# Kenyan bisexual asylum seeker granted fresh UK hearing after tribunal errors exposed



A recent legal victory has allowed a bisexual Kenyan migrant to remain in the UK after an asylum claim was unjustly dismissed due to significant errors in the judgement against her. The individual, who has been granted anonymity, fled Kenya in 2018 after her family discovered her same-sex relationship. The fears of persecution, potentially leading to violence from both her husband and state authorities, underscored the urgency of her asylum request.

Initially, the Home Office rejected her asylum application, prompting her to appeal to the First Tier Tribunal of the Immigration and Asylum Chamber. However, the subsequent dismissal by the tribunal failed to consider the specific vulnerabilities faced by LGBTQ+ individuals in Kenya, where societal and legal norms often diminish their protection. An appeal to the Upper Tier Tribunal revealed that the original judgement was plagued by numerous typographical errors and misstatements that severely undermined its validity.

Upper Tribunal Judge David Pickup, upon reviewing the case, highlighted that the earlier ruling was "so riddled with errors" that it could not have possibly applied the necessary "anxious scrutiny" to the woman's plight. He stated that anyone reading the judgement would find it lacking in credibility, raising serious doubts about the fairness of the process. The judge noted particularly that a crucial error incorrectly stated the woman was "entitled to humanitarian protection" instead of being denied such protection.

These judicial errors underscore a broader concern within the UK asylum system, particularly regarding the thoroughness with which cases are evaluated. The Upper Tribunal pointed out that the original First Tier decision appeared to have been made in haste, lacking adequate reasoning to support its conclusions. This case forms part of a troubling pattern where instances of procedural oversights in asylum cases can lead to dire consequences for vulnerable individuals seeking refuge.

Lawyers representing the asylum seeker also argued that the First Tier Tribunal had egregiously misrepresented her situation, particularly by suggesting she had kept her relationship secret from her family. In reality, the relationship had been presented to her relatives as a platonic friendship, reflecting the complexities of her situation. The initial judgement's inaccuracies extended to its analysis of the safety of LGBTQ+ individuals in Kenya—documented evidence suggests that the state is often "able but unwilling" to provide effective protection for them.

The ruling comes amid broader discussions in the UK regarding immigration policy. Recently, Home Secretary Yvette Cooper unveiled proposed reforms aimed at addressing what she described as "perverse" judicial decisions that hinder deportations of foreign criminals and illegal migrants. Additionally, Prime Minister Sir Keir Starmer has announced plans to tighten immigration controls, including bans on recruiting overseas care workers and raising costs associated with skilled worker visas. Critics argue that these reforms fall short of addressing the complexities of the immigration system.

This case not only highlights the critical issues surrounding the legal treatment of asylum seekers but also raises questions about the overarching immigration policies that govern such decisions. As the nation progresses towards stricter immigration controls, the outcomes of cases like this may influence both public perception and legislative action in the realm of asylum and refugee rights.

In the wake of her recent victory, the Kenyan asylum seeker can now have her case reheard, reflecting a glimmer of hope for those navigating the challenging pathways of seeking asylum in the UK. As discussions around immigration reform continue, the implications of this ruling will likely resonate throughout the broader legal landscape.

### Reference Map

1. Paragraph 1, 2, 3, 6, 7
2. Paragraph 4
3. Paragraph 5
4. Paragraph 6
5. Paragraph 7

Source: [Noah Wire Services](https://www.noahwire.com)

## Bibliography

1. <https://www.dailymail.co.uk/news/article-14707087/kenyan-migrant-typo-riddled-document-tribunal-uk.html?ns_mchannel=rss&ns_campaign=1490&ito=1490> - Please view link - unable to able to access data
2. <https://tribunalsdecisions.service.gov.uk/utiac/ui-2023-002007> - This Upper Tribunal decision, dated 25 October 2023, addresses an appeal against the First-tier Tribunal's dismissal of a Kenyan asylum seeker's claim. The Upper Tribunal found material errors in the First-tier Tribunal's decision, including typographical errors and misstatements of evidence, leading to the remittance of the case for rehearing. The judgment emphasizes the necessity for accurate and thorough scrutiny in asylum cases to ensure fairness and justice.
3. <https://kenyalaw.org/caselaw/cases/view/297000/> - In Judicial Review E154 of 2023, the Kenyan High Court addressed the case of Abubakar Haji Mohamud, a Kenyan citizen by birth, who was wrongfully detained and threatened with deportation to Ethiopia. The court found procedural irregularities in the Department of Immigration's actions, including the lack of written reasons for detention and deportation orders. The court emphasized the importance of adhering to constitutional and legal procedures in administrative actions affecting citizens' rights.
4. <https://new.kenyalaw.org/articles/2023-08-23/research/a-delay-by-an-illegal-foreigner-in-expressing-their-intention-to-apply-for-asylum-does-not-bar-them-from-applying-for-refugee-status> - This article discusses a legal case where the court ruled that a delay by an illegal foreigner in expressing their intention to apply for asylum does not bar them from applying for refugee status. The court emphasized that individuals should not be penalized for delays in expressing their intention to seek asylum, highlighting the importance of providing protection to those in need, regardless of procedural delays.
5. <https://vlex.co.uk/vid/upper-tribunal-immigration-and-951661047> - This case summary from the Upper Tribunal (Immigration and Asylum Chamber) dated 19 October 2023 discusses the procedural issues arising from conflicting decisions regarding an appellant's application for permission to appeal. The tribunal highlights the importance of procedural consistency and the need for clear communication to ensure fair and just outcomes in immigration and asylum cases.
6. <https://tribunalsdecisions.service.gov.uk/utiac/ui-2024-000097> - This Upper Tribunal decision addresses errors in the First-tier Tribunal's approach to the burden of proof concerning the availability of medical support in Kenya for an appellant's mental health condition. The tribunal found that the First-tier Tribunal erred in its assessment, leading to the remittance of the case for reconsideration, underscoring the importance of accurate and thorough evaluation of evidence in asylum cases.
7. <https://www.gov.uk/government/publications/asylum-support-tribunal-cases-listed-for-hearing> - This official UK government publication provides a list of Asylum Support Tribunal cases scheduled for hearing, including updates for dates in October and November 2023. It serves as a resource for individuals and legal professionals to stay informed about upcoming hearings and procedural updates in asylum support cases, ensuring transparency and accessibility in the legal process.