

## Home office refuses to reconsider Afghan judge's overseas application for protection in the UK

*The Home Office has refused to reconsider its 2022 decision denying a former female Afghan judge in hiding from the Taliban permission to enter the UK*

**LONDON - January 2023:** On 25 November 2022, lawyers from Kingsley Napley LLP, Jenner & Block London LLP, and counsel Helen Foot of Garden Court Chambers lodged an appeal on behalf of their client – named as “Y” - and her son, who in August 2022 were denied leave to enter the UK by the British Government, preventing them from living with British and settled family members in the UK. The lawyers are all acting on a pro bono basis. Baroness Helena Kennedy KC, the Director of the International Bar Association’s Human Rights Institute (IBAHRI), has written a letter in support of Y and her son’s case.

Upon receipt of Y and her son’s appeal, the Immigration Tribunal directed the Home Office to conduct a review of its decision. On 6 January 2023, the Home Office Pre Appeals Review Unit denied Y’s case once again – remarkably – citing a lack of “*sufficient compelling and compassionate circumstances*”.

Y was a female judge and women’s rights defender in Afghanistan. She had a highly successful career in the Afghan judiciary spanning two decades and held senior positions in the Criminal Court system, amongst others. She adjudicated cases involving crimes such as murder, kidnapping, violence against women, rape, terrorism offences and conspiring against the Afghan Government involving the Taliban. The Home Office has itself accepted in its review that Y’s work “*contributed to the UK Government’s objectives in Afghanistan to promote the rule of law*”.

After an attack on her home in Kabul and the assassination of several former colleagues following the Taliban takeover last year, Y fled Afghanistan and, thanks to the goodwill of a stranger, is currently hiding in Pakistan. Y and her son remain at great risk from Taliban retaliation and are seeking formal leave to enter the UK to be reunited with their British family members, including Y’s nephew who works as a Civil Servant in the British Government.

Even before the fall of Kabul, Y was subjected to death threats and attacks on her home from the Taliban. Since the return of the Taliban regime in Afghanistan, she has been left in a gravely vulnerable position as many of the people Y imprisoned have been released and have threatened revenge. They live in hiding in constant fear that they will be discovered and deported to Afghanistan. However, the Home Office has dismissed the – clearly acute – risk of Taliban retribution, commenting instead that Y and her son are in “*a better position*” than other Afghans in Pakistan because “*they receive financial support from relatives that pays for their accommodation and living needs...rather than the Afghan refugee camps and villages closer to the Afghan border who are more reliant on international aid*”.

Strikingly, the Home Office has also asserted in the decision that “*the UK is not required to consider asylum or protection claims of the large numbers of people overseas who wish to come to the UK*”. Claiming that the UK is not obliged even to consider claims for protection by those outside the UK is at odds with the UK Government’s narrative regarding the importance of offering “safe and legal routes” to refugees seeking to enter the UK on humanitarian grounds in order to reduce illegal immigration and the dangers posed by people-smugglers. Indeed in December 2022, UK Prime Minister Rishi Sunak pledged to create more legal routes “*so the UK remains a safe haven for the most vulnerable*”.

Y's case will now proceed to an oral hearing which has been listed at the Immigration Tribunal in March 2023.

**Kingsley Napley Immigration Associate Oliver Oldman comments:**

*"The Home Office's review decision displays the same callousness and seemingly intentional disregard for the evidence as the initial refusal decisions. It is completely untenable that the Home Office would choose to invest its limited time and resources into obstructing such a compelling and deserving case, while the government simultaneously pedals its well-worn rhetoric about the UK's "proud history" of providing sanctuary to those in need. Nevertheless, the legal team, together with Y, her son and their family in the UK, remain undeterred as we prepare for the hearing at the First-tier Tribunal."*

**Jenner & Block Special Counsel Lucy Blake comments:**

*"The Home Office's refusal to reconsider our clients' case is deeply disappointing. It is impossible to comprehend how their circumstances could be seen as anything short of compelling and compassionate. First, because Y – and her son – are in both acute danger from the Taliban as a direct result of Y having fought for and defended democracy, women's rights, and the rule of law - the very values and freedoms upheld by the UK in Afghanistan. Secondly, because Y and her son have close family members who want – and have the means – to house and support them in the UK, meaning their relocation wouldn't even incur a cost for the taxpayer. Thirdly, because the UK government has repeatedly and consistently encouraged those refugees seeking protection in this country to do so legally and safely – which is exactly what Y and her son are seeking to do. We will continue to support Y and her son as we proceed to the Immigration Tribunal."*

**Baroness Helena Kennedy KC comments:**

*"The Home Office's decision is a profound disappointment. It is wholly inconsistent with the UK Government's repeated pledges to support at-risk Afghan human rights defenders and our reputation as champions of the rule of law and the rights and freedoms that are central to British values. I hope Y and her son receive a more just result at the Immigration Tribunal."*

**The press release is not revealing client Y or her son's names due to concerns for their safety and we ask the media to similarly withhold identities of them and their family members in any reporting about this case.**

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**Contacts:**

- Ryan McSharry / Harrison Howard / Charlotte Hole, Infinite Global.  
[RyanM@infiniteglobal.com](mailto:RyanM@infiniteglobal.com) / [harrisonh@infiniteglobal.com](mailto:harrisonh@infiniteglobal.com) / [charlotteh@infiniteglobal.com](mailto:charlotteh@infiniteglobal.com)
- Tim Brown, Senior Marketing, Client Development and Communications Manager, Jenner & Block  
[TKBROWN@jenner.com](mailto:TKBROWN@jenner.com)