



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/00668/2013

**THE IMMIGRATION ACTS**

Heard at Glasgow  
On 17<sup>th</sup> July 2013

Determination Sent

Before

UPPER TRIBUNAL JUDGE A L McGEACHY  
DEPUTY UPPER TRIBUNAL JUDGE J G MACDONALD

Between

MISS IFFAT JABEEN

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr T Maleque, Solicitor  
For the Respondent: Mr M Mathews, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The Appellant is a national of Pakistan who came to the United Kingdom as a student on 21<sup>st</sup> December 2010. She did not complete the course and her visa was curtailed. She failed to leave the United Kingdom and was served with an enforcement notice as an overstayer. Her claim for asylum was lodged on 15<sup>th</sup>

December 2012 and refused by the Respondent on 14<sup>th</sup> January 2013. The Appellant exercised her right of appeal which was heard by First-tier Tribunal Judge Peter Grant-Hutchison who dismissed the appeal in a determination promulgated by the Home Office on 15<sup>th</sup> April 2013.

2. Grounds of application were lodged. It was said that the judge had erred in law in that he had failed to consider the terms of an expert report from Dr Gil Daryn and there was no reasoning from the judge as to whether the findings of the expert report were accepted and if they were not the reason why. Furthermore the judge had found at paragraphs 20 and 22 of his determination that the Appellant *would* be at real risk of serious harm and there would be a breach of Articles 2 and 3 ECHR if he was returned to Pakistan. Despite those findings the judge had gone to dismiss the appeal on both asylum and humanitarian protection grounds.
3. Permission to appeal was initially refused but on renewal to the Upper Tribunal Upper Tribunal Judge Eshun found that it was arguable that the judge came to no conclusions as to whether he accepted or rejected Dr Daryn's report or his findings. It was also arguable that the findings at paragraphs 20 and 22 were at odds with the appeal being dismissed on asylum and humanitarian protection grounds.
4. Thus the appeal came before us.
5. For the Home Office Mr Mathews said that it was clear enough that there were typographical errors in paragraph 20 and 22 of the determination when the judge had apparently concluded that there was a real risk of serious harm and that it would be a breach of Articles 2 and 3 to return the Appellant to Pakistan. Reading the judgment as a whole it was obvious that the reasoning of the judge was that the Appellant would *not* be at risk of serious harm and that she could reasonable relocate. However he accepted that there was an error of law in the judge failing to make any findings on the expert report from Dr Daryn.
6. In the light of that proper concession we concluded there was a material error of law and we indicated to the parties that we would set the decision aside and make a fresh decision. Mr Maleque indicated that he agreed with us that there was no need to take any further evidence from the Appellant and both parties said they were ready to proceed with submissions.

### **Submissions for the Home Office**

7. Reliance was placed on the reasons given in the refusal letter. There was no evidence that the Appellant's family were aware of her having given birth or their reaction to that. Against that background it was difficult to see that she would be at real risk of being a victim of an honour killing.
8. She had the option of internal relocation. There was no evidence that her family were able or had the wherewithal to track her down. Pakistan was a very large country with a population of over 100 million.

9. As set out in **KA and Others (Domestic violence – risk on return) Pakistan CG [2010] UKUT 216 (IAC)** paragraphs 231 to 233 there were agencies willing to assist the Appellant and the address of a crisis centre was said to be strictly confidential. This was a country guidance case and there was no need to depart from it which was what the expert had done.
10. Furthermore the Appellant was healthy, well educated, and would enjoy the benefit of a package should she volunteer to return to Pakistan all is set out in the refusal letter.
11. There was no reason to conclude that her family would establish her whereabouts in order do her harm. In any event as set in **KA** commencing at paragraph 193 there was a sufficiency of protection for her in Pakistan. Asking her to relocate would not be unreasonable or unduly harsh. We were asked to dismiss the appeal.

### **Submissions for the Appellant**

12. For the Appellant Mr Maleque relied on the submissions made by his colleague before the First-tier Tribunal Judge namely that the Appellant feared being killed. She had not contacted her family since she fell pregnant for the second time. Honour killings do occur. Dr Daryn had outlined the scale of the problem and had concluded that she faced persecution. Reliance was placed on the terms of Dr Daryn's report. In terms of the package given to the Appellant for her voluntary return Mr Maleque understood the financial support to the Appellant to be in the region of £200 - £500 which offered no long-term solution to the Appellant.
13. We were asked to allow the appeal.
14. We reserved our decision.

### **Conclusions**

15. As noted by the First-tier Tribunal Judge the Appellant did not tell her family that she is pregnant (she now has a baby) and she does not know how they would react to her news. While it is clear that she has not contacted her family for a long period of time there is also no evidence that her family have made any attempt to have contact with her. It is not stated or even hinted that any threats, of any kind, have been made to the Appellant. Absent such threats the evidence does not go nearly far enough to conclude that there is a real risk that the members of her family in Pakistan would attempt an honour killing. While it is true that the background material and the expert make it clear that honour killings do occur it cannot be said that honour killings are so widespread and systematic that they create a real risk to this Appellant. Furthermore, as noted in **KA**, whether a woman on return faces a real risk of an honour killing depends on the particular circumstances. In general such a risk is likely to be confined to tribal areas such as the Northwest frontier province. For these reasons we disagree with the conclusion of Dr Daryn who has stated in paragraph 26 that there was a "serious" risk of her being a victim of an honour crime.

16. The Appellant has therefore failed to prove, even to the lower standard of proof, that there is a real risk that she would face serious harm if she returned to her family. Having said that we accept that the Appellant has cut ties with her family and on her evidence would not feel able to go back and reside with them.
17. She would therefore be returning to Pakistan as a single female with a child born out of wedlock. Given that her family have shown no inclination to try and contact and trace her in the United Kingdom it may be doubted whether they would even know she had returned to Pakistan. We would have thought, given the entire lack of contact, they would be unlikely to know that she had returned. As noted in KA Pakistan is a very large country geographically and has a population of around 173 million. We do not accept that, as Dr Daryn suggests, the Appellant's family will be able to trace her if she is returned to Pakistan.
18. It is not disputed that the Appellant is a well educated woman certainly by Pakistani standards. As noted in KA at paragraph 231 it is extremely difficult to accept the view that the centres/refuges generally fail to keep their addresses secret from the families of such women. As already noted paragraph 332 states that the address of the shelter is strictly confidential. As KA makes clear it is essential to look at the personal circumstances of the Appellant. It is clear that there is some kind of return package available to the Appellant to assist her in the early stages of her return and given her education here she is in a far better position than others to try and secure employment and accommodation beyond the crisis centre or refuge. While Dr Daryn speculates (paragraph 39) that she would probably face a life of insecurity and destitution and might be subject to abuse and even trafficking such a view is not backed up by evidence and we disagree with it. On the contrary we think that with her educational background it is likely that in due course the Appellant would be able to find a job and there is no evidence before us that she would face a life of insecurity and destitution. The suggestion from Dr Daryn that she might be subject to abuse and even trafficking seems to us to be highly speculative.
19. For these reasons and having regard to the guidance expressed in KA we conclude that it would not be unreasonable or unduly harsh to expect the Appellant to internally relocate within Pakistan.
20. We are therefore dismissing this appeal.

**Decision**

21. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.
22. We set aside the decision.
23. We remake the decision in the appeal by dismissing it on asylum, humanitarian protection and human rights grounds.

Signed

Date 2<sup>nd</sup> August 2013

Deputy Upper Tribunal Judge J G Macdonald