



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

Appeal Number: AA/06466/2014
AA/06468/2014
AA/06470/2014
AA/06472/2014
AA/06475/2014

THE IMMIGRATION ACTS

**Heard at Birmingham
on 1 July 2015**

**Decision and
Promulgated
On 8 July 2015**

Reasons

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**RAFIQUE MUHAMMAD
SAIMA JEBEEN
SMAVIA RAFIQUE
AAMNA RAFIQUE
SALIHI RAFIQUE
(Anonymity direction not made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms H Naz of Morden Solicitors LLP (Birmingham)
For the Respondent: Mr D Mills - Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is an appeal against a determination of First-tier Tribunal Judge J.W.H Law promulgated on the 30th January 2015 following a hearing at Stoke on 23rd January 2015, in which the judge dismissed the appeals of this family unit against the direction for their removal to Pakistan following the refusal of their claims for asylum or any other form of international protection.

Background

2. All appellants are citizens of Pakistan. The first appellant was born in 1968. The remaining appellants are his wife and children whose claims for international protections stand or fall 'in-line'.
3. It was not disputed before the First-tier Tribunal that the first appellant worked for various NGO's and set up a girl's school in his village to educate young girls. The first appellant claimed that as a result he was targeted by the Taliban. The respondent did not accept the incidents were attributed to the Taliban and considered that an internal flight option existed in any event.
4. The judge clearly considered the evidence with the required degree of anxious scrutiny and has given adequate reasons for the findings made.
5. The judge sets out the findings from paragraph 35 of the determination. At paragraph 42 the judge finds:

"42. It is said that the appellant failed to substantiate that Mr Alam was "definitely a Taliban member" (paragraph 34). The same criticism is made of the appellant's unsubstantiated belief that the person responsible for the attacks in 2001 and 2002 were Taliban members. With regard to Mr Alam, the appellant said in reply to question 69 that "the things he used to tell me and the messages he used to bring gave me the impression that he was working for them". Given the well-known opposition of the Taliban to the education for girls, I find that the appellant's belief was quite plausible. Likewise, he described the persons involved in the attacks as wearing beards and turbans of the Taliban. At several points during the hearing, the appellant said that he had never had any rows or problems with anyone else and against his background of being involved in the education of girls (which the respondent accepts) I find that his belief that the Taliban were behind the threats was reasonable."
6. The judge accepted the reason the appellant left his home in his village was as a result of the threats leading to the finding at paragraph 49 that:

"49. I have therefore determined the appellant's asylum claim (and Article 3 claim, to the extent it stands or falls with it) on the basis that the appellant's claim is credible and the events on which he relies did happen. I find the attacks on him in 2001 and 2002 did amount to persecution and that he continues to have a subjective fear of

persecution, which is well-founded in so far as it relates to his home area.”

7. The issue of internal relocation was raised in the refusal letter and considered by the judge who found an internal flight option available that it was not unreasonable/unduly harsh for the appellants to make use of.
8. The grounds on which permission to appeal to the Upper Tribunal was sought assert that the First-tier Tribunal materially erred in considering the question of internal relocation, by failing to consider relevant facts, by failing to apply relevant case law and consider the background evidence

Discussion

9. The judge correctly considered the claim by reference to events in the appellant’s home area first, which is the village of Birr which lies between Peshawar and Islamabad in North-East Pakistan.
10. The first appellant claimed he was forced to leave his home area as a result of threats and moved to other cities in Pakistan from which he had to move as he believed the Taliban had located him there.
11. The findings of the judge are every specific, namely that the first appellant continues to have a subjective fear of persecution, which is well founded as far as it relates to his home area [para 49]. This is not challenged in the grounds which is of importance for two reasons which are (i) there is no finding of a well-founded fear in any part of Pakistan other than the home area, and (ii) there is no finding such a subjective fear is objectively well founded.
12. It is accepted that the question whether someone is at risk of persecution for a Convention reason should be looked at in the round and all the relevant circumstances brought into account. This is what the judge arguably did.
13. Paragraph 3390 of the Immigration Rules, which is intended to incorporate the Directive, states:
‘(i) The Secretary of State will not make:
(a) a grant of asylum if in part of the country of origin a person would not have a well-founded fear of being persecuted, and the person can reasonably be expected to stay in that part of the country; or
(b) a grant of humanitarian protection if in part of the country of return a person would not face a real risk of suffering serious harm,

and the person can reasonably be expected to stay in that part of the country.

(ii) In examining whether a part of the country of origin or country of return meets the requirements in (i) the Secretary of State, when making his decision on whether to grant asylum or humanitarian protection, will have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the person.

(iii) (i) applies notwithstanding technical obstacles to return to the country of origin or country of return.'

14. If it is accepted the judge found not only a subjective but also objectively justified fear of persecution in the appellants' home area then the judge was obliged to consider the question of internal relocation.
15. The challenge to the finding this is not an available option is based upon three key submissions which are (i) as the appellant claimed they were found when they relocated there is no safe place in any part of Pakistan. This was not accepted or found to be so by the judge which is an unchallenged finding, (ii) that reach of the Taliban is throughout all Pakistan. This is not supported by the objective material which refers to the North-West frontier and the Tribal Areas near the border of Afghanistan as being the core area of this group (which included the Swat Valley and other areas which have been recaptured by the Pakistan Army) and (ii) that even if the Taliban were unaware of the Appellants' return they would have to use their identity cards to obtain housing and other services which would allow them to be traced by the Taliban. This challenge is without arguable merit for the reason set out below.
16. As stated, there is no finding of a real risk throughout all Pakistan. It is also the case that there was insufficient evidence before the First-tier Tribunal to support the claim the Taliban have a presence in all of Pakistan such that a person of interest in their home area for a specified reason can be located and targeted throughout that country of 190 million people covering 310,000 square miles. It has not been shown on the evidence available to the First-tier or this tribunal that the Taliban would risk adverse interest from the security forces in areas outside their control for those such as the first appellant or his family. It has not been demonstrated on the evidence that the reach and influence of the Taliban in Pakistan is such that if the appellants use their identify cards, which may reveal their home area for obtaining access to housing or other services will be communicated elsewhere and result in a real risk to the first appellant and his family. For this submission to succeed the Upper Tribunal would have to accept that having relocated to another area there is a possibility that in using their ID card for services

information may get back to their home area, that there is a possibility the person who receives that information will be connected to the Taliban and inform them of the fact of return and location, that the Taliban would themselves have access to such information otherwise, that there is a possibility that if the Taliban were aware of the appellants presence they would consider him a target of such interest that they would be willing to risk supporters/members to harm him when they had the opportunity to do so in his home area where he was threatened but not killed as those who are targeted by the Taliban usually are, and who was able to live in other parts of Pakistan with little evidence of a credible adverse interest in the past away from his home area.

17. This family have relocated to the UK and so the physical act of living elsewhere is a matter of which they have experience. The internal relocation is within their home country with which they are familiar. The country material does not state that all teachers in Pakistan are at risk and it has not been made out that the family cannot be economically active in their chosen career areas elsewhere.
18. The reasonableness of the decision was considered and adequately reasoned.
19. No arguable legal error material to the decision to dismiss the appeal has been made out on the facts. The determination shall stand.

Decision

20. **There is no material error of law in the First-tier Tribunal Judge's decision. The determination shall stand.**

Anonymity.

21. 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 no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....
Upper Tribunal Judge Hanson

Dated the 6th July 2015