



IAC-AH-LEM/CO-V1

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

Appeal Numbers: AA/00388/2014  
AA/00385/2014  
AA/00403/2014

**THE IMMIGRATION ACTS**

**Heard at Birmingham  
On 8<sup>th</sup> May 2015**

**Decision & Reasons Promulgated  
On 20<sup>th</sup> May 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE M A HALL**

**Between**

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

**Appellant**

**and**

**MUHAMMAD ZAHID (FIRST RESPONDENT)  
NAZNEEN ZAHID (SECOND RESPONDENT)  
MUHAMMAD UMER ZAHID (THIRD RESPONDENT)  
(ANONYMITY ORDER NOT MADE)**

**Respondents**

**Representation:**

For the Appellant: Mr D Mills, Senior Home Office Presenting Officer  
For the Respondents: Ms A Afzal of Legal Acumen Limited

**DECISION AND REASONS**

## **Introduction and Background**

1. The Secretary of State appeals against a decision of Judge of the First-tier Tribunal P J Holmes (the Judge) promulgated following a hearing on 22<sup>nd</sup> May 2014.
2. The Respondents before the Upper Tribunal were the Appellants before the First-tier Tribunal and I will refer to them as the Claimants.
3. The Claimants are citizens of Pakistan born 22<sup>nd</sup> September 1954, 20<sup>th</sup> August 1963, and 28<sup>th</sup> January 1982 respectively. The first and second Claimants are married, and are the parents of the third Claimant.
4. The first and second Claimants entered the United Kingdom as visitors, with the third Claimant entering as a student. They subsequently claimed asylum. The claims were based upon their actual or imputed political opinion, as the first Claimant was a journalist in Pakistan who had written articles criticising the Taliban, and also organised anti-Taliban demonstrations.
5. The applications were refused and directions given for their removal from the United Kingdom. The Respondent did not accept the credibility of the claims made by the Claimants.
6. The Claimants appealed, and their appeals were heard together by the Judge on 22<sup>nd</sup> May 2014. The judge found the Claimants to be credible in relation to the core of their account and allowed the appeals, concluding that the Claimants were entitled to asylum, and to remove them from the United Kingdom would breach Articles 2 and 3 of the 1950 European Convention on Human Rights (the 1950 Convention).
7. The Secretary of State was granted permission to appeal to the Upper Tribunal, and the appeal came before me on 9<sup>th</sup> March 2015. The basis of the appeal was that the judge had failed to make any findings in relation to internal relocation. I found the decision of the First-tier Tribunal to be, in the main, comprehensive, well reasoned and it was evident that it had been prepared with care. However I found that the judge had failed to make specific findings on the issue of internal relocation, which had been raised as an issue in the Respondent's reasons for refusal letters. The judge had not considered whether the Claimants would be at risk if they relocated to the south of Pakistan, and lived for example in a large city such as Karachi. I found the error to be material and therefore set aside the decision of the First-tier Tribunal, but noted that there had been no challenge to the credibility findings, nor the findings of fact, and those findings therefore stood.
8. Full details of the application for permission to appeal, the grant of permission by Judge McGeachy, and my reasons for finding an error of law are contained in my decision dated 10<sup>th</sup> March 2015. The hearing was adjourned as the Presenting Officer did not have a complete copy of the Claimants' bundle. It was agreed at the hearing and directions were given, that the adjourned hearing would proceed by way of

submissions, and as no further evidence was to be called, no interpreter would be required.

## **Re-making the Decision**

### **Preliminary Issues**

9. I ascertained that I had all the documentation upon which the parties intended to rely. I had the Claimants' bundle comprising 588 pages that had been before the First-tier Tribunal. I had also received a further bundle submitted on behalf of the Claimants containing 76 pages. Mr Mills had also received this bundle.
10. Prior to the commencement of the hearing I received the Claimants' skeleton argument with case law attached. Although directions had been made at the error of law hearing on 9<sup>th</sup> March 2015 that the adjourned hearing was to be by way of submissions only, and any further documents were to be served by 30<sup>th</sup> March 2015, I observed that the Claimants' representative had served further witness statements from both the first and third Claimants, which had been received by the Tribunal as late as 6<sup>th</sup> May 2015. There was an application made for these statements to be admitted in evidence, on the understanding that the Secretary of State would be able to cross-examine the Claimants on the contents of those statements. The application neglected to explain how such evidence would be given as the Claimants required a Punjabi interpreter, and no interpreter had been arranged, on the understanding that the adjourned hearing would be by way of submissions only.
11. Mr Mills did not however object to the statements being introduced, commenting that in his view they expressed opinion only, and he would not seek to cross-examine. On that basis I admitted the statements into evidence indicating that I would attach what weight I thought appropriate to them.
12. Both representatives indicated that they were ready to proceed and there was no application for an adjournment.

### **The Secretary of State's Submissions**

13. Mr Mills confirmed that the findings of fact made by the First-tier Tribunal had not been challenged, and the only issue to be decided related to internal relocation. He relied upon paragraphs 84-94 of the Secretary of State's reasons for refusal letter dated 3<sup>rd</sup> January 2014, in relation to the first Claimant, and paragraphs 105-112 of the Secretary of State's letter dated 6<sup>th</sup> January 2014 in relation to the third Claimant. There was no separate refusal letter for the second Claimant. These paragraphs relate to the issue of internal relocation, and it was suggested that there was a reasonable relocation option available to the Claimants in Karachi. Therefore while it was accepted by Mr Mills that the Claimants would be at risk in their home area of Lahore, there would be no such risk in Karachi.

14. Mr Mills submitted that the Claimants would not have a well-founded fear of persecution from the Taliban in Karachi, as the background evidence did not indicate that the Taliban had the same influence in Karachi as they were able to exercise in a city such as Lahore.

### **The Claimants' Submissions**

15. Ms Afzal relied upon her skeleton argument dated 8<sup>th</sup> May 2015. I was asked to note that it was accepted that the Claimants had been subject to persecution by the Taliban because the first Claimant had written in excess of 200 articles over a ten year period which identified him as an opponent of the Taliban. It was also accepted the first Claimant's younger son may have been followed home from school by the Taliban, and that a gun was pointed at the first Claimant and his younger son when they were on a motorbike. In addition the first Claimant had been assaulted by the Taliban at a protest meeting and the family bodyguard had been shot dead in September 2010, and a family friend had been shot on 4<sup>th</sup> January 2011.
16. Ms Afzal pointed out that the background evidence indicated that FIRs that had been issued in Pakistan were not shared between the different police districts, and therefore the FIRs that had been issued by the Claimants in relation to the past attacks upon them, would not be available if they moved to a different area.
17. Ms Afzal referred me to the background information which is set out in the skeleton argument, and submitted that this demonstrated that there would be no reasonable option of internal relocation for the Claimants in Karachi and therefore they were entitled to a grant of asylum.
18. At the conclusion of oral submissions I reserved my decision.

### **My Findings and Conclusions**

19. In considering these linked appeals, I take into account that the burden of proof is on the Claimants, and the standard of proof can be described as a reasonable degree of likelihood, which is a lower standard than the balance of probability. I must consider the circumstances as at the date of hearing.
20. I summarise below the preserved findings of the First-tier Tribunal.
21. The first Claimant was a journalist in Pakistan and wrote approximately 200 articles over ten years, expressing opposition to the Taliban.
22. The first Claimant wrote for a number of newspapers, and in particular the Daily Jurat. His household began to receive threatening telephone calls which may have been from the Taliban.
23. The first and second Claimants' youngest son was taken out of school for his own safety as in 2008 it was discovered that unknown people had been following him. In March 2008 the first Claimant was with his younger son on a motorcycle when they

were followed by people on another motorcycle one of whom pointed a pistol at them.

24. The first Claimant's account of being assaulted at protest meeting that he organised on 2<sup>nd</sup> June 2008 was not rejected.
25. A security guard hired by the family were shot and killed in December 2010 while travelling in a car with the third Claimant and the third Claimant's wife.
26. At a protest meeting on 4<sup>th</sup> January 2011 organised by the first Claimant, a friend of the third Claimant, who was with him at the meeting, was shot and wounded.
27. The incidents were reported to the police and FIRs were issued which were produced before the First-tier Tribunal, but Judge Holmes did not find the documents reliable, and based his conclusions on the written and oral evidence of the three Claimants and their family members who attended the appeal hearing.
28. Judge Holmes found that the general credibility of the Claimants' accounts remained intact, and the Claimants who gave evidence before him were coherent and plausible and he was satisfied to the required standard that they had been the victims of persecution in Pakistan perpetrated by the Taliban on account of the Claimants' actual or imputed political opinion.
29. Judge Holmes considered that the evidence did not indicate that the Pakistani police had shown a willingness and an ability to protect the Claimants, and that all that the police had done was issue FIRs. The judge was satisfied that the police had failed to offer the Claimants adequacy of protection as set out in Horvath [2000] UKHL 37.
30. Therefore the finding that the Claimants would be at risk in their home area of Lahore stands, and I must consider the contention that the Claimants would not be at risk if they moved to Karachi in the south of Pakistan. I have considered all of the background material to which I have been referred. The Country of Origin Information Report (COI Pakistan 2010) indicates at paragraph 8.01 that foreign terrorist organisations operated and carried out attacks in Pakistan, and the attacks targeted the country's major urban centres including Karachi. This information is however of some age, being taken from the United States Department of State Report on Terrorism 2009.
31. At paragraph 8.03 there is reference to the Human Rights Commission of Pakistan Report of 2009 which refers to suicide attacks, and refers to an attack on an Ashura procession in Karachi on December 28<sup>th</sup> 2009. I attach some weight to these articles, although I take into account that the articles are of some age, which lessens the weight to be attached. At page 559 of the Claimants' bundle, paragraph 8.09 of the COI 2013 refers to the number of target killings in Karachi being a stark increase when compared to the previous year, which itself was very high. I attach some weight to the comment that this is relevant to the state's inability to provide protection to its citizens. There is also reference in this paragraph to "different

criminal elements targeted rival groups with impunity in Karachi.” This may have some relevance in considering whether the Claimants would be safe in Karachi, but is not of direct relevance, as this relates to rival criminal groups, which is not the scenario that I am considering in these appeals.

32. In the same report at page 555 of the bundle, there is reference in paragraph 8.14 to the police arresting Karachi gang members and TTP (Pakistan Taliban) commanders who provided logistical support to militants in the tribal areas. I accept that this would indicate that the Taliban may have members or supporters in Karachi.
33. Contained within the Claimants’ supplementary bundle is a Home Office document entitled “Country Information Guidance – Pakistan; Fear of the Taliban and Other Militant Groups.” At paragraph 1.3.2 risk from the Taliban and other militant groups is described as being highest in the area formerly known as North-West Frontier Province, semi-autonomous Federally Administered Tribal Areas (FATA) that have a strong Taliban presence, and Baluchistan, but the comment is made that the Pakistani Taliban and other militant groups do however have reach outside of those areas.
34. At paragraph 2.2.2, the report confirms that the TTP has declared Jihad against the Pakistan State, seeks to control territory, enforces Sharia law, and fights NATO forces in Afghanistan. There are no reliable estimates on the size of the TTP.
35. At paragraph 2.2.5 there is reference to the Pakistan Armed Forces beginning a major air offensive on suspected militant hideouts in north Warziristan on 15<sup>th</sup> June 2014, in response to an attack on Karachi Airport the previous week which killed 38 people. At paragraph 2.2.6, it is recorded that 850 militants with suspected links to the Taliban were arrested in 2012, but successful prosecutions of those responsible for politically motivated or sectarian attacks are rare, usually because of a lack of evidence or poor investigative methods.
36. In paragraph 2.3.1 of the same report, it is recorded that there has been a sharp rise in sectarian violence since 2010, mostly concentrated in Quetta, Kurram, parts of Karachi and Gilgit Baltistan.
37. Paragraph 2.4 relates to politically motivated violence, which is described as being most prevalent in Karachi between members of the Muttahida Qaumi Movement (MQM), the Awami National Party (ANP), the Pakistan Peoples Party (PPP), and Sindhi Nationalist Party. The Taliban has also claimed responsibility for attacks against MQM and ANP supporters, which again indicates that the Taliban do have some influence in Karachi.
38. There is reference in paragraph 2.4.3 to Afghan and Pakistani Taliban groups consolidating in Karachi, engaging in criminal activity, recruiting and fund raising, and in the case of the Pakistani Taliban, organising attacks on security personnel and political or sectarian rivals.

39. Commencing at page 609 of the Claimants' bundle is a Home Office Report entitled Country Information and Guidance Pakistan; Background Information, Including Actors of Protection and Internal Relocation. Paragraph 2.4.9 confirms that FIRs are not systematically shared between different police forces in Pakistan and there is no national tracking system or data base. This supports the submission made on behalf of the Claimants, that the FIRs issued in Lahore would not automatically be accessible to the police in Karachi.
40. Paragraphs 2.7.9, to 2.7.18 comment upon the effectiveness of the police in Pakistan which varied greatly by district, ranging from reasonably good to ineffective. Paragraph 2.7.10 refers to the police force in Pakistan being under resourced, poorly trained, badly paid, low in moral, and viewed with suspicion by the courts and society because of its poor human rights record.
41. Paragraph 2.7.17 refers to criminal gangs and Jihadi networks wreaking havoc in Pakistan's big cities, which must include Karachi, although this paragraph does not specifically refer to that city, commenting that Peshawar has borne the brunt of militant violence.
42. It has been found that the Claimants have suffered persecution in Pakistan because of the activities of the first Claimant. If he returned to Pakistan, and lived in Karachi, he could not be expected to stop writing articles in opposition to the Taliban, or organising opposition meetings, because of a fear of the Taliban. The Upper Tribunal in AW (sufficiency of protection) Pakistan [2011] UKUT 31 (IAC) found that generally there was a systematic sufficiency of state protection in Pakistan, but that a Claimant may still have a well-founded fear of persecution if authorities know or ought to know of circumstances particular to his/her case giving rise to the fear, but are unlikely to provide the additional protection, the particular circumstances reasonably required. In considering whether an individual's circumstances give rise to a need for additional protection, particular account must be taken of past persecution so as to ensure the question posed is whether there are good reasons to consider that such persecution (and past lack of sufficient protection) will not be repeated.
43. It is accepted that the Claimants have not had an adequacy of protection in the past from the police in Lahore. Having carefully considered the background evidence, the relevant parts of which I have referred to above, I conclude that it cannot be said that the Taliban have no influence in Karachi. The evidence indicates that while the security situation may not be as severe in Karachi, as it is in the north of Pakistan, there have still been Taliban attacks in Karachi. The evidence indicates that the Taliban do have a presence in that city.
44. I therefore conclude that if the first Claimant returned to Karachi, and commenced writing articles opposing the Taliban, and organising meetings, this would attract the Taliban's attention, and I find that the Claimants, and their family members, would be at risk. In conclusion, I do not find that there is a sufficiency of protection for the

Claimants, on the facts of this particular case, and I do not find that they have the option of internal relocation to Karachi.

45. The Claimants are therefore entitled to a grant of asylum by reason of their actual or imputed political opinion in opposition to the Taliban.
46. I do not find that the risk to the Claimants satisfies the very high threshold of Article 2, but in view of my findings in relation to asylum, there is a real risk of treatment that would breach Article 3 of the 1950 European Convention on Human Rights. Therefore the appeal is also allowed on human rights grounds.

### **Notice of Decision**

The decision of the First-tier Tribunal contained an error of law and was set aside. I substitute a fresh decision.

The appeals are allowed on asylum grounds.

The Claimants are not entitled to humanitarian protection.

I allow the appeals on human rights grounds in relation to Article 3.

### **Anonymity**

The First-tier Tribunal did not make an anonymity direction. There has been no request for anonymity and I see no need to make an anonymity order.

Signed

Date 12<sup>th</sup> May 2015

Deputy Upper Tribunal Judge M A Hall

### **TO THE RESPONDENT FEE AWARD**

It appears that no fee was paid or is payable and therefore there is no fee award.

Signed

Date 12<sup>th</sup> May 2015

Deputy Upper Tribunal Judge M A Hall