



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: AA/04470/2011

**THE IMMIGRATION ACTS**

**Heard at North Shields  
on 21<sup>st</sup> February 2014**

**Determination Sent**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**S R  
(Anonymity direction made)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Patel instructed by Howells Solicitors LLP.

For the Respondent: Mrs Rackstraw - Senior Home Office Presenting Officer.

**DETERMINATION AND REASONS**

1. First-tier Tribunal Judge Doyle dismissed SR's appeal following a hearing at North Shields in May 2011. This determination was set aside as it was found to be arguable that he erred in failing to consider country conditions although his factual findings, bar those relating to risk on return, are preserved. The matter comes before this Tribunal to enable it to ascertain whether SR will face a real risk on return to Pakistan as a result of his ethnicity and political beliefs.

**Background**

2. SR was born in January 1988 in Pakistan. He arrived in the United Kingdom on 25<sup>th</sup> February 2011 and claimed asylum on the 28<sup>th</sup>. His

claim was rejected and on 23<sup>rd</sup> March 2011 removal directions were set to Pakistan.

3. The core of SR's claim to be at risk is based upon his political opinion. He claims to fear the Pakistani authorities as a result of his involvement with the Balochistan National Movement (the BNM). He claims that he is a member of this party, has delivered leaflets and posters, although notwithstanding the fact his role was to spread information he was never caught by the authorities.
4. SR claims, however, that on 8<sup>th</sup> August 2010 a First Incident Report (FIR) was issued accusing him of helping the party and "underground activities". SR states he was not at home when the Police called for him and for the next five months from August 2010 he lived what he describes as a "peripatetic and clandestine life" whilst arrangements were made to smuggle him from Pakistan. He left Pakistan on 21<sup>st</sup> January 2011 and travelled to Dubai from where he flew to the United Kingdom.
5. It is alleged the Pakistan government, the army, the police, and the Secret Service, deal with Balochi separatists in a violent way and that as his involvement with the BNM is known by the authorities, and as a result of there being an outstanding FIR, he will be killed if returned.
6. Having considered the written and oral evidence the Judge sets out his findings from paragraph 15 of the determination which are preserved. The Judge noted the Secretary of State accepted that SR is Balochi and a national of Pakistan but did not accept his party membership.
7. The key findings can be summarised in the following terms:
  - i. SR is a young man from Balochistan who has displayed a significant knowledge of Balochistan separatist politics and the BNM [15(e)].
  - ii. SR has provided consistent evidence that he is a young man from Balochistan of Pakistani nationality who has demonstrated a significant knowledge of Balochistan separatist politics. The weight of evidence indicates that he has an interest in and is a member of BNM [15(g)].
  - iii. SR has failed to produce reliable evidence that the Pakistani authorities have an interest in him. The fulcrum of the claim is that if returned to Pakistan he will be arrested because of the existence of an FIR issued on 8 August 2010. In this respect SR has produced contradictory evidence which cannot be relied upon. The unexplained difference of seven months in the date of the FIR creates

on a lack of consistency which indicates that I cannot place reliance on SR's evidence [15(n)].

iv. Since arriving in the UK SR has participated in one demonstration promoting separatist Balochistani politics which took place in London towards the end of March 2011 [15(o)].

v. There is sufficient evidence to demonstrate that SR has an interest in separatist politics. There is sufficient evidence to demonstrate that SR is in all probability a member of BNM. There is neither reliable nor credible evidence to indicate that SR has come to the attention of the Pakistani authorities [15 (p)].

## **Discussion**

8. It is asserted on SR's behalf that he will be returned to Pakistan using an Emergency Travel Document and that on arrival he will be questioned about his activities and should not be expected to lie about who is and what he has been doing. I accept that SR cannot be expected to deny a fundamental belief but this does not automatically establish a real risk for him at the point of return or thereafter. There is nothing in the country material that supports a claim that a Balochi national who is a member of the BNM cannot return to Pakistan or will face a real risk of persecution or ill-treatment at the airport. Such a claim has not been substantiated.
9. SR will therefore be able to leave the airport as it has not been established that he will be perceived by those responsible for processing returnees as having an adverse political opinion contrary to the interests of the state of Pakistan. He is not a member of one of the named banned separatist groups referred to in more detail below.
10. The Minority Rights Group International recorded in its Pakistan profile on the Baloch people, June 2009, that the Baloch are the indigenous peoples of Baluchistan which is split between the Pakistani province of Baluchistan and Iranian Baluchistan although the majority of this ethnic group live in Pakistan. The Pakistan province of Baluchistan is said to be the largest of all provinces of modern-day Pakistan making up nearly two fifths of the entire country and with a population, according to a census in 1998, of 6.5 million out of a total Pakistani population of 131 million. The population 2006 was estimated to be 8.2 million.
11. I was specifically referred by Ms Patel to the Country of Origin Information Report for Pakistan, 9<sup>th</sup> August 2013, and selected entries therein, including:

4.02 On 15 July 2013 the Human Rights Commission of Pakistan (HRCP) expressed its concern at the steep rise in killings in Karachi during the first six months of 2013. The statistics, based on newspaper reports, cited the deaths of 1,726 people killed in sectarian violence, targeted killings and other incidences of violence. During the same period in 2012, 1,215 violent deaths were recorded. **[27i]**

12. It is not disputed that some areas of Pakistan have higher levels of violence than others. Karachi is in Sindh province, one of the largest cities in Pakistan, and the figures are based upon newspaper reports without differentiating the reasons for the same or establishing a link to any risk to SR on return. Support for such a proposition is to be found later in the report where it is stated:

15.22 In its analysis of the security situation in Karachi, BBC News reported on 8 July 2011:  
 'Karachi is arguably one of South Asia's most violent cities. It is not only the largest city and port of Pakistan, but also a major industrial and commercial centre.  
 'The city is plagued by extortion rackets, land-grab mafia and armed groups fighting turf wars for their share of its resources. The level of violence this week has not been seen for years. Targeted killings and drive-by shootings are widely blamed on armed gangs linked to the city's main political parties.  
 There were always fears that with last week's resignation from the government by the city's main political party - the MQM [Muttahida Qaumi Movement] - increased violence and instability would bring Pakistan's economic capital to a grinding halt.' **[35i]**

15.23 The South Asia Terrorism Portal (SATP) reported in its South Asia Intelligence Review (SAIR), dated 11 July 2011: 'The current spate of killings in Karachi principally resulted from clashes between MQM and PPP [Pakistan People's Party] ally, Awami National Party (ANP), drawing a line of blood between the 45 per cent of Urdu speaking Mohajirs in the city, on whose behalf the MQM claims to act; and the ANP, —representing|| the city's 25 per cent Pashtun population. [The remaining 30 per cent comprise Punjabis, Sindhis, Balochs, etc.]'

15.24 The Economist Intelligence Unit (EIU) stated, in its April 2012 Country Report on Pakistan, that:  
 'Much of the violence stems from tensions between the MQM, which derives most its support from the descendants of generally Urdu-speaking Muslims who migrated from what is now India after partition in 1947, and the Awami National Party (ANP), which represents ethnic-Pashtun migrants. In recent years Karachi's precarious ethnic balance has been affected by the arrival of tens of thousands of Pashtuns displaced by conflict in Pakistan's Federally Administered Tribal Areas (FATA), attracted by

better economic opportunities or forced out of parts of the country affected by flooding in 2010-11.'

15.25 The SATP's South Asia Intelligence Review dated 7 May 2012 commented on further violence in Karachi when the Security Forces (SF) commenced an operation in the Lyari area on 27 April 2012 against the People's Aman (Peace) Committee (PAC), allegedly linked to, and supported by, the Tehrik-e-Taliban Pakistan (TTP) and Balochistan Liberation Army (BLA). By the 5 May, 51 people had been killed, including 26 civilians, 12 SF personnel and 13 criminals'.

15.26 The USSD Report 2012 cited that:  
 'On some university campuses in Karachi and Lahore, armed groups of students, most commonly associated with the All Pakistan Mutahidda Students Organization (affiliated with the Muttahida Qaumi Movement) and the Islami Jamiat Talaba (affiliated with Jamaat-e-Islam) clashed with and intimidated other students, instructors, and administrators over issues such as language, syllabus content, examination policies, grades, doctrines, and dress. These groups frequently influenced the hiring of staff, admissions to universities, and sometimes the use of institutional funds. They generally achieved such influence through a combination of protest rallies, control of campus media, and threats of mass violence. In response university authorities prohibited political activity on many campuses, but the ban had limited effect.'

15.27 On political violence elsewhere in the country, the HRCP Report 2011 stated that targeted killings of several political leaders and activists were reported in Balochistan. In Khyber Pakhtunkhwa and FATA, political leaders and activists were targeted in terrorist attacks, including suicide attacks and bombings.

13. In relation to Balochistan itself the report states:

### **Balochistan (Baluchistan)**

8.35 In its briefing on Pakistan violence, dated 11 April 2013, Reuters stated "Baluchistan lies to the southwest of FATA [Federally Administered Tribal Areas], bordering both Iran and Afghanistan, and is made up primarily of Baluch and Pashtun ethnic groups. Baluch tribal militants are fighting a decades-long insurgency for greater political autonomy and control over local mineral resources. Afghan Taliban fighters also operate in the area, as do Pakistani militant groups.'

8.36 The HRW World Report 2013, covering 2012 events, observed: "The human rights crisis continued to worsen in the mineral-rich province of Balochistan. Human Rights Watch recorded continued enforced disappearances and killings of suspected Baloch militants and opposition activists by the military, intelligence agencies, and the paramilitary Frontier Corps. Baloch nationalists and other militant

groups also stepped up attacks on non-Baloch civilians. Pakistan's military continued to publicly resist government reconciliation efforts and attempts to locate ethnic Baloch who had been subject to —disappearances. Pakistan's government appeared powerless to rein in the military's abuses. As a result, large numbers of Hazara community members sought asylum abroad.'

8.37 The HRCP Report 2012 stated:

"Balochistan has been considered the most volatile region in the country for some time now and the situation has aggravated in recent years due to the rise of violent sectarian groups... According to media reports, 758 members of the Shia community have been killed from 2008 till 2012; of these, 338 belonged to the Hazara community... The general law and order situation in Balochistan was also far from secure as 8,201 crimes were reported in 2012. The main highways leading to Balochistan were termed unsafe, especially for night travel. The local business community was adversely affected since delivery of raw materials or products was rarely timely. A total of 261 people were murdered while 210 attempted murders were recorded in 2012 in Balochistan.'

8.38 On 30 August 2012, the International Day of the Victims of Enforced Disappearances, Amnesty International stated in an open letter to the then Prime Minister of Pakistan, Rajaz Pervez Ashraf, that:

"Enforced disappearances, abductions and extra-judicial executions continue with impunity at an alarming rate in Balochistan. Reportedly, hundreds of Baloch activists, teachers, journalists and lawyers have been abducted or killed in the last two years alone. The bullet-ridden bodies of individuals, who have been forcibly disappeared or abducted and many bearing apparent marks of torture, are found across the province almost every day.

"In many cases, victims' families blame these incidents on Pakistan's security forces, especially the Frontier Corps and intelligence services. The security forces deny the charges and claim that the deaths are a result of tribal differences between Baloch militant groups. However, in many of the cases Amnesty International has documented, the victims were last seen alive being led away by uniformed Frontier Corps soldiers, often accompanied by men in plain clothes, in front of multiple witnesses at military checkpoints and in cities and towns. Regardless of determining blame for these and other killings in Balochistan, the fact they continue unabated represents one of the greatest failures of the Pakistan state to protect the right to life.'

8.39 The HRCP Report 2012 observed 'Mutilated bodies of suspected nationalists and terrorists continue to surface in Balochistan. Official reports said that 125 mutilated bodies were recovered till October 31, 2012 while unofficial stats were much higher than the official figures. The issue of missing persons in Balochistan, believed to be in the custody of security establishment's intelligence agencies, was taken up by the Supreme Court in the year under review.'

8.40 The SATP noted in its Balochistan Assessment 2013, covering 2012 events, that: 'With Sindh and Gilgit Baltistan, Balochistan is the only region in Pakistan which has witnessed a rise in terrorism related fatalities in 2012. The Province witnessed 954 fatalities, including 690 civilians, 178 Security Force (SF) personnel and 86 militants in 418 incidents of killing in 2012, as against 711 fatalities, including of 542 civilians, 122 SF personnel and 47 militants in 294 incidents of killing in 2011, according to partial data compiled by SATP. The first 13 days of 2013 have already recorded 144 fatalities [these numbers are likely to be underestimates, as access to media and independent observers is severely restricted in Balochistan].'

8.41 The SATP noted in its Balochistan Assessment 2010, that there were '...at least six active insurgent groups in Balochistan: the Balochistan Liberation Army (BLA), the Baloch Republican Army, the Baloch People's Liberation Front, the Popular Front for Armed Resistance, the Baloch Liberation Front (BLF) and [the Balochistan Liberation United Front] BLUF.' The same source added that the BLUF was the '...most radical of the three Baloch separatist groups even though it isn't clear if these are separate or overlapping factions operating under different names.'

8.42 The HRCP Report 2010 observed: 'The federal government banned five Baloch organisations including the Baloch Liberation Army (BLA), Baloch Liberation Front (BLF), Baloch Republican Army (BRA), Lashkar-e-Balochistan (LB) and Baloch Musalla Difa Organization. Interior Minister Rheman Malik said the five organisations were involved in suicide attacks, rocket attacks and killing of innocent people. He said no organisation using the name of —army|| or —lashkar|| would be allowed to work in the province and the security forces would launch targetted operation[s] against them. He said the State Bank of Pakistan had been asked to freeze the accounts of these organisations. Baloch separatist organisations often did not allow civil society outfits and non-Baloch political parties to freely carry out their activities in the province.'

8.43 The HRCP Report 2010 stated: 'In Balochistan, militant insurgents continued to target the security forces and non-Baloch residents of the province. Non-Baloch teachers were murdered in targeted killings. Many teachers were reported to have sought transfer to educational institutions in Pashtun-majority areas of Balochistan or resigned and migrated to other provinces. Baloch militant organisations often claimed responsibility for murder of the academic staff and tried to justify their acts as revenge for the excesses committed by the law enforcing agencies against the Baloch political activists.'

8.44 The same report added: 'In September, HRCP expressed serious concern at the government's decision to give policing powers in Balochistan to the Frontier Corps (FC) and called the decision a retrogressive step. It said that the FC did not have a good reputation in Balochistan and demanded a reversal of the decision and political initiatives to address the situation. As many as 118 people were killed and 40 injured in 117 targeted killings in

Balochistan in 2010. Those killed included at least 29 non- and 17 members of the Shia Hazara community.'

Baloch

8.45 BBC News reported on 24 November 2010 that, according to Balochistan's chief minister, Sardar Aslam Raisani, 'Pakistan's security agencies are involved in extrajudicial killings in Balochistan.' The minister claimed that '—Some of the abductions and killings are definitely carried out by security agencies...|| He also stressed that some of the deaths were the responsibility of tribesmen who have been fighting for greater political autonomy.' The BBC added 'Human rights organisations say kidnappings and murders of political dissidents are at an all-time high in the province.'

8.46 The Human Rights Commission of Pakistan (HRCP) undertook a fact-finding mission to Balochistan from the 15-19 May 2012. Its findings, including disappearances, extrajudicial killings and killings by militants, were published in the HRCP report Hopes, fears and alienation in Balochistan, published 6 August 2012. The report included a list of missing persons and missing persons found dead.

8.47 The SATP website provides a comprehensive timeline of incidents in Balochistan from 2003 through to 2013 in its Balochistan Timeline, accessed 21 June 2013.

8.48 Jane's reported in its Executive Summary, updated 19 June 2013, that in an attempt to address the root cause of conflict, a 'Balochistan package' (Aghaz-e-Haqooq-i-Balochistan) was presented before parliament on 24 November 2009:

'Key issues addressed by the 39-point-package include the acknowledgement —that the question of provincial autonomy needs to be revisited and the ownership of the provinces over their resources reasserted in the constitution|| and the determination —to correct the wrongs of history, by conferring the political, economic and cultural rights of the provinces||. Specific proposals comprise far-reaching constitutional, political, administrative and economic measures... The chances of positive movement on the Baloch insurgency have increased as a result of the 2013 election, with Baloch nationalist parties running and the central government deciding to appoint a nationalist, Abdul Malik Baloch, as chief minister. Less promising is any movement to dissuade the Lashkar-e-Jhangvi from targeting the province's Hazara minority, who were the victims of a series of devastating attacks in 2012-13.'

8.49 The SATP's Balochistan Assessment 2013 stated that the Aghaz-e-Haqooq-i-Balochistan (Initiation of the rights of Balochistan) package, approved by Pakistan's Parliament in 2009 had failed to deliver. SATP noted:

'Though Parliamentary Secretary Khurram Jahangir Watto, on October 5, 2012, claimed that 42 of its 61 points had already been implemented, there has, in fact, been little progress on the issue of provincial autonomy, which according to the package, should have been immediately addressed. Though a parliamentary committee to look into the proposals and recommendations regarding provincial autonomy has been formed, the committee is yet to reach to any conclusion. Similarly, the proposal regarding initiation of a political dialogue with



all major stakeholders in the political spectrum, to bring them into the mainstream politics, has not been met, as Government failed to inspire trust in the Baloch nationalist groups. The Government is yet to release political prisoners, another proposal in the package. While a range of financial elements in the package have been announced, implementation on the ground remains, at best, marginal.'

14. SR's party, the BMN, is not referred to as one of the groups banned by the government even though I accept the party is active in Balochistan. SR relies on a number of articles such as that to be found at page 37 of his bundle dated 31 December 2012 criticising a military offensive and referring to a statement from the BMN. This article does not support a claim the party are specifically targeted or at risk, per se, from the authorities in Pakistan or any of its agencies.
15. I have also considered in detail the parts of section 9 of the COIR to which I have been referred by Ms Patel relating to the activities of the security services.
16. In assessing risk it is of course necessary to consider such issues through the eyes of any potential persecutor and so whilst SR's party may not be a banned party in Pakistan, and may not contain anything within its name which is prohibited by the authorities (such as the word 'army'), and may not suffer the same degree of suppression as other groups, it is how he will be perceived if he comes into contact with the authorities that is the important element to be considered.
17. I have considered all the country information I have been asked to consider, the letter of submissions from Howell & Co, SR's solicitors dated 22 March 2011, and the subjective witness statements, as requested by Ms Patel. I also take into account the fact that SR attended a demonstration whilst in the United Kingdom and attended some meetings of his party which he claims will put him at risk upon return too.
18. The assessment of risk has to be undertaken also by reference to the fact SR has no adverse political profile as his claim to be the subject of adverse interest by the authorities or at risk of arrest as a result of a FIR having been issued was found to lack credibility. There is no evidence that he has ever been detained by the authorities, photographed, fingerprinted, or interviewed and he is not a member of a banned violent separatist party.
19. SR's account of posting leaflets and putting up posters was rejected by the Judge as his evidence could not be believed. He has attended occasional meetings in the United Kingdom but this does not indicate an individual with any form of adverse profile and particularly the profile of an activist threatening the interests of the government per se. I accept he has been found to have a level of knowledge indicative of a person interested in separatist politics and to be a member of the

BMN. Mrs Rackstraw submitted that there could be a greater risk for a person with a higher profile, a human rights activist, teachers, lawyers or academic, but to claim that all would be at risk in a population of 8.2 million is speculation. I find merit in such an argument.

20. I find that the material relating to extrajudicial killings in Pakistan, which I accept are a feature of the activities of some security forces in the country, does not indicate a risk to all members of the community in all of that country.
21. I also find there is no evidence that any member of his family has been pursued or is of interest to the authorities in Baluchistan where they are said to live, even though SR claims they are, which is contrary to the preserved finding.
22. I accept SR has been involved in activities in the United Kingdom but do not find he has substantiated his claim that such activities will have come to the attention of the Pakistani authorities or, if they had, that they create a real risk for him on return as a result of the group he is a member of and in light of the low level of such activities. Despite extensive country information SR's claim the BNM are targeted by the law-enforcement agencies to the extent that creates a real risk is not substantiated.
23. I find the situation in Pakistan can be violent in a number of areas, which is the same for all members of the population in those areas, but that there are also other areas where there is evidence of less acts of violence and little evidence of interest in Balochi issues.
24. I find having considered the evidence with the degree of care required in an appeal of this nature, that of anxious scrutiny, that SR has failed to substantiate his claim to be at risk at the point of return. As there is no evidence to the contrary I find he has not substantiated his claim that he cannot return to his home area as his claim to be of interest to the authorities as a result of previous activities was found not to be credible. There is insufficient evidence to support the claim that if SR resumed his level of activities that he has undertaken in the United Kingdom with the BNM he will face a real risk although I accept that if he increased the level of his activities or was perceived as being a separatist threatening the interests of the state, elements of the security services rather than the government of Pakistan itself as a matter of policy, may take an adverse interest in him. If so the country material indicates that there is a real risk of ill treatment sufficient to breach Article 3 or entitle him to the protection of the Refugee Convention although this is not the situation that exists at the date of this hearing.
25. In any event, even if SR cannot return to his home area I do not find he has substantiated his claim that it is unreasonable in all the

circumstances to expect him to internally relocate to another part of Pakistan. The country material does not substantiate a claim there is a real risk from the authorities in all parts of the country and the only information I was referred to relates to levels of violence in Karachi with nothing to indicate SR could not relocate to Islamabad, which will be the point of return on removal. He is a young man with no health issues, has worked as a mechanic in the past, and it is not suggested that he will not be able to re-establish himself in his home state. I therefore find that if required there is an internal flight alternative (as an alternative finding) although my primary finding is that on the basis of the material available to this Tribunal SR has not substantiated his claim that he is at risk on return of suffering ill treatment sufficient to entitle him to a grant of international protection.

**Decision**

- 26. The First-tier Tribunal Judge has been found to have materially erred in law and his determination set aside. I remake the decision as follows. This appeal is dismissed.**

Anonymity.

27. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. I make such an order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Signed.....  
Upper Tribunal Judge Hanson

Dated the 16<sup>th</sup> May 2014