

## SMALL BOATS AND FLIGHTS TO RWANDA – PM RISHI SUNAK FACES SETBACKS AND RIGHT-WING OPPOBRIUM

The Conservative Party seems to be in the throes of a fin-de-siècle moment with a general election on the horizon next year that most commentators project they will lose decisively. This past week, the Prime Minister sacked his Home Secretary Suella Braverman (earning her the distinction of being the only Home Secretary to lose that position twice in a year), moved his Foreign Secretary James Cleverly to the Home Office and brought in, in a totally unexpected move, the former PM David Cameron as his new Foreign Secretary. Braverman did not go quietly into the night, penning a scathing [departure letter](#), accusing Sunak of failing to deliver on key government policies, barely 36 hours after being sacked.

On Wednesday, the government's program to address a cultural war wedge issue near and dear to many Tory voters – the increasing number of migrants crossing the English channel in small boats – by deporting them to Rwanda (where their asylum claims would be adjudicated) was [struck down](#) as illegal by the Supreme Court. The Rwanda scheme was the bedrock of the government's plan to tackle migration, intended to deter others from crossing the Channel.<sup>1</sup> Speaking on a Financial Times podcast [Political Fix](#) this week, FT political editor George Parker noted that stopping the little boats, one of Sunak's five pledges, is going to "remain as an issue. And you can see from looking at the opinion polling, it remains one of the top three issues for the voters and the fact it's unresolved, the fact that the Rwanda policy has been their flagship response to this and looks like it will be unresolved the next election – plainly, that's a problem for the Tories."

Taking them in order ...

### A Labour Victory

Last weekend, the latest MRP [poll](#) Survation projected a 212-seat majority for Labour. The pollster Peter Kellner, based on Survation's overall voting figures (Labour – 46% and Conservative 29%) estimates in his latest email update a 130-seat majority (reflecting new constituency boundaries, Labour's projected successes in Scotland and significant anti-Tory tactical voting in England and Wales). In his words, victory but not a landslide for Labour, and defeat but not oblivion for the Tories.

### Braverman Dispatched

Braverman's sacking was triggered by the publication by her of an [op-ed](#) that failed to include changes demanded by No. 10 in violation of the Ministerial Code. The op-ed accused the Met police, following the Met police commissioner's decision to allow a pro-Palestinian march (what Braverman called "hate marchers") to proceed, in light of the absence of sufficient grounds to ban the march under [Section 13](#) of the Public Order Act, of being inherently biased against far right protesters. The structure and oversight of police in Britain is very different from the United States; the Home Secretary and the

---

<sup>1</sup> Deportations would have a direct effect on a reported 350 asylum seekers. Having left the European Union, Britain no longer has agreements in place under which it can return asylum seekers to the European Union.

mayor of London share responsibility for overseeing and appointing the Met police commissioner. The policing of protests has in recent years raised a series of issues, heightening sensitivity on all sides; the last ban on marches was imposed on the far-right English Defense League.

The Braverman op-ed prompted an outpouring of criticism that the Home Secretary was encouraging extremists, was undermining the police, was dragging the police into politics and was heightening the risk to both police officers and the public. She even managed to draw the ire of Northern Ireland politicians when she wrote that the marches were not “merely a cry for help for Gaza, but an assertion of primacy of certain groups – particularly Islamists – of the kind we are most used to seeing in Northern Ireland” (seen by some as a reference to the marching band tradition).

A darling of the Tory right-wing, Braverman had been embroiled in a number of contretemps, but the op-ed proved to be the last straw. In one of many ironies, Braverman studied in the European Union under the Erasmus program, a privilege now denied to legions of British students as a result of Brexit. She claimed Sunak had entered into a secret deal to gain her support during the leadership contest that ultimately catapulted him into No 10.

In her scathing departure [letter](#) written the day before the Supreme Court was to render its verdict on the legality of the Rwanda program, Braverman accused Sunak of betrayal in failing to “stop the boats” and of “equivocation, disregard and a lack of interest” in pursuing key policy objectives, including addressing migration.

There does not appear to be a basis for a vote of no confidence at this point, as the reported consensus appears to be that there would not be a groundswell of support for Braverman, let alone the [53](#) Tory MPs needed to trigger such a vote.

### **Reshuffle and Resurrected**

The unelected PM appointed an unelected Foreign Secretary, prompting the media to characterize Cameron’s comeback as a “shock” and “stunning” move by a PM who had pledged only a month ago to be the “change candidate” and who has been prolific in his criticisms of the failed policies of his predecessors, which would include Cameron. Cameron is the first former PM to join the ranks of the frontbench in over 50 years (Douglas Alec-Home, after serving 363 days as PM, joined government six years later in 1970 also as Foreign Secretary) and the fourth Foreign Secretary since the 2019 general election. To get around the [convention](#) that a member of cabinet be in Parliament, Cameron was appointed a life peer. This means he will not be able to address the Commons – his representative in the Commons for this purpose will be the MP Andrew Mitchell, and will only be answering questions in the Lords.

The reshuffle/resurrection puts into place the team expected to lead the Tories in the next general election (to be held prior to January 20, 2025). Cameron represents an effort to shore up support in the so-called traditional “blue wall” constituencies, potentially at the risk of suffering losses in so-called northern (and traditionally Labour prior to the Boris Johnson sweep in 2019) “red wall” constituencies.

Cameron has plenty of baggage, and does not fit easily in the pro-Brexit Tory party. He was the architect of the Brexit referendum, though as a Remainer, and also was the driving force behind the diminishment of public services and the welfare system as part of his austerity plan. He and his chancellor presided over the “golden era” cooperative outreach to China, and he was embroiled in the Greensill [scandal](#) by lobbying government ministers to provide financing to a company that collapsed in March 2021, for which he was found by a parliamentary inquiry to have shown a “significant lack of judgment.” The right wing press [conveyed](#) a sense of anger among Brexiteers at the entire exercise.

Cameron’s first overseas trip following his appointment was to Kyiv on Thursday.

### **Rwanda Scheme**

Wednesday gave the right wing press an opportunity this week to collectively vent. The Supreme Court justices, acting unanimously, found that the Rwanda policy presented too high a risk that asylum seekers, including genuine refugees, would be sent back to the country from which they had fled, known as “refoulement.”<sup>2</sup> The Court’s ruling cited the Human Rights Act, the ECHR and the UN Refugee Convention. The ruling, which dashed any hope that Sunak could make good on his “stop the boats” pledge, affirmed an earlier ruling by the Court of Appeal that the scheme was illegal. To date, the British government reportedly has paid Rwanda £140 million as an advance on the program.

It was expected by some that a Supreme Court ruling that scuppers the Rwanda plan would trigger calls by Tory hardliners to leave the ECHR, even though the case was not based on the ECHR alone. A new conservative grouping caucus (the New Conservatives) had urged departure from the ECHR regardless of the outcome of the Supreme Court case. Were the United Kingdom to exit the ECHR, it would join the ranks of Russia and Belarus as the only European countries outside the ECHR.

---

<sup>2</sup> Under UK immigration rules, asylum seekers whose freedom or life is under threat in their country of origin are subject to removal from the United Kingdom if they are not at risk of being returned to that country of origin. The Supreme Court found that Rwanda had not abided by a similar obligation in respect of asylum seekers deported from Israel. It also pointed to UN evidence that 100% of asylum claims from refugees from Afghanistan, Syria and Yemen had been rejected by Rwanda. The Court also cited evidence of the country’s poor human rights record, principally linked to criticism of the government, extrajudicial killings, deaths in custody, enforced disappearances and torture, as well as constraints on media freedom and political activities. As the Guardian editorial board [noted](#), “The judges made clear that this evidence would have put the UK not just in breach of the [ECHR] but of many other international treaties ratified by the UK as well as several other domestic statutes.”

Refoulement is prohibited by numerous international law instruments, including the ECHR, the UN Refugee Convention, the UN Convention against Torture, and the UN International Covenant on Civil and Political Rights. Those instruments have been given effect in UK national law by the Human Rights Act 1998, the Asylum and Immigration Appeals Act 1993, the Nationality, Immigration and Asylum Act 2002 and the Asylum and Immigration (Treatment of Claimants etc.) Act 2004. The Supreme Court made a point of noting that their ruling was not based solely on the ECHR or the Human Rights Act.

In June 2022, the European Court on Human Rights, in an 11<sup>th</sup> hour intervention, blocked resettlement flights to Rwanda that had been proposed by then Home Secretary Priti Patel. In the minds of the right, the European Court on Human Rights is anathema as Brexit was intended to give Britain full sovereignty over legal matters. Besides the potential political fallout, leaving the ECHR is problematic as aspects of the ECHR are embedded in the Human Rights Act and the Good Friday (Belfast) Agreement. As PM, Cameron had floated reforms that would have provided Parliament with a veto over judgments rendered by the European Court on Human Rights. Newly minted Home Secretary James is downplaying an ECHR exit, while insisting that the government will find a way before the general election to remove asylum seekers to Rwanda.

In response to the Supreme Court ruling, the PM [announced](#) that the government intends to propose a treaty with Rwanda in which Rwanda would agree not to send asylum seekers back to their country of origin (what the PM referred to as “guarantees in law”). The treaty would replace the current memorandum of understanding with Rwanda. This, in effect, would bind Rwanda to accord treatment to asylum seekers sent from Britain better than asylum seekers that come to Rwanda directly.

And, there is a second proposed prong, which is a [proposal](#) to introduce “emergency legislation” (also known as “fast-tracked legislation”) that would in effect deem Rwanda to be safe for asylum seekers, even though the Supreme Court determined that that was not the case. As reported, this end-run does not sit well with legal experts. Simply, a legal agreement will not remedy a system that has been found as an evidentiary matter to be unsafe. As [reported](#) by the Guardian, former supreme court justice Jonathan Sumption was among several legal figures who expressed serious reservations about the government’s attempted end-run, telling BBC News at 10: “I have never heard of them trying to change the facts, by law. For as long as black isn’t white, the business of passing acts of parliament to say that it is profoundly discreditable.”

The Guardian also reported that the chair of the Bar Council, Nick Vineall KC, said barristers had “grave concern” about the government’s proposals to legislate out of a supreme court ruling that centered on a finding of fact. If parliament were to pass legislation the effect of which was to reverse a finding of fact made by a court of competent jurisdiction, that would raise profound and important questions about the respective role of the courts and parliament in countries that subscribe to the rule of law.”

The idea of pushing through a treaty quickly could run into headwinds in the House of Lords. Because the Rwanda policy was not included in the 2019 party manifesto, the Lords can block it. It is unclear how the treaty idea would avoid the flaws cited by the Supreme Court and, in his press conference this past week, Sunak declined to guarantee that flights carrying asylum seekers to Rwanda would be in place before the general election. The right wing may well push for legislation to block the effect of the ECHR and the UN Refugee Convention under UK law.

For those who have followed the Brexit saga closely, and despite Sunak [doubling down](#) this past week when he said, “I will not allow a foreign court to block these flights,” there is a supreme irony that the signature Tory immigration policy has been upended, not by a “foreign” court, but by a domestic one.

## Concluding Thoughts

Sunak has now aligned himself with the center-right wing of his party, but in doing so, he risks fixing the blame for the inevitable general election loss on the center-right, potentially handing the far right-wing the pole-position in the leadership contest that is destined to follow the Tory defeat. As Robert Shrimmsley noted in his FT [analysis](#) this past week, “it will now be far easier for hardliners to argue that the widely predicted election outcome is owned by the centrist, Remainer Conservatives, among whom they number the Brexiter-backing Sunak. To cite Braverman’s self-serving and vindictive departure letter outlining his multiple betrayals, defeat will be down to Sunak’s not being an ‘authentic Conservative.’ The litany of unsuitable premiers and disastrous economic policies was neglected.”

\* \* \*

**Mark S. Bergman**  
**[7Pillars Global Insights, LLC](#)**  
**London, England**  
**November 19, 2023**