



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

Appeal Number: AA/11515/2014

THE IMMIGRATION ACTS

**Heard at Glasgow
On 14 December 2018**

**Decision & Reasons Promulgated
On 8 January 2019**

Before

**THE HON. MR JUSTICE LANE, PRESIDENT
DEPUTY UPPER TRIBUNAL JUDGE FARRELLY**

Between

**MY
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr S Winter, Advocate, instructed by Latta & Co Solicitors
For the respondent: Mrs M O'Brien, Senior Presenting Officer

DECISION AND REASONS

1. The appellant appeals against the decision of the First-tier Tribunal which, in a determination that followed a hearing held in Glasgow, dismissed her asylum appeal.
2. The decision in question is essentially that reached in March 2015 by First-tier Tribunal Judge Bradshaw. Proceedings thereafter can be summarised as follows. There was an appeal to the Upper Tribunal, which resulted in the Upper Tribunal finding no error of law; but that finding was successfully appealed to the Inner House of the Court of Session.

3. Judge Bradshaw made findings about what had not, in his view, transpired in China, contrary to the claim of the appellant. However, the judge fell into the classic error of not then considering what the profile of the appellant was and what the attitude of the Chinese authorities would be towards her, having that profile, if she were to be returned to China.
4. The position now is that it is common ground between the appellant and the respondent that the appellant is what is known as an ordinary member of a Christian organisation known as Eastern Lightning. The appellant is an ordinary member of that faith, and as such both the general background evidence and the specific expert evidence shows that she would be expected, as part of that faith, to proselytise in China. The background evidence also shows that the appellant would face difficulties of a serious kind if she were to engage in that activity. Indeed, the Chinese authorities regard Eastern Lightning as a cult to which they are significantly opposed.
5. In the circumstances, therefore, having had an opportunity of considering the matter, Mrs O'Brien, on behalf of the respondent, does not oppose the appellant's appeal on that relatively narrow but nevertheless important basis.
6. Without wishing to make any generalised findings regarding adherence to Eastern Lightning, on the particular facts of this case the appellant would, we consider, face a real risk of persecution. Alternatively, if she were to moderate her behaviour to avoid that risk, then, compatibly with the decision in HJ (Iran) [2010] UKSC 31, she is still entitled to refugee status because any such moderation would be driven by a fear of serious harm from the authorities in China.
7. Accordingly, the decision of the Upper Tribunal is that, on re-making the decision in the appeal, we allow it on asylum grounds.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 31/12/18

The Hon. Mr Justice Lane
President of the Upper Tribunal
Immigration and Asylum Chamber