

from THE BOLCH JUDICIAL INSTITUTE

Bolch Prize Honors “Swift, Breathtaking” Effort to Aid Afghanistan’s Courageous Women Judges

The International Association of Women Judges (IAWJ) received the 2023 Bolch Prize for the Rule of Law during a ceremony in March. The Bolch Prize is awarded annually by the Bolch Judicial Institute of Duke Law School to honor extraordinary efforts to advance and protect the rule of law. The IAWJ was recognized for its ongoing work to evacuate and resettle its 250 Afghan members after the Taliban took power in 2021.

“When the Taliban invaded Kabul in the late summer of 2021, the IAWJ reacted immediately and in a way that was hands-on,” said Judge Allyson Duncan, a regional president of the International Association of Judges, which worked with the IAWJ and other organizations to assist Afghanistan’s women judges. “Within days, the IAWJ was able to mobilize resources, raise funds to charter planes for evacuation, and help oversee escape routes. It was a combined goodwill effort in which each had a role to play, but the work of the IAWJ was swift, breathtaking, and unparalleled.”

Following are excerpts of remarks from two of the keynote speakers: Judge **SOSAN BAKSHI** of Afghanistan (who uses a pseudonym and is not pictured to protect family still in Afghanistan), and Justice **SUSAN GLAZEBROOK**, president of the IAWJ and a justice of the Supreme Court of New Zealand. The full video and transcript are available at judicialstudies.duke.edu.

Judge Sosan Bakshi

It is a true honor to be here. For this event, I have been asked to talk about my experience as a female judge in Afghanistan and my journey from Afghanistan to the United States.

To ensure that women are not deprived of their rights simply because of their gender, it requires that they must have leaders of their kind to understand their issues and stand up against gender discrimination.

To become a judge, we had to finish law or sharia law school. After that, we had to pass a judicial studies entrance exam, and, after two years of practical studies, judges were appointed on the recommendation of the Supreme Council of the Supreme Court of Afghanistan and approved by the president. Thus, only the president had the authority to appoint judges, determine their retirement, accept their resignation, and remove them from judicial positions.

To assure independence and impartiality, judges were not allowed to be members of political parties during their term of office; we were there only to implement the law and support the rule of law in Afghanistan. But, according to the law, we were allowed to have an association to secure our rights. So I joined the Afghanistan Women Judges Association (AWJA) as well as the International Association of Women Judges (IAWJ) and encouraged other judges to join the association to fight for women’s rights and stand up against gender discrimination in the judicial branch of Afghanistan.

You may wonder why I decided to be a judge. Ever since I was a child, I felt the need for the rule of law and justice.

When I was five years old, my father died, and the Taliban came to power. I witnessed and faced lots of injustice and challenges, or, I can say, domestic and social violence against women and girls. For instance, my grandfather did not want me and my sisters to go to school, but my mother stood by our side and convinced him that education is our right. Now my family is educated. I learned bravery and commitment from her. I am proud of my mother.

During my childhood, I also witnessed life behind the Taliban curtain. Women were beaten for not wearing a burqa or for the way they dressed, and they were not allowed to study or work. I will never forget that my elder sister cried for five years because she was not allowed to go to school. All these circumstances made me incredibly angry, so when I got older it started me on the road to studying law. I chose to study law and become a judge to have the authority to provide justice in practice.

To attend my office, I had to travel on a very dangerous highway. People named that highway the Road of Death because my colleagues were attacked and lost on that road. It was a challenge, but my goals were much greater than those threats and obstacles:

1. I witnessed the importance of having women in leadership roles, such as in judicial positions. Women have been the prey of men’s political whims at the political and social leadership levels. To ensure that women are not deprived of their rights simply because of their gender, it requires that they must have leaders of their kind to understand their issues and stand up against gender discrimination.

2. I wanted to be a role model for the other women and girls in my community, to inspire them to stand for their rights and social justice.
3. I wanted to prove to the Afghan patriarchal society that women deserve any job and can successfully do their jobs if given the space.

However, on 15 August 2021, the day Afghanistan surrendered to the Taliban, my world changed. In a blink, my hopes and dreams collapsed.

In the last three decades, there was no security. We were not able to travel to other provinces or peacefully walk around the city, because we never knew when a suicide attack would happen. We and our court were under threats. But we never tried to get out of Afghanistan, because we have never been afraid of being killed by the Taliban. Our huge concerns were that we would be coercively interrogated, prosecuted, and punished by the Taliban with no reason, or because of the great job that we had done, or that we would live without identity and rights.

It was unbearable that thousands of educated people left Afghanistan, who were the treasure of my country and the biggest achievement of the last 20 years. It really hurts when I see that our professionals do ordinary jobs in foreign countries. Our degrees, our job experiences may not have value here or in any other countries, but it was a prime need of Afghanistan.

When the crisis happened, my colleagues and I wondered how to rescue ourselves and our families. Then, I learned that the IAWJ was looking to evacuate Afghan female judges. Through the efforts of the UK Association of Women Judges and the IAWJ, I received an evacuation email for my brother and I to go to the UK. I really tried to get my whole family out, but it



MEMBERS OF THE IAWJ RECEIVED THE 2023 BOLCH PRIZE AT DUKE IN MARCH. FROM LEFT: JUSTICE MONA LYNCH (CANADA); PAUL GRIMM (BOLCH INSTITUTE); JUDGE ROBYN TUPMAN (AUSTRALIA); JUSTICE SUSAN GLAZEBROOK (NEW ZEALAND); JUDGE PATRICIA WHALEN (U.S.); JUDGE VANESSA RUIZ (U.S.). NOT PICTURED: JUDGE SOSAN BAKSHI (AFGHANISTAN).

was impossible. After waiting for two nights at the airport without enough food and water, I made the hardest decision of my life. I left my family behind at the airport in a terrible situation, hoping that they could join me later.

Upon my arrival to the UK, my mentor from the Alliance for International Women's Rights introduced me to the Center for Transnational Legal Studies in London, where I was a visiting researcher. Then I switched to the LLM program, and now I am doing my master's at Georgetown University Law Center. I am so grateful for this opportunity, because it keeps me hopeful. I hope to work in law again and serve justice.

In the U.S., the National Association of Women Judges (NAWJ) and Women's Bar Association are in contact with all Afghan female judges. They are very supportive and kind. Now, all Afghan women judges in the U.S. have been welcomed into these two outstanding organizations as members. They help us to find jobs and education opportunities. I am sure that their continuous efforts will lead to positive results. I wish to express heartfelt appreciation to all the judges at NAWJ in the U.S. I should mention that similar opportunities are provided for Afghan female judges in European countries as well.

I think it is support in a real meaning, and I am sure that it would have been impossible if we were not members of the IAWJ. It is a privilege to be a member of the IAWJ.

I am thrilled that today our honorable president, Justice Susan Glazebrook, will receive the award that she and the association deserve. I understand how hard she is working to advocate for our rights. I would like to thank Duke University Law School and the IAWJ for providing this opportunity to speak on behalf of Afghan female judges in this wonderful event.

Justice Susan Glazebrook

I'm very honored to be here this evening with my colleagues to accept this prestigious award on behalf of the International Association of Women Judges (IAWJ). We are very proud of our over 30-year history of supporting women judges and of our education programs, which have been designed to promote and sustain the rule of law, gender equality, and access to justice. At the same time, we are saddened to see the rising global threats to the rule of law and to its very important component, the independence of the judiciary. Where the rule of law is weak or nonexistent, the quest for sustainable development and human rights ►

more generally is compromised, and the adverse effects are heightened for women and other vulnerable groups in society.

That brings me to Afghanistan. The 15th of August 2021 is a date indelibly imprinted on my memory. It was the day the Taliban reached Kabul. Our small Afghan Support Committee, which was formed after the IAWJ Biennial Conference in May 2021 to support our Afghan colleagues, had been following the Taliban advance with horror. We still remembered the previous Taliban regime and were highly skeptical of assurances of a new and modern Taliban. How right we were to be so. We knew that the idea of women as judges was anathema to the Taliban. We knew, too, that the Taliban would view the Afghan judges generally as hostile agents of Western powers. Many of the courts they sat on were new courts designed to deal with terrorism, organized crime, and violence against women. Another threat became apparent as reports came of the prisons being emptied of even the worst criminals and terrorists, many of whom had been sentenced by our women colleagues. This meant the added danger from individuals seeking revenge.

The Afghan women judges had long been living and working with the ever-present risk of terrorists and revenge attacks. Two women judges were gunned down by unknown assailants in January 2021 on their way to work. Their deaths were a major tragedy for their families, their loved ones, and their colleagues, both in Afghanistan and globally. This was more than a private tragedy. The killings were part of an orchestrated campaign targeting public figures who were working towards a more equal and inclusive Afghanistan. Women leaders were especially targeted.

Despite these dangers, when we talked to the Afghan women judges, even as late as July 2021, they were determined to continue to dedicate themselves to their work as judges, to the rule of law, and to the country they loved. They went to work each day not knowing if they would return to their families in the evening. Their courage is beyond belief. All they asked of us at that stage was to publicize their situation to the world and to provide assistance with educational programs.

The position of the women judges became untenable when the Taliban reached Kabul just one month later. Our Afghan Support Committee was left with no choice but to try and assist our colleagues and friends to get to safety. The values that the IAWJ espouses would have seemed empty indeed if we were not prepared to live by them.

Once the Taliban had taken Kabul, the only option was to secure places on official evacuation military flights. We thought, very naively, that the obvious dangers the women judges were facing and the important role they had played in democracy building would guarantee them and their families a place on these flights. We could not have been more wrong. We tried very hard during this period to get the judges on the official flights. We engaged in extensive advocacy efforts, speaking to international media as much as we could to raise awareness about the plight of the women judges. We prepared endless lists for officials and contacted governments and officials all over the world in an attempt to get assistance, but with very limited success. We only managed to get some 30 of the 250 Afghan women judges out of the country during this time. Most of the spots we secured were on Polish military aircraft after a tremendous advocacy effort from a

lawyer in Poland who had read about the plight of the women judges and contacted us with an offer of assistance.

For those judges who were allocated a place on official evacuation flights, getting to the airport required determination, luck, and major fortitude. The journey, on average, took some 30 hours through searing heat, armed checkpoints, and immense crushes of people with little food and water, and often with young children. And just before the airport entrance, the judges had to wade through what had become a sewer. Many had to turn back. Our committee members and our wonderful interpreters were there with the judges every step of the way, encouraging them, giving them directions, and helping them connect with the soldiers at the gates. As our committee members live in different time zones, we were able to make sure that someone was always awake and available to our Afghan members via a 24-hour Zoom. However, in reality, we all got very little sleep during this time, anxious as we were to ensure that our sister judges made it to the airport safely. The courage, persistence, and, often, luck needed to get into the airport was something nobody should have to endure, least of all women and children.

Once the foreign troops officially left Afghanistan at the end of August 2021, there were very few remaining official evacuation options. Civil society was left with the enormous burden of organizing rescues for those who had not yet managed to escape. To be frank, it's a matter of great international shame that so many people, and in particular so many women, who had worked so hard for democracy and human rights in Afghanistan were abandoned in this way. Our IAWJ committee had to partner with other nongovernmental organizations, including the

International Bar Association, the International Commission of Juris Australia, and Jewish Humanitarian Response to try and organize evacuations of the remaining judges and their families. During this stage, evacuations were through chartered planes. This was an enormously expensive exercise and a logistical nightmare, but it was significantly more successful than the first phase. We managed to arrange the evacuation of some 130 judges and their families. This phase came to an abrupt end with a failed evacuation flight. The judges and their families got up early in the morning. They traveled to the airport. They were in the airport with their boarding passes when the Taliban stepped in and stopped about half of the judges and their families, ostensibly because they didn't have valid passports. You can imagine the very, very long night before those detained passengers were released.

So we are now in the third stage. We still have some 54 judges and their families in hiding and at risk in Afghanistan. The focus is on the painstaking task of getting one family out at a time, at the moment largely through Pakistan when the border is open. In Pakistan, they face long waits, possibly up to two years, before being processed for final destinations, which most hope will be the United States. Conditions are very basic for them in Pakistan, as there are limited funds, and the situation in Pakistan itself is not secure. All this comes at a time when the conditions in Afghanistan are deteriorating and the danger to women judges and women generally is escalating.

So where does this leave our IAWJ Afghan Support Committee? While we have achieved a lot since August 2021 — and we keep reminding ourselves that to save a life is to save the world —

They are determined and courageous women, and I have absolutely no doubt they will make a huge contribution to the countries lucky enough to host them. And hopefully, one day, we all will be able to celebrate the return of the rule of law to Afghanistan.

it is not enough for us. It will never be enough until all the women judges and their families are out of Afghanistan and safe in new and permanent homes. We made a promise that no one would get left behind, and we intend to do our very best to keep that promise. Heartbreakingly, it's becoming more and more difficult to fulfill. We are very conscious that there are other groups at risk in Afghanistan, but we are a very small group of volunteers and cannot help everyone. We felt an obligation to our sister judges, particularly because of our history with them as long-term members of the IAWJ.

It's worth remembering that helping the judges to escape Afghanistan is just the first step. They have lost the careers they worked so hard for and have become refugees in countries where they often do not speak the language. They will face years of retraining. Many are seriously traumatized. Most are also desperately worried about family members and colleagues left behind in Afghanistan. But they are determined and courageous women, and I have absolutely no doubt they will make a huge contribution to the countries lucky enough to host them. And hopefully, one day, we all will be able to celebrate the return of the rule of law to Afghanistan.

I want to briefly mention some of the lessons we've learned. First, the power

of modern communication, including encryption, which has enabled us to keep in contact with the Afghan judges safely. Second, the power of information. Through our database, we have access to full information on all of our judges that can be provided to those helping with evacuations and to international authorities for visas. Third, the obvious importance of international networks to coordinate efforts. The fourth is from Justice Mona Lynch of Nova Scotia, describing our early 24-hour Zoom days: "Never underestimate the power of a group of determined old women in their pajamas!"

The final lesson relates to both the importance, but also the fragility, of the rule of law. It can be compromised suddenly and completely, as happened in Afghanistan, but it can also be compromised by stealth and by stages. We must be ever-vigilant and protective. And to be clear, I'm talking about what is commonly called the "thick" concept of the rule of law, whereby, alongside procedurally focused requirements related to the manner in which laws are promulgated and ensuring that nobody is above the law, there are substantive requirements, including the protection and promotion of human rights, underpinned by the judiciary, and respect for international law and access to justice. Without these substantive requirements, the rule of law would be sterile indeed.

I must end by saying that the real heroines in this story are the Afghan women judges. I am in awe of their courage, their dignity, and their resilience, and I pay tribute to them.

See the full transcript and video at
[JUDICIALSTUDIES.DUKE.EDU](https://judicialstudies.duke.edu)