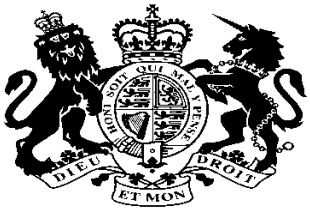

Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/11827/2016**

THE IMMIGRATION ACTS

Heard at Manchester	**Decision & Reasons Promulgated**
On 1 May 2018	**On 11 May 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE DOYLE

Between

GULSHAN RANI
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Ashraf of Lei Dat & Baig, solicitors
For the Respondent: Ms R Petterson, Senior Home Office Presenting Officer

DECISION AND REASONS

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.

2. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Hillis promulgated on 1 June 2017, which dismissed the Appellant's appeal on all grounds.

Background

3. The Appellant was born on 17 August 1990 and is a national of Pakistan. The appellant arrived in the UK as a visitor on 5 March 2011. The respondent granted the appellant discretionary leave to remain outside the immigration rules until 21

September 2014. The appellant made a number of unsuccessful applications for further leave to remain in the UK, and then, on 26 April 2016, made a protection claim. On 16 October 2016 the Secretary of State refused the Appellant's protection claim.

The Judge's Decision

4. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Hillis ("the Judge") dismissed the appeal against the Respondent's decision. Grounds of appeal were lodged and on 30 October 2017 Upper Tribunal Judge Jackson gave permission to appeal stating

> The grounds of appeal are that Judge Hillis materially erred in law in (i) dismissing the appeal despite the positive credibility findings made; (ii) failing to engage with the evidence as to ongoing risk from the appellant's family; (iii) failing to give adequate reasons for his conclusions that the appellant's family would want to keep the dishonour as private as possible, displaying a lack of understanding of honour crimes; (iv) assuming that the appellant has or could obtain a copy of the arrest warrant and failing to consider her evidence on this; and (v) failing to take into account that the appellant's partner may be at risk in Pakistan from the appellant's family and failing to take into account the risk for all the family of an illegitimate child.
>
> It is arguable that in respect of the findings about the arrest warrant (grounds (iii) and (iv), Judge Hillis has not given adequate reasons as to why it would be unreasonable to expect the appellant to have produced a copy of this and arguably the Judge has formed and relied on his own view as to how a dishonoured family would behave without any objective basis. For the same reasons, ground (ii) is also arguable as the reliance on these matters could affect the overall conclusion that the appellant would not be at risk on return from her family. I therefore grant permission to appeal on these grounds.
>
> The first ground of appeal is a general challenge to the overall conclusion which is not clearly particularised - it is not inevitable that a person who is found to be credible on their claim is also found to be at risk on return and this ground adds little to the other grounds that follow. However, I do not restrict the grant of permission to exclude this ground.
>
> As to the final ground of appeal, Judge Hillis has given clear and cogent reasons as to his findings that the appellant's partner would not be at risk on return to Pakistan and there was unarguably no reliable evidence in support of such a claim. However, it is arguable that Judge Hillis did not go so far as to consider whether the appellant's partner would be at risk because of his relationship with the appellant and the conclusions reached as to risk on return to her from her family may be relevant here, such that this ground is also arguable for the reasons above.
>
> The First-tier Tribunal's decision contains arguable errors of law capable of affecting the outcome of the appeal and permission to appeal is therefore granted on all grounds.

The Hearing

5. For the appellant, Ms Ashraf moved the grounds of appeal. She told me that the decision is tainted by disregard for the evidence, tinged with speculation and a lack of reasoning. She told me that the Judge failed to make a finding about whether or not the appellant would be at risk because she now has an illegitimate child. She told me that the Judge failed to make a finding about any risk which might be created because of her relationship with her unmarried partner, the father of the child. She reminded me that, although the appellant had a previous appeal in 2015, the decision in the 2015 case did not relate to a protection claim but was a refusal of an application for leave to remain on an entirely separate basis. She urged me to set the decision aside, but to preserve the credibility findings which favour the appellant and to remit this case to the First-tier Tribunal.

6. For the respondent, Ms Petterson told me that the decision does not contain errors of law, material or otherwise. She told me that in the decision promulgated in 2015 the First-tier Tribunal found that the appellant could safely return to Pakistan. She told with is at [50] of the decision under appeal the Judge bemoans the lack of support for the appellant's appeal from the appellant's partner. She told me that the appellant has divorced her abusive first husband and is free to marry, so that there is no risk to the appellant from her ex-husband or his family. She told me that the Judge's decision contains sufficiently clear reasoning. She took me to [38] where the Judge finds that the appellant would not be accepted back into the family, but told me that the appellant has a partner. She can return to Pakistan with a male protector. She urged me to dismiss the appeal and allow the decision to stand.

Analysis

7. In SM (lone women – ostracism) Pakistan [2016] UKUT 00067 it was held that (i) Save as herein set out, the existing country guidance in SN and HM (Divorced women – risk on return) Pakistan CG [2004] UKIAT 00283 and in KA and Others (domestic violence – risk on return) Pakistan CG [2010] UKUT 216 (IAC) remains valid; (ii) Where a risk of persecution or serious harm exists in her home area for a single woman or a female head of household, there may be an internal relocation option to one of Pakistan's larger cities, depending on the family, social and educational situation of the woman in question; (iii) It will not be normally be unduly harsh to expect a single woman or female head of household to relocate internally within Pakistan if she can access support from family members or a male guardian in the place of relocation; (iv) It will not normally be unduly harsh for educated, better off, or older women to seek internal relocation to a city. It helps if a woman has qualifications enabling her to get well-paid employment and pay for accommodation and childcare if required; (v) Where a single woman, with or without children, is ostracised by family members and other sources of possible social support because she is in an irregular situation, internal relocation will be more difficult and whether it is unduly harsh will be a question of fact in each case; (vi) a single woman or female head of household who has no male protector or social network may be able to use the state domestic violence shelters for a short time, but the focus of such shelters is on reconciling people with their family networks, and

places are in short supply and time limited. Privately run shelters may be more flexible, providing longer term support while the woman regularises her social situation, but again, places are limited; (vii) Domestic violence shelters are available for women at risk but where they are used by women with children, such shelters do not always allow older children to enter and stay with their mothers. The risk of temporary separation, and the proportionality of such separation, is likely to differ depending on the age and sex of a woman's children: male children may be removed from their mothers at the age of 5 and placed in an orphanage or a madrasa until the family situation has been regularised. Such temporary separation will not always be disproportionate or unduly harsh: that is a question of fact in each case; (viii) Women in Pakistan are legally permitted to divorce their husbands and may institute divorce proceedings from the country of refuge, via a third party and with the help of lawyers in Pakistan, reducing the risk of family reprisals. A woman who does so and returns with a new partner or husband will have access to male protection and is unlikely, outside her home area, to be at risk of ostracism, still less of persecution or serious harm.

8. The Judge's analysis of the evidence is sometimes a little difficult to follow but his crucial findings are made at [37], [38], [39], [45] and [46]. There the Judge finds that the appellant is not married to her current partner and they have a child together. The Judge finds that the appellant is estranged from her family of origin and has been disinherited by them.

9. Although the Judge does not accept that the appellant is at risk of honour killing, his findings are that the appellant cannot return to her family of origin, that there is a degree of animosity from her family of origin and that the appellant will return as a divorced woman who has not remarried, but is living in a relationship akin to marriage and has delivered a child.

10. With that profile the Judge finds that there is no risk to the appellant because she will return to Pakistan with a male protector. The crucial conclusion is at [52] of the decision. That conclusion is supported by the Judge's findings of fact. That conclusion is entirely in line with country guidance and the background information. The conclusion that the Judge reaches is a conclusion which is well within the range of reasonable conclusions available to the Judge.

11. In Shizad (sufficiency of reasons: set aside) [2013] UKUT 85 (IAC) the Tribunal held that the Upper Tribunal would not normally set aside a decision of the First-tier Tribunal where there has been no misdirection of law, the fact-finding process cannot be criticised and the relevant Country Guidance has been taken into account, unless the conclusions the Judge draws from the primary data were not reasonably open to him.

12. In this case, there is no misdirection in law & the fact-finding exercise is beyond criticism. The decision is not tainted by a material error of law.

CONCLUSION

13. No errors of law have been established. The Judge's decision stands.

DECISION

14. The appeal is dismissed. The decision of the First-tier Tribunal stands.

Signed Paul Doyle Date 8 May 2018

Deputy Upper Tribunal Judge Doyle