

## Immigration and asylum

# Afghan asylum seekers saved from deportation after last-ditch legal battle

Dozens taken off Home Office chartered plane destined for Afghanistan following hours of negotiations between lawyers and a high court judge



 Lawyers were engaged in out-of-hours hearings with a high court judge until minutes before the plane took off on Tuesday night. Photograph: Owen Humphreys/PA

**Diane Taylor**

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A private plane chartered by the Home Office to remove failed asylum seekers to [Afghanistan](#) has taken off after days of legal battles to prevent some of those on the plane being forcibly removed failed. More than 60 people who were due to be deported were taken off the flight but it is not known how many asylum seekers were deported.

Lawyers had been making last-minute attempts to get some of the passengers removed from the flight right up until it departed.

Last Friday the court of appeal upheld an earlier ruling to stop the removal of the asylum seekers, rejecting an application by the home secretary, [Theresa May](#), to overturn it.

Lord Justice Clarke ruled that it was only safe to return Afghan asylum seekers to three provinces - Kabul, Bamiyan and Panjshir; he said that it was too dangerous to return asylum seekers to all other parts of Afghanistan. The Home Office told the judge that if the flight was cancelled they would have to pay the private company who was running the flight £300,000.

The subsequent legal battles have focused on trying to ensure that the Home Office did not put anyone from an unsafe province on the plane, nor anyone who

would be in particular danger if returned to a so-called safe province. Lawyers were engaged in out-of-hours hearings with a high court judge until minutes before the plane took off on Tuesday night.

Toufique Hossain, a solicitor at Duncan Lewis who has been leading the case to try to prevent asylum seekers being put on the plane said: “We remain gravely concerned for those who are being forcibly removed. Who are these individuals? Where are they from in Afghanistan and did they have an opportunity to obtain legal advice in relation to these matters. The home secretary also ought to explain why she chose to spend hundreds of thousands of pounds in removing what is probably a handful of Afghans on a charter flight.”

One of those who was taken off the flight hours before it took off is a 19-year-old who escaped from Afghanistan at the age of 12 after his father was killed in Kabul by a government official. Until recently he was being looked after by foster carers. He had his removal directions for the flight to Kabul cancelled earlier on Tuesday and is still in detention.

“I lost my first family and my foster parents became my new family,” he said. “They did everything for me. I am studying engineering and want to try to live a good life. But nine days ago when I went to the Home Office reporting centre to report, they arrested me and took me to the Verne immigration removal centre for five days.

“Four days ago they moved me to Colnbrook IRC near Heathrow. they gave me a ticket and told me they were putting me on a plane back to Afghanistan this evening. I was very, very scared. I was relieved when the Home Office told me earlier today that they have cancelled my removal directions but I am still scared about being locked up in Colnbrook. I used to self-harm and now I have started doing that again. I hope they let me out of here very soon.”

Another asylum seeker who was removed from the plane shortly before take-off was a 30-year-old man whose case has been rejected by the government. He said he counted dozens of Afghan asylum seekers who have been brought to Brook House immigration removal centre, near Gatwick, over the last few weeks. “Until the last minute I didn’t know what was going to happen and I was very scared,” said the man, who first arrived in the UK and claimed asylum at the age of 17.

According to the latest [Amnesty International report](#) about Afghanistan there was growing insecurity throughout the country during 2014-15. The UN Assistance Mission in Afghanistan (UNAMA) reported that casualties among civilians not involved in hostilities in Afghanistan were at an all-time high.

The Taliban and other armed insurgent groups were responsible for more than 74% of civilian casualties, with 9% attributed to pro-government forces. A further 12% of casualties occurred during ground engagement between pro-Afghan government and Taliban insurgents and could not be attributed to any group. The remaining were as a result of the conflict. A lack of accountability in cases where civilians were killed or otherwise harmed unlawfully left many victims and their families without access to justice and reparation.

Hossain said on Tuesday night: “We are concerned that people who are from unsafe provinces were given a ticket on tonight’s plane but did not have legal representation, and may have been put on the plane in breach of the court order. If such people are sent back to Afghanistan in breach of the court order Theresa May will be in contempt of court. We are very concerned about the security situation in Afghanistan and don’t believe it is safe to send people back there.”

He added that human rights lawyers would be monitoring the flight when it reached Kabul to see if asylum seekers who should not have been on the plane were placed on it by the Home Office.

A Home Office spokesperson said: “It would not be appropriate to comment while the case is ongoing.”

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