



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

Appeal Number: AA/11301/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14<sup>th</sup> April 2016**

**Decision & Reasons Promulgated  
On 19<sup>th</sup> April 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MANDALIA**

**Between**

**MOHAMMED ASHRAF  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Murphy of Counsel instructed by Maxwell Solicitors  
For the Respondent: Mr C Avery: Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant has appealed against a decision of First-tier Tribunal Judge Khawar promulgated on 20<sup>th</sup> May 2015 following a hearing on 19<sup>th</sup> March 2015.
2. This appeal comes back before me as a resumed hearing following an earlier hearing on 26<sup>th</sup> October 2015. For the reasons set out in my earlier decision, I found an error of law in the decision of First-tier Tribunal Judge Khawar.

3. Borrowing from my earlier decision, I summarise and augment the background. The appellant is a Pakistani national. He claims to have arrived in the United Kingdom on 26<sup>th</sup> June 2005. On 12<sup>th</sup> September 2006, he was arrested working illegally at a butchers shop in Brixton. He was served with an IS151A as an illegal entrant. On 21<sup>st</sup> August 2012 he was again encountered working illegally in a butchers shop in Brixton and he was again arrested and detained. On 3<sup>rd</sup> September 2012, Nationwide Solicitors submitted a request for temporary admission on his behalf. That request was considered and refused on 4<sup>th</sup> September 2012. He again applied for temporary admission on 11<sup>th</sup> October 2012. That request was considered and refused the following day, on 12<sup>th</sup> October 2012. On 24<sup>th</sup> October 2012 the appellant claimed asylum. The claim was refused for the reasons set out in an asylum decision dated 4<sup>th</sup> December 2014 and it was that decision, which gave rise to the appeal before the First-tier Tribunal.
4. The appeal was heard on 19<sup>th</sup> March 2015, and dismissed, First-tier Tribunal Judge Khawar finding that the appellant was not entitled to asylum or humanitarian protection, and that his removal from the United Kingdom would not breach his human rights. The appellant was subsequently granted permission to appeal that decision.
5. The Grounds for seeking permission filed by the appellant's solicitors, presumably upon the instructions of the appellant, state *inter alia*:

“... The Appellant had claimed Asylum on the basis that he had faced fictitious criminal charges in retaliation for his involvement with student activism while in Pakistan...”

### **Error of Law**

6. The appeal came before me on 26<sup>th</sup> October 2015. After hearing submissions from both parties I set aside the decision of the First-tier Tribunal. I have recorded in paragraphs [12] to [14] of my error of law decision, the submissions that were advanced on behalf of the appellant. In particular, I recorded at paragraph [13], the submission made by Mr Parkin:

“He submits that at paragraphs [18] to [22], the Judge considered the documents on a mistaken premise because the appellant's case is that the FIR's and arrest warrants arise from fabricated claims made against the appellant and it is therefore unsurprising that the account of events set out in those documents, is at odds with the account provided by the appellant, and that the appellant had not previously mentioned the matters set out in those documents.”
7. I found that the Judge had erred for the reasons that I set out at paragraphs [17] to [27] of my decision. Insofar as the documents relied upon the appellant are concerned, I stated at paragraph [22] of my decision:

“That leads me to the second of the appellant's grounds. That is, whether the Judge erred in his assessment of the appellant's evidence relating to the

FIR's. I have to say that I am far from satisfied that the appellant's case before the First-tier Tribunal was that the FIR's and arrest warrants arise from fabricated claims made against the appellant. It is claimed that the appellant had claimed asylum on the basis that he faced fictitious criminal charges in retaliation for his involvement with student activism while in Pakistan. The documents relied upon by the appellant were sent to the respondent under cover of a letter from the appellant's representatives dated 18<sup>th</sup> September 2014. That letter does not refer to the documents as evidence that the appellant faces fictitious criminal charges in retaliation for his involvement with student activism while in Pakistan. In fact the letter fails to provide any information about those documents or their provenance at all. The appellant's grounds of appeal to the First-tier Tribunal simply assert that the "respondent has failed to take into account the appellant's individual circumstances and failed to appreciate the facts and the documents available in its true context."

8. I set aside the decision of the First-tier Tribunal with no findings preserved. The hearing was adjourned for a continuation hearing to take place so that further evidence could be heard. Full details of the application for permission to appeal, the grant of permission by First-tier Tribunal Judge Holmes, and my reasons for finding an error of law are contained in my previous decision.

## **Re-making the Decision**

### **The Law**

9. The appellant is entitled to asylum if he is outside his country of nationality and is recognised as a refugee, as defined in regulation 2 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006 as a person who falls within Article 1A of the 1951 Geneva Convention. The onus is on him to prove that he has a well-founded fear of persecution for a Convention reason (race, religion, nationality, membership of a particular social group or political opinion), and is unable or, owing to such fear, unwilling to avail himself of the protection of the country of his nationality.
10. The appellant is eligible for humanitarian protection under paragraph 339C of the Immigration Rules if he does not qualify as a refugee, but establishes substantial grounds for believing that if he was removed from the United Kingdom, he would face a real risk of suffering serious harm, and is unable or, owing to such risk, unwilling to avail herself of the protection of the country of return.
11. In relation to Articles 2 and 3 of the 1950 European Convention on Human Rights (the 1950 Convention) it is for the appellant to establish that if removed from the United Kingdom there is a real risk of him being killed, or subjected to torture or inhuman or degrading treatment or punishment.
12. The burden of proof is on the appellant and can be described as a reasonable degree of likelihood, which is a lower standard than the normal

civil standard of the balance of probabilities. I must look at the circumstances as at the date of hearing.

## **Documents**

13. In re-making this decision I have taken into account the respondent's bundle of documents with Annexes A-G, the Notice of Appeal, and the bundle of documents submitted by the appellant to the First-tier Tribunal comprising of 105 pages.
14. In my Error of Law decision I directed that any further evidence relied on by either party is to be filed and served no later than 14 days before the next date of hearing. I also directed that in relation to any witness whom it is proposed to give oral evidence, there must be a witness statement drawn in sufficient detail to stand as evidence-in-chief such that there is no need for any further examination-in-chief.
15. No further witness statement was filed by the appellant. Under cover of a letter dated 8<sup>th</sup> April 2014, the appellant's solicitors sent to the Tribunal a copy of an extract from the Daily State Express, Faisalabad, together with what is described as a translation. No further information or explanation as to the provenance of the document provided, is given.
16. When the hearing resumed both representatives indicated that they were ready to proceed. At the outset of the hearing, Mr Murphy drew my attention to the extract from the Daily State Express publication. The appellant had the original publication with him at the hearing before me. Mr Murphy sought permission to rely upon what he understood to be a one-page letter that the appellant has received from Pakistan. In fact, during the course of the hearing before me, the appellant claimed that the one-page letter is in fact a translation of what was printed in the Daily State Express publication. I shall return to that document in due course. For present purposes, I simply record that Mr Avery did not object to the documents being admitted and I therefore allowed the documents to be admitted, notwithstanding that the documents not been filed and served in accordance with the directions that I previously made. A copy of what was initially believed to be a letter from the appellant's father, was provided to each of the parties' representative.

## **The Appellant's Claim**

17. The appellant's claim for asylum is based on his fear that if returned to Pakistan he would face mistreatment due to his political opinion. The appellant's claim as considered by the respondent is set out in a screening interview, a substantive asylum interview record, and representations made by his solicitors under cover of a letter dated 18<sup>th</sup> September 2014.

A summary of the appellant's claim is set out at paragraphs [4] to [9] of Annex A to the respondent's decision of 4<sup>th</sup> December 2014:

“4. You are Ashraf Mohammed, a Pakistan national, born 19/09/1977. You are a Muslim. You last lived in Pakistan in Faisalabad (SI, AIR).

5. Whilst in college you became a member of the student union (AIR Q 29). You joined because you were a good speaker and you were subsequently chosen to be leader of the student union in your area (AIR Q 29, 39). You stated, that the union was a political party and when asked what party, you stated “we supported democracy” (AIR Q 28). As leader you spoke against the then president of Pakistan, Pervez Musharraf (AIR Q 26).

6. Your problems in Pakistan began when police were instructed to stop students in Ghantaghar (AIR Q 54, 56). The police used sticks and starting beating the students (AIR Q 58). There were around 350-400 students present and 15-20 police (AIR Q 61-2). Your head was fractured and you received some stitches (AIR Q 63). Incidents like this occurred whenever you protested as long as Musharraf was in power (AIR Q 68-9).

7. A fight occurred in your village in a year you cannot remember (AIR Q 73, 74). You were not present at the time the fight occurred (AIR Q 77). Your friends were associated with the PML (N) party and they were fighting against members of president Musharraf's party (AIR Q 75,76). During the fight members from parties were murdered (AIR Q 73). You were not a member of the PML (N) however you were associated with your friends (AIR Q 77).

8. You left Pakistan with the help of an agent (AIR Q 80). You travelled through Afghanistan, Iran, Turkey and Greece in a lorry (AIR Q 80). You left Pakistan in 2005 and the journey took 2.5 months (AIR Q 82). You were transported to the UK in the back of a lorry from France and arrived around the 26/6/2005 (AIR Q 92, 101). You were dropped off near Leicester and members of the Pakistani/Indian community helped you (AIR Q 96, 99). You were given money in order to help you travel to London and whilst there you got a job in a shop called “Just Fresh” (AIR Q 106-7).

9. You claim that you sometimes have chest and back problems and suffer from indigestion (AIR Q 117-8).”

## **The Refusal**

18. The reasons for refusal are also set out in Annex A to the respondent's letter dated 4<sup>th</sup> December 2014. In summary, the respondent accepted that when taken at face value, the reason the appellant has given for claiming a well founded fear of persecution, could be one that engages the UK's obligations under the 1951 United Nations Convention relating to the Status of Refugees. The respondent accepted that the appellant is a Pakistani national.

19. It was not accepted that the appellant was beaten on account of his political opinion or that his life is at risk because of his political opinion. The respondent sets out at paragraphs [36] to [45] of her decision, her reasons for rejecting the appellant's account. The respondent considered that the appellant was vague and evasive in his responses to questions in respect of matters that were at the heart of his claim for international protection, and that his inability to give answers or answers that were consistent, significantly undermines the credibility of his claim.
20. It was acknowledged that two arrest warrants had been submitted, but the respondent having considered the evidence in the round, including matters set out in the COIR, did not find that these documents could be relied upon.
21. The respondent contended that the appellant had delayed claiming asylum for over seven years, and this also adversely affected his credibility. The respondent believed that the appellant would be able to return to his home area and would not be at risk. The respondent noted that the appellant is a healthy, well educated male who has demonstrated his resourcefulness by leaving Pakistan and remaining in the UK illegally for around nine years. She noted that he has worked as a butcher in the UK, and considered that the appellant could return to his previous home area, or choose to live elsewhere in Pakistan were he to return.

### **The Oral Evidence**

22. At the resumed hearing, the appellant gave evidence with the assistance of an interpreter in Urdu. I established at the outset of the hearing that both the appellant and the interpreter understood each other and that there were no difficulties in communication.
23. Notwithstanding the failure to comply with my previous direction that there must be a witness statement drawn in sufficient detail to stand as evidence-in-chief such that there is no need for any further examination-in-chief, I permitted Mr Murphy to call evidence-in-chief. The appellant's evidence is set out in the record of proceedings and all of that evidence has been taken into account by me, whether expressly referred to in this decision or not.
24. The appellant adopted his witness statement dated 25<sup>th</sup> February 2015 that is to be found at pages [51] to [53] of the bundle that was before the First-tier Tribunal and which is now at Annex A of the bundle before the Upper Tribunal.
25. He stated that he had attended Faisalabad Government College and had been the head of the Student Union between 2000 and 2005.
26. He was referred to paragraph 10 on his statement in which he states that he cannot remember the names of any other members of the students' union. He told me that at the time of his interview, he was not aware of

the names of other members but he was aware of the names by the time that he made his witness statement. Mr Murphy drew to his attention paragraph 10 of his witness statement in which he says that he "... can't now remember the names of any other members of the Union". He replied that he does know the names of the other Union members because he has read their names in the FIR's that he has been sent. Beyond stating that he does not have a very good memory, he was unable to explain why, if he did know the names of the Union members, he had been unable to provide that information during the substantive asylum interview, or why he had claimed in his witness statement that he cannot remember the names of any other members of the Union.

27. He told me that in the police in Pakistan are reluctant to intervene in political cases and that he would be targeted anywhere that he lives in Pakistan. He stated that he is scared and worried about his own life because the police have already obtained arrest warrants for him. He said that he will be unable to live in any other area because the police have access to a database (NADRA) that can be checked from anywhere. He stated that people in other areas do not like people that come from another province, and that wherever he goes in Pakistan, he will face problems because he will be asked about where he had come from. He believes that local people will inform the police of his presence in an area and that the police would then be able to check his credentials and find that he has outstanding arrest warrants.
28. The appellant was asked about the matters set out in the respondent's reasons for refusal letter. He stated that although he had said during the asylum interview that the Union he led, belonged to a political party, the Union is not in fact a member of any political party, and that it was up to individual members which party they support.
29. The appellant was asked about paragraph 43 of the refusal letter in which reference is made to an answer that he provided during the screening interview. It was pointed out that at 4.2 of the screening interview, he is said to have claimed that he could not return to Pakistan because he is an active member of one of the two parties present in his village. However at question 78 of his asylum interview, when asked whether he was a member of the PML, he replied 'no'. He was asked to clarify whether he is a member of a political party. The appellant stated that he is not a member of any political party but that he supports the Pakistan Muslim League. He did not recall having said at the screening interview, that he was an active member.
30. The appellant was then asked about the arrest warrants, and why he had replied "no", when asked during the screening interview if he was subject to an arrest warrant or wanted by any law enforcement authority for an offence. He confirmed that he had replied "no", but at the same time claimed that he had informed the interviewer that FIR's and arrest warrants were issued against him in Pakistan and that was the reason he

was scared for his life. He could offer no explanation why that had not been recorded in the record of the screening interview.

31. At that point, the appellant claimed that the FIR's and arrest warrants are genuine and that he is wanted by the authorities in Pakistan for his involvement in the two incidents described in the documents. He was reminded that up until today, he had claimed that the FIR's and arrest warrants arise from fabricated claims made against the appellant. He initially claimed that that was an assumption that had been put forward by his solicitors, to the respondent. He was reminded that the grounds of appeal for permission to appeal to the Upper Tribunal had expressly claimed that the First-tier Tribunal Judge had considered the documents upon a mistaken premise because the appellant's case is that the FIR's and arrest warrants arise from fabricated claims made against the appellant. The appellant claimed that he was not aware that that was what was being said, and if he had been, he would have spoken against it, and would have challenged that. He confirmed that the documents are genuine, that he knows of the allegations that have been made against him and that he was in fact involved in the incidents described in the FIR's.
32. Mr Murphy then turned to the letter and publication that is now relied upon by the appellant. The appellant stated that his father has disowned him because the police in Pakistan are harassing members of his family, including his father and brothers. He claimed that such an announcement, made in a newspaper would stop the police harassing the family any further. He claimed that the main purpose of the publication was to convey a message to the people, that his father no longer has a relationship with him and that his father has disassociated himself from the appellant. The appellant claimed that he was provided with the document by a friend of his. When asked how his friend had got the document, he explained that his friend had seen the matter published in the newspaper. His friend had then obtained that document in Pakistan and sent it to him.
33. The appellant was cross-examined by Mr Avery. In cross-examination the appellant confirmed that he was aware of the FIR's when he left Pakistan. He claimed that he had not mentioned them during the screening interview because he was not asked about FIR's. He accepted that he knew at the time, that he was wanted in Pakistan and that there were outstanding FIR's and arrest warrants against him. He was asked what it is that the appellant is alleged to have done in the FIR's. The appellant stated that he had fired a pistol during a fight in the college between two groups of students. He claimed that he had not previously mentioned that he had fired a gun, because he was not asked.
34. The appellant confirmed that the incident that caused him to flee Pakistan, was the fight that had occurred in his village. He confirmed that he had not been there at the time.



35. The appellant said that he fears members of President Musharraf's party. He accepted that the party that he supports, is now in government but he claims to be scared of revenge attacks because of the incident that had occurred in the village. The appellant stated that about seven people from the opposing group were killed, and that makes him a target.
36. In order to clarify matters for myself I invited the appellant to have a look at the FIR that is to be found at Page 74 of the appellant's bundle. The date and time of the occurrence were read to the appellant by the interpreter. The interpreter also read to the appellant the section on the FIR setting out the application. The appellant confirmed that he understood the allegation that was being made against him, and he accepted that he had been involved in that incident.
37. I then invited at the appellant to have a look at the FIR that is to be found at Page 77 of the appellant's bundle. Again, the date and time of the occurrence were read to the appellant by the interpreter. Again, the interpreter also read to the appellant the section on the FIR setting out the application. The appellant confirmed that he understood the allegation that was being made against him, and again he accepted that he had been involved in that incident.
38. I then asked the applicant to explain how he had come to receive the FIR's. He explained that they had been sent to him by a friend. He had requested them from his friend and his friend had obtained them from the police station. He stated that he and his friend had struggled to obtain the documents and that it took some time. The documents have been sent to him by his friend, via post, some time before the hearing before the First-tier Tribunal. He believes that the envelope in which the documents were received may be at home, but it has not been produced in the appellant's bundle.
39. I then asked the appellant about the newspaper publication and the translation. The appellant claimed that he had obtained that document from a friend who had seen the newspaper publication. The appellant claimed that a document had been issued by his father, and that was published in a local newspaper. The appellant claimed that the document produced before me, was a translation of what had been published in the newspaper. I asked the appellant if he could provide any explanation as to why, if the document is simply a translation of what was published in the newspaper, the translation is also endorsed with his father's signature. The appellant confirmed that his father's signature does not appear in the newspaper publication, but claimed that the notification had been issued by his father and that is why it contains his signature. He then said that he had asked his friend to get the publication translated, and signed by his father before it was sent to him. He claimed that he could not get his father to send it to him directly, because he does not now speak to his father.

40. In re-examination, the appellant confirmed that his friend had spent a lot of time in getting the copies of the FIR's from the police station. He was asked to clarify how his friend got the documents and he said that "that is up to my friend who knows the whole system". The appellant said that he had simply requested the documents. He again confirmed that the fact that the FIR's and arrest warrants remain outstanding, means that he cannot return to Pakistan because the moment he goes back, he shall be arrested.

### **The Respondent's Submissions**

41. Mr Avery relied upon the reasons for refusal letter dated 4<sup>th</sup> December 2014 in requesting that the appeal be dismissed. He submitted that despite every opportunity to explain the very vague nature of the appellant's claim and the numerous inconsistencies, the appellant has failed to address the issues.
42. He submits that the appellant has failed to provide any proper explanation for significant inconsistencies in the core of the appellant's account. He submits that the appellant claimed during the screening interview that he is an active member of a party, and that he is not subject to an arrest warrant or wanted by any law enforcement authority. He later claimed that he was not a member of any political party, and there are outstanding FIR's and arrest warrants against him.
43. He also submits that there has been a fundamental change in the appellant's account during the resume hearing before me. Having previously claimed that he was unaware of what was alleged against him in the FRI's and arrest warrants, and that those documents arise from fabricated claims made against the appellant, the appellant now accepts that he is aware of the allegations made against him and accepts his involvement in those incidents. He submits that there is no explanation from the appellant for his previous failure to mention that in 2004 he was involved in an incident in which he fired a pistol straight towards another student.
44. Mr Avery invites me to find that the appellant has given an entirely fabricated account of events to meet his own ends. He submits that I should treat all of the documents relied upon by the appellant with extreme caution given that there is no proper explanation as to how those documents have been obtained and come to be in the position of the appellant. Mr Avery confirmed that the respondent does not accept that the copy arrest warrant's and FIRs are genuine documents. He submits that such account that has been provided of the documents, is entirely incredible. He submits that the appellant's reliance upon those documents is simply an attempt to bolster what is otherwise a wholly vague and inconsistent account of events.

### **The Appellant's Submission**

45. Mr Murphy urges me not to make an adverse credibility finding against the appellant. He draws my attention to the answers given by the appellant at questions 37 and 77 of the asylum interview record. He submits that the appellant candidly stated that he spoke against the government and organised demonstrations against the government, and that students had supported him. He had also candidly accepted that he had not been at the incident that occurred in his village, between his friends and members of the opposite party. Mr Murphy submits that those candid answers are not what one might expect from somebody who is trying to exaggerate a protection claim.
46. Insofar as the matters set out in the reasons for refusal letter are concerned, Mr Murphy submits that the appellant has explained that he has a poor memory and a very poor recollection of dates in particular.
47. Mr Murphy submits that the appellant is telling the truth and being honest about the FIR's and arrest warrants, and again he now candidly accepts that he was involved in the incidents that are referred to in those documents. He submits that I should attach significant weight to the documents before me, and that the translation of the newspaper article establishes that the appellant's father has now disassociated himself from the appellant, and made that position publicly clear. He submits that I should find the appellant to be credible, and at risk upon return to Pakistan.
48. At the conclusion of oral submissions I reserved my decision.

### **My Conclusions and Reasons**

49. I have taken into account all the evidence, both oral and documentary placed before me, together with the submissions made by both representatives. I have considered the evidence in the round and taken into account the circumstances at the date of hearing. I have considered this appeal in the light of the provisions of paragraph 339L of the Immigration Rules. I am conscious of the need to take great care before making adverse findings of credibility in asylum cases, and am aware of the importance of considering this appeal in the light of conditions in Pakistan.
50. The respondent rejected the appellant's claim primarily on credibility grounds. The only part of his account which was accepted was his nationality and identity.
51. The core of the appellant's account relates to his activities whilst he was a student and an incident that occurred in his village involving his friends. That is the incident in which he describes that his friends had a fight with members of an opposing party during which several people are said to have been murdered. Although the applicant was not present at that incident, he fears that he will now be targeted in revenge attacks.

52. I have carefully considered the appellant's account as contained in the screening interview, the record of his asylum interview and his witness statements. I find that there are a number of relevant inconsistencies and I do not accept that the appellant has been truthful in his evidence. I take into account the appellant's account in interview and before me, was given with an interpreter, and there is always the possibility of errors if evidence is given through an interpreter. At the outset of the hearing I was careful to ensure that the appellant and the interpreter properly understood each other, and during the hearing neither expressed any concerns. I have had the opportunity of observing the appellant give evidence before me, and of seeing his account tested in cross-examination. Throughout his evidence, both in chief and in cross-examination, the appellant was vague and repeatedly gave inconsistent answers such that questions had to be put to him several times before any sort of coherent answer was provided. Even applying the lower standard of proof required, I am not satisfied that the appellant has a well-founded fear of ill treatment or persecution for a Convention reason.
53. During his screening interview that occurred over seven years after the appellant arrived in United Kingdom the appellant claimed (at 4.2) that he could not return to Pakistan because there are two parties and that he is an active member of a party. He claimed that the other party have killed a couple of people belonging to the party that he was a member of, and that members of his party, have killed a couple of people that were members of the other party. He claimed (at 5.2) that he was not subject to an arrest warrant or wanted by any law enforcement authority. However, during the asylum interview, the appellant claimed that he had not been a member of a political party. At the hearing before me, the appellant claimed that he could not recall having claimed that he was an active member of a party during his screening interview. I reject his explanation. The appellant can have been in no doubt that the respondent had concluded that there was an inconsistency between the answer that he gave during the screening interview and the answer that he gave during the asylum interview. The respondent's concern about that inconsistency and its impact upon the assessment of the credibility of the appellant, is set out in her decision. In his witness statement of 25<sup>th</sup> February 2015, the appellant does not claim that his answer at the screening interview, was incorrectly recorded.
54. During his asylum interview the appellant could not remember the year that he first joined at the student union (Q.30), or the year in which he was chosen to be a leader. In his witness statement, he claims (para 7) that he does not remember exactly when he joined the union or started speaking. At the hearing before me he claimed that he was head of the student union between 2000 and 2005. Beyond claiming that he has a poor memory, he offers no explanation as to how he is now able to recall the years between which he was the leader of the student union, when he has previously been unable to do so. I find that the appellant has been very vague and evasive as to his evidence in this respect, and I reject his

account that he was a leader of the students' union between 2000 and 2005.

55. My finding that he was not a leader of the students union between 2000 and 2005 is reinforced by the very vague answers given by the appellant during his interview concerning the affiliation of the students union to a political party. The appellant claimed during his interview that the student union was linked to a political party, but when asked which party, was only able to say "we supported democracy". Similarly, when asked during the interview what he did as leader of the Students Union, he simply stated that he spoke against the government and organised demonstrations and that students supported him. He was asked what he spoke about, and his response was that they asked Musharraf to leave the government and install democracy. If the appellant had indeed been the leader of the Students Union, as he claims, he would plainly have had a greater knowledge of the activities of the Students Union, and any political affiliation that it had. In my judgment he would also have had a greater insight into what he spoke about at demonstrations.
56. I find that the appellant was also vague when asked about the incidents in which he had encountered difficulties during demonstrations. The appellant was asked during his asylum interview when he first had difficulties. He claimed that it was once in Ghantaghar, but when asked when this took place, he stated he has "no idea". He claimed that there had been a number of incidents but he could not even provide a date range between which such incidents occurred.
57. I have carefully considered the criticisms that are set out at paragraphs [36] to [43] of the respondent's refusal letter, and having had the opportunity of observing the appellants give evidence, I entirely agree that the appellant has throughout been vague and evasive, and that his account of his activities in Pakistan is wholly inconsistent and incredible.
58. I have considered the documentary evidence in the light of the principles set out in the decision of Mr. Justice Collins in **Tanveer Ahmed \*[2002] UKIAT 00439**. Mr Justice Collins held that we must not judge what is or is not likely to happen in other countries by reference to our perception of what is normal within the United Kingdom. The principle applies as much to documents as to any other form of evidence. In asylum and human rights cases it is for an individual applicant to show that a document on which he or she seeks to rely, can be relied on. I should consider whether the documents are documents on which reliance should properly be placed, after looking at all the evidence in the round. I have done so.
59. I have carefully considered the two arrest warrants dated 23<sup>rd</sup> August 2004, and 2<sup>nd</sup> January 2005 and the two FIR's. There are unexplained anomalies and I have concerns about the documents such that in my judgment, I cannot attach any weight to the documents.

60. The arrest warrant dated 2<sup>nd</sup> January 2005 (page 63) is said to be issued by a Special Magistrate and requires that the appellant “should be arrested and should be produced me before the fixed date ...”. Curiously, the ‘Next Date’ is not identified on the document. It is also curious that although the date at the bottom of that document is 2<sup>nd</sup> January 2005, the top of the document states “Case No. 930/04, dated 18.11.12”. There is no explanation before me as to the offences that the appellant is said to have committed and for which his arrest is sought. There is at page 66 of the appellant’s bundle a further document that is titled “Prolamation”. The document refers to “case No 930/04 dated 18.11.04”. Although the case number is the same number as that on the arrest warrant at page 63, the date is different.
61. The arrest warrant dated 23<sup>rd</sup> August 2004 (page 69) is said to be issued by a Special Magistrate and requires that the appellant “should be arrested and should be produced me before the fixed date ...”. Again, curiously, the ‘Next Date’ is not identified on the document. Again, there is no explanation before me as to the offences that the appellant is said to have committed and for which his arrest is sought. There is at page 72 of the appellant’s bundle a further document that is titled “Proclamation”. The document refers to case No 825/04 dated 23-08-2004. That document refers to the arrest warrant at page 69, but the offences identified on the arrest warrant are U/S 341/148, 149P.P.C. At page 72, an additional offence, ‘16 M.P.O’ is referred to.
62. Prior to the resumed hearing before me, the appellant had maintained that the FIR’s and the charges against him were fabrications produced in retaliation for his involvement in opposition politics. The decision of the first-tier Tribunal promulgated on 20<sup>th</sup> May 2015 states:
- “[18]... when questioned during oral evidence as to the allegations the appellant faces the appellant was completely unaware of any specific allegation made against him. He was asked on a number of occasions to describe what was alleged against him ...
- [19] In addition to the Appellants oral evidence which shows that he was completely unaware of the allegations he allegedly faces from the police in Pakistan, it is evident from the AIR and his witness statements that at no point has he ever suggested he was involved in firing any pistol ...”
63. The grounds of appeal to the Upper Tribunal, settled no doubt upon the instructions of the appellant expressly state, at paragraph [4], that “.. it is hardly inconsistent that the appellant *denied* having fired a pistol at another person - his case is precisely that he was involved in no such thing..”. At the hearing before me, the appellant was carefully taken to each of the two FIR’s. He confirmed that he understood the allegation that was being made against him in each, and he accepted that he had been involved in the incidents. The appellant stated in his evidence before me that he had fired a pistol during a fight in the college between two groups of students, as set out in the FIR of 18<sup>th</sup> November 2004. He claimed that he had not previously mentioned that he had fired a gun, because he was not asked.

64. I do not accept that the appellant has been truthful in his evidence. His evidence before me as to the incidents that he was involved in, and that are referred to in the FIR's is in direct contrast to the evidence on this point that he had given to the First-tier Tribunal previously. I reject the appellant's claim before me, that he was not aware that his case was previously that he was facing fictitious criminal charges in retaliation for his previous activities in Pakistan and if he had been aware that that was the case being advanced, he would have spoken against it, and would have challenged that.
65. I do not find it plausible or credible that the appellant's friend obtained copies of the FIR's and arrest warrants in the way that has been claimed by the appellant. There is no credible explanation before me as to how the appellant's friend came to be in possession of those documents. It is also incredible that the appellant would claim in his asylum screening interview that he was not subject to an arrest warrant, if in fact he was. In my judgment what he said at the asylum screening interview, at a time when his reasons for fearing return to Pakistan must have been uppermost in his mind, is more likely to be true.
66. I have also considered very carefully the translation of the newspaper publication that is now relied upon by the appellant. Although the document produced to the Tribunal purports to be a true copy of what was published in the Daily State Express, Faisalabad on 23<sup>rd</sup> June 2015, it is curious that the translation in fact contains the original signature of the appellant's father, with whom the appellant claims he has no contact. The appellant was unable to provide any satisfactory explanation for that anomaly. It is also to be noted that although the publication is dated 23<sup>rd</sup> June 2015, there has been no previous mention of that publication by the appellant up until the days leading to the resumed hearing. It is not entirely clear who it is that translated the document and how the appellant's father's signature comes to appear on that document. It is to be noted that the document is attested to be a true copy by Naveed Ahmad Gill. It is not clear what it is a true copy of. The appellant provided me with the original translation that has the original of his father's signature, endorsed upon it. It cannot therefore be a true copy of the translation. If it is a true copy of the publication, it is curious that the certification appears on the translation rather than on a copy of the publication. In any event, I note that Mr Naveed Ahmad Gill is the same person that is said to have been responsible for the translations of the earlier arrest warrants and FIR's, relied upon by the appellant.
67. I have considered whether the documents now relied upon by the appellant are documents on which reliance should properly be placed, after looking at all the evidence in the round. Having done so, I find that I can attach no weight to the FIR's, arrest warrants or indeed the newspaper publication.

68. I find that the appellant's account has been fabricated and cannot be relied upon, and I find that the appellant could safely return to his home area, where his family continue to live.
69. If, as the appellant now accepts, the FIR's genuinely set out allegations made against him, in respect of incidents that he was involved in, in my judgment the appellant's fear is one of prosecution rather than persecution.
70. Insofar as the appellant fears that he may be targeted by individuals in Pakistan, I have considered whether there is a sufficiency of protection, I have considered **AW (sufficiency of protection) Pakistan [2011] UKUT 31 (IAC)**, and set out below paragraph 34;
- "34. The starting point in assessing whether the Appellant would be given sufficient protection if returned to Pakistan is to consider whether there is systemic insufficiency of state protection. In relation to Pakistan, having regard to the case of AH and also to the case of KA and Others (Domestic Violence - Risk on Return) Pakistan CG [2010] UKUT 216 (IAC), it cannot be said that such a general insufficiency of state protection has been established. Neither party submitted that there was, nor do we find, that the background evidence before us demonstrates such an insufficiency."
71. I do not find that the issue of internal relocation arises. My finding is that the appellant could return to his home area where he would have family support, and where there is sufficiency of protection. I conclude that the appellant has not established that he would be at risk if returned to Pakistan, and therefore the claim for asylum and humanitarian protection fails for the reasons given above. For the same reasons I find that there is no risk of a breach of Articles 2 or 3 of the 1950 Convention.
72. This is not a case where there was a challenge to the decision of the First-tier Tribunal's decision to dismiss the appeal on Article 8 grounds and an appeal on Article 8 grounds was not pursued at the hearing before me. However, for the avoidance of any doubt, I find that the appellant has no family in the United Kingdom and therefore Article 8 family life is not engaged. The only private life referred to by the appellant is that private life which he has established during his unlawful presence in the UK.
73. The legitimate aim set out in Article 8(2) must now also be read in the light of **s117B Nationality, Immigration and Asylum Act 2002**, and particularly sub-paragraph (1) which holds that the maintenance of effective immigration controls is in the public interest. S117B(4) provides that I must attach little weight to a private life formed in the UK whilst the appellant has been in the UK unlawfully. On any view, in my judgement the removal of the appellant from the UK does not result in a disproportionate interference with the applicant's right to a private life.



**Notice of Decision**

74. The decision of the First-tier Tribunal involved the making of an error on a point of law and was set aside. I substitute a fresh decision as follows.
- a. I dismiss the appeal on asylum grounds.
  - b. The appellant is not entitled to humanitarian protection.
  - c. I dismiss the appeal on human rights grounds.
75. No anonymity direction is applied for, and none is made.

Signed \_\_\_\_\_ Date \_\_\_\_\_  
Deputy Upper Tribunal Judge Mandalia

**FEE AWARD**

As I have set aside the decision of the First-tier Tribunal and dismissed the appeal there can be no fee award.

Signed \_\_\_\_\_ Date \_\_\_\_\_  
Deputy Upper Tribunal Judge Mandalia