



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/06360/2017

THE IMMIGRATION ACTS

Heard at North Shields  
On 2 May 2018

Decision & Reasons Promulgated  
On 20 June 2018

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

Y M

[NO ANONYMITY ORDER]

Respondent

Representation:

For the appellant: Mr Myroslav Diwnycz, a Senior Home Office Presenting Officer  
For the respondent: Mr Chris Boyle, a solicitor with Halliday Reeves Law Firm

DECISION AND REASONS

1. The Secretary of State appeals with permission against the decision of the First-tier Tribunal allowing the claimant's appeal against her decision to refuse him international protection under the Refugee Convention, humanitarian protection, or leave to remain in the United Kingdom on human rights grounds.
2. The claimant is a citizen of Pakistan. The claimant came to the United Kingdom as a student in August 2011 but did not make an asylum claim until his student leave expired. He has a sister and a brother-in-law in United Kingdom who he visits once or twice a month and on major holidays or festivals, speaking with them every day. The claimant regards his brother-in-law's family in Manchester as his own extended family.

3. The claimant is a Christian: he formerly lived in a Muslim area of Pakistan. He claims that he was forcibly converted to Islam in a jihadi mosque, without understanding what he was doing, then threatened afterwards for failure to study Islam and renounce his practice of Christianity.
4. The claimant's boss in Pakistan had jihadi links and attended a jihadi mosque, to which he took the claimant. The claimant said that he was forced to go into the mosque and lectured about jihad, then given money. He was told to repeat words in Arabic and then informed that he had agreed to convert. He was punched for failing to respond to a greeting, 'Wa Alaikum As-Salaam' with the same phrase.
5. An attempt to report to the police the threats to him for apostasy was unsuccessful.
6. The claimant exercised an internal relocation option to stay with an uncle in Sialkot in March 2011 and came to the United Kingdom in August 2011. He also spent a week in Lahore, but in both cities, he was in hiding.
7. After coming to the United Kingdom, the claimant says he attended blasphemy law protests in 2012 or 2013, and another demonstration outside the Pakistan embassy in Manchester in 2017, to free Asia Bibi: he said that his brother-in-law posted photographs of the 2017 protest and the claimant's family in Pakistan received threatening calls.

#### **First-tier Tribunal decision**

8. The First-tier Tribunal Judge was satisfied that the claimant had given a good, honest reason for not claiming asylum earlier. He considered that the claimant was a reliable witness and held that he could not safely relocate within Pakistan.
9. The First-tier Tribunal Judge allowed the asylum appeal, relying on the respondent's country information and guidance of May 2016, but making no mention of the country guidance of this Tribunal in *AK and SK* (Christians: risk) Pakistan CG 00569 UKUT (IAC)
10. The Secretary of State appealed to the Upper Tribunal.

#### **Permission to appeal**

11. The grounds of appeal argued that the First-tier Tribunal had failed to take account of extant country guidance in *AK and SK*.
12. Permission to appeal was granted on that basis.

#### **Rule 24 Reply**

13. There was no Rule 24 Reply.
14. That is the basis on which this appeal came before the Upper Tribunal.

## Upper Tribunal hearing

15. At the Upper Tribunal, I asked Mr Boyle to assist me with the application of the *AK and SK* decision to this appeal, approaching the appeal on the basis that the claimant's account was credible.
16. Mr Boyle's submissions were in line with the First-tier Tribunal decision but did not engage in detail with *AK and SK*. I did not call on Mr Diwnycz for the Secretary of State.

## Discussion

17. I begin by considering the country guidance given in *AK and SK*, which the First-tier Tribunal Judge overlooked, and/or did not adequately distinguish in his decision:

*"1. Christians in Pakistan are a religious minority who, in general, suffer discrimination but this is not sufficient to amount to a real risk of persecution.*

*2. Unlike the position of Ahmadis, Christians in general are permitted to practise their faith, can attend church, participate in religious activities and have their own schools and hospitals.*

*3. Evangelism by its very nature involves some obligation to proselytise. Someone who seeks to broadcast their faith to strangers so as to encourage them to convert, may find themselves facing a charge of blasphemy. In that way, evangelical Christians face a greater risk than those Christians who are not publicly active. It will be for the judicial fact-finder to assess on a case by case basis whether, notwithstanding attendance at an evangelical church, it is important to the individual to behave in evangelical ways that may lead to a real risk of persecution.*

*4. Along with Christians, Sunnis, Shi'as, Ahmadis and Hindus may all be potentially charged with blasphemy. Those citizens who are more marginalised and occupy low standing social positions, may be less able to deal with the consequences of such proceedings.*

*5. The risk of becoming a victim of a blasphemy allegation will depend upon a number of factors and must be assessed on a case by case basis. Relevant factors will include the place of residence, whether it is an urban or rural area, and the individual's level of education, financial and employment status and level of public religious activity such as preaching. These factors are not exhaustive.*

*6. ... A blasphemy allegation, without more, will not generally be enough to make out a claim under the Refugee Convention. It has to be actively followed either by the authorities in the form of charges being brought or by those making the complaint. If it is, or will be, actively pursued, then an applicant may be able to establish a real risk of harm in the home area and an insufficiency of state protection. ...*

*8. Relocation is normally a viable option unless an individual is accused of blasphemy which is being seriously pursued; in that situation there is, in general, no internal relocation alternative."*

18. The claimant's evidence does not suggest that there is against him a blasphemy charge which is being actively pursued. His difficulty is limited to the home area and therefore, applying *AK and SK*, the claimant has an internal relocation option.
19. Failure to apply country guidance without an explanation as to why a person is diverging therefrom is an error of law and in this case it was material: a Judge, applying *AK and SK* to the facts of this appeal could not have concluded that there was a risk in the claimant's home area which could not be mitigated by internal relocation.

## DECISION

20. For the foregoing reasons, my decision is as follows:  
The making of the previous decision involved the making of an error on a point of law. I set aside the previous decision.

I remake the decision by dismissing the asylum appeal.

Date: 15 May 2018

Signed [Judith AJC Gleeson](#)  
Upper Tribunal Judge Gleeson