the situation in Rwanda and hear from Hazel Cameron in response to a question from Lord Henley?

**Q9 Lord Henley:** In his evidence to the Home Affairs Committee, the Minister, Tom Pursglove, stated that it is the Government's view that "there is no systematic breach of human rights in Rwanda". Given your expertise in this field—I know you wanted to add a little more to an earlier question from Joanna Cherry—do you think that is a fair assessment?

**Dr Hazel Cameron:** Having listened to the concerns of many regarding potential breaches of human rights for persons arriving in the country from the UK under the migration and economic development partnership, I decided to travel out to Rwanda to complete a short independent evaluation of the contemporary human right conditions.

To respond to your question as to whether there are systematic or systemic breaches of human rights, I think it is essential that I touch upon a broad spectrum of areas, so I ask you to please bear with me here.

The most recent evidence set out by the US State Department in its report on human rights conditions, published in March 2022, has a specific section on the human rights and the protection of refugees in Rwanda that basically corroborates my own findings in-country. It notes in its report that the Government of Rwanda have co-operated with the office of the UN High Commissioner for Refugees—the UNHCR—and with other humanitarian organisations in providing protection and assistance to internally displaced persons, to refugees, to returning refugees, to asylum seekers, stateless persons and other persons of concern. It notes that the authorities generally provided adequate security and physical protection to refugees.

The Rwanda National Police—the RNP—has worked with the UNHCR to maintain police posts and station police officers in refugee camps. Refugees were free to file complaints in area police stations, although I should acknowledge here that the persons who may be transferred from the UK will become urban refugees; they will be reallocated in the city of

Kigali and will not be held in any refugee camp or detention centre in the country.

In terms of access to asylum, Rwandan domestic law provides for the granting of asylum or refugee status. The UNHCR, with government-endorsed support, has assisted approximately 149,000 refugees and asylum seekers to date. The Government of Rwanda have sought—I should highlight again that this is all from the US Government report—to improve local integration of refugees in protracted stays by permitting them to accept local employment and move freely in the country and by establishing markets to facilitate trade between refugees and local citizens. The American Government report stated that in September 2019 the Government of Rwanda, the UNHCR and the African Union signed a memorandum of understanding to set up an emergency transit mechanism for evacuating refugees from Libya to Rwanda. The mechanism provided a framework for Rwanda to temporarily host these individuals.

During my recent field trip to Rwanda, I met with the manager of the emergency transit mechanism—the ETM—who confirmed that eight flights have been received to date, and one arrived when I was in the country last Tuesday evening. A total of 943 people have so far been transferred to Rwanda from Libya—people who are in crisis situations, life-threatening situations. They have been transferred into Rwanda and it has been confirmed that all have been afforded their rights. There has been no suggestion of any breach of their human rights.

Perhaps, we are not looking at human canaries in Rwanda, since there is already an established programme that we can look at to evaluate what the circumstances might be for anybody being transferred from the UK.

Those who are refused asylum, the US State Department report says, will be given the opportunity to remain in the country as economic workers, and that was my own finding while I was in the country. Those who are refused asylum may be afforded opportunities to appeal against that decision. They can appeal first to the ministry. If their asylum application is refused, they can then appeal to the high court. If their second appeal is also unsuccessful, they will be offered the right to remain in Rwanda with a residency permit. They will still be given the support and protection under the MEDP integration package that is in place.

Again, the United States has said that it is therefore important to note that the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families has welcomed Rwanda's adoption and implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The UN committee and the United Nations committee have noted that the Government of Rwanda have committed to strengthening their capacities in the areas covered by the convention and to support the committee and its mandate.

I now want to turn my attention to the World Justice Project report of October 2021, which has evaluated the rule of law in 139 countries. It has placed Rwanda first out of 33 countries in the sub-Saharan and African region. It is 42nd out of 139 countries and jurisdictions worldwide. Rwanda improved itself by two positions in the global rank as a result of ongoing judicial reforms. The United States State Department report of 2021—the most recent report—noted that observers credited the Rwanda National Police with generally strong discipline and effectiveness, which again is in my in-country findings.

The World Economic Forum report of 2021 states that Rwanda has the most reliable police service in Africa. According to the World Economic Forum report, Rwanda is the number one country where citizens trust and rely on police services to enforce law and order, and it is the 13th country globally. The World Economic Forum's 2017-18 global competitiveness index has ranked Rwanda above countries like the UK, which is 19th, the United States, which is 22nd, France, which is 29th, and Germany at 38th. Rwanda has low levels of corruption and there is zero tolerance for corruption in the Rwanda National Police force. Presidential orders dismissing police officers for acts of corruption and other forms of misconduct are available online on the website of the Ministry of Justice.

In terms of right to health, those arriving from the UK will be given free universal health insurance. That has been the case with other arrivals in the country. They will also have access to adequacy of healthcare, including mental healthcare, and they will be provided with steering and counselling services on their arrival and throughout their stay in the country.

The commitment to each individual arriving in Rwanda is a five-year package. The Government accept that there is a need for additional psychiatrists throughout the country, but this need has been addressed through impressive initiatives that are being led by the mental health division manager at the Rwanda Biomedical Centre. I can expand on this further in written answers if helpful.

**Joanna Cherry:** I am slightly puzzled—I will be frank, Dr Cameron. You are painting quite a rosy picture of Rwanda upholding human rights in its refugee and asylum system. It does not accord with some of the other, very contemporary, reports that we have been briefed on. For example, on 14 April this year, the United Nations High Commissioner for Refugees stated that, "UNHCR remains firmly opposed to arrangements that seek to transfer refugees and asylum-seekers to third countries in the absence of sufficient safeguards and standards". It noted that, "While Rwanda has generously provided a 'safe haven' to refugees fleeing conflict and persecution", the majority of refugees, "live in camps with limited access to economic opportunities". That is the UN High Commissioner for Refugees' statement just a couple of months ago.

**Dr Hazel Cameron:** What I was trying to do, before I respond to your question, was give you a broad overview of different country reports from

respected institutions on human rights conditions in Rwanda to demonstrate that there is obviously conflicted information available.

As to the claim you have just noted by the United Nations Commission on Human Rights, it refers to camps that are in the north and east of the country that house Congolese refugees and Burundian refugees who fled the country as a result of disturbances surrounding the presidential elections of 2013. Many of those people who are in the Congolese refugee camps up in the north of the country have been there for over 25 years, and there is no disputing the fact that conditions are perhaps not ideal in these camps.

**Joanna Cherry:** What you are basically saying is that the UNHCR's comments apply to refugees in camps in the north of country rather than asylum seekers. Is that right?

**Dr Hazel Cameron:** That is correct.

**Joanna Cherry:** Do you have any evidence of what happens to asylum seekers in Rwanda, because we heard earlier that nobody knows what happens to the people Israel sent there as asylum seekers?

**Dr Hazel Cameron:** My understanding is that 40 or 50 people who were sent from Israel arrived in Rwanda; I do not have the exact figure, but it is about four dozen people. That was back in about 2014, so we are talking about eight years ago now, and Rwanda has gained a great deal of experience since that time. A representative of the UNHCR has even said that the measures that are in place now are vastly different from the measures and the safeguards that were in place when those people arrived from Israel. My understanding is that the majority of the people who arrived from Israel, if not all, were Eritrean, and not long after arriving in Rwanda they crossed the border into Uganda and made their way back to their home countries, but I cannot provide any substantive evidence of that.

**Joanna Cherry:** That is very interesting. Have you done any studies or carried out any research in relation to the way Rwanda has treated asylum seekers from other countries—not sent by Israel but from wherever—between 2014 and the present date?

**Dr Hazel Cameron:** I am aware personally of a family from Afghanistan who were removed from Afghanistan and travelled to Rwanda and sought asylum in Rwanda. Again, they have not reported any breaches of the human rights.

I apologise if it appears as though I am trying to paint some sort of rosy image. That which is certainly not my intention. I am trying to give you a broad overview of different perspectives on human rights conditions. I am not denying that there are reports that are highly critical of human rights in Rwanda. I was moving through different information that I have gathered as a result of my research in the country.

**Joanna Cherry:** For example, we have been provided with a Foreign

Commonwealth and Development Office report, *Human Rights and Democracy 2020*, which contains the following passage on Rwanda: “In Rwanda, critical voices continued to face heavy restrictions. The UK raised concerns about specific cases with the Government of Rwanda, underlining the need to allow opposing voices to hold the Government to account. This included the case of Kizito Mihigo, a prominent musician and reconciliation activist, who died in police custody”. A human rights activist dying in police custody—I know it happens in this country—is not exactly a ringing endorsement of a police force.

**Dr Hazel Cameron:** As far as I am aware, no investigation has been carried out, so there is no evidence as to the cause of death of the singer. I cannot comment any further on that, because I do not think we have a conclusive answer as to what did happen to him, but clearly a death in custody is extremely concerning and unfortunate. I agree with you there.

**Joanna Cherry:** What about the US State Department report on Rwanda from 2020, which raised human rights concerns? It noted that there had been unlawful or arbitrary killings by the Government, forced disappearances, torture, harsh and life-threatening conditions in some detention facilities, arbitrary detention, including of political prisoners, politically motivated reprisals against individual located outside the country, arbitrary or unlawful interference with privacy, serious restrictions on freedom of expression and freedom of the press and the internet, including threats of violence against journalists, censorship and website blocking, substantial interference with the rights of peaceful assembly and freedom of association, such as overly restrictive non-governmental organisation laws and restrictions on political participation.

This US State Department report from 2020 finds that the Rwandan Government had taken “some steps to prosecute or punish officials who committed abuses, including in the security services, but impunity involving civilian officials and some members of the state security forces was a problem”. This US report went on to say, “The Government was often intolerant of public reports of human rights violations and suspicious of local and international human rights observers, and it often impeded independent investigations and rejected criticism as biased and uninformed. Human rights NGOs expressed fear of the Government, reported SSF monitoring of their activities, and self-censored their comments”, and so on.

I find it concerning that the United States of America, one of our major allies, has, as recently as 2020, been so highly critical of the Rwandan Government and their security forces.

**Dr Hazel Cameron:** I fully understand your concerns, but, if you can, juxtapose those statements by the US Department of State with its report of March 2022—two years later—where it states that, with regard to the protection of refugees, there are no concerns that there is any risk that a refugee who is relocated to Rwanda might face threats to life, torture, inhuman or degrading treatment. That stands in stark contrast to what you have just relayed to me.



I can only put forward what I have here. The US State Department has said something quite contrary about the protection of refugees.

**Q10 Joanna Cherry:** Getting back to the subject of the safety of LGBT+ people in Rwanda, Rainbow Migration has expressed concerns about the safety for LGBT+ people in Rwanda and it notes that LGBT+ people had been arbitrarily detained, suffered ill treatment by the police, and had been beaten by fellow detainees while in detention. It also noted that Rwanda is a source country for people in the UK seeking asylum based on their sexual orientation, albeit in low numbers. There is another fairly recent expression of grave concern about at least one cohort that the UK Government seem prepared to send to Rwanda.

**Dr Hazel Cameron:** There is again contradictory detail with regard to the risks of the LGBTQ community in Rwanda. In 2011, Rwanda became the only country in central and east Africa—one of six in Africa and one of 85 in the world—to sponsor the United Nations joint statement condemning violence against LGBTI people. I know that does not necessarily translate into the protection of that group.

Earlier this year, Rwanda signed a UN resolution condemning countries that use the death penalty as a punishment for consensual same-sex relations. The United States notably did not. However, there undoubtedly continue to be obstacles that need to be overcome in the country. Although there is no law that criminalises sexual orientation or consensual same-sex acts between adults, as we spoke about earlier, it does not explicitly prohibit discrimination against the lesbian, gay, bisexual, transgender and intersex persons. There is a potential that they could be discriminated against in housing, employment, nationality laws, or even accessing government services such as healthcare, and I am not disputing that.

**Joanna Cherry:** We have had no redress. In this country, if I, as a gay person, am discriminated against in respect of any of those things, I can go to court and seek redress.

**Dr Hazel Cameron:** I understand that.

**Joanna Cherry:** In Rwanda I could not.

**Dr Hazel Cameron:** There are pathways. If you were being discriminated against by an individual, a neighbour, or you sought employment and were discriminated against, you could seek redress—in certain circumstances, depending on the type of discrimination. If it involved a civilian, you could report that matter to the police force and it would be investigated by the Rwanda Investigation Bureau.

**Joanna Cherry:** What we are interested in, as a human rights committee, is the ability of the individual to get redress if his or her rights are breached. Our own Government's Foreign Office advises LGBT British citizens who are planning to go to Rwanda that there are "no specific anti-discrimination laws that protect LGBT individuals and that they may experience discrimination and abuse including from the local authorities".

That is what we are telling our own people who might go there on holiday or for a visit.

**Dr Hazel Cameron:** I understand that. It is correct to say that there are no non-discrimination laws to protect LGBTI persons, and that they may face a stigmatisation in the country. The Government of Rwanda have a relatively progressive position on LGBT-related issues, but that is hindered when efforts by actors who are working to advance LGBT rights have to be shaped by quite an intense social stigma at grass-roots level, which comes down to a lack of understanding. There is a need for much greater awareness training in the country and for the country to take into consideration the non-discrimination legislation. That does need to be reviewed.

**Chair:** Thank you. That draws to an end our session this afternoon. I would like to thank our three witnesses, Stephanie Harrison QC, Colin Yeo and Dr Hazel Cameron. Thank you for the light you have shed on this important issue.