



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

Appeal Number: PA/13821/2017

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 2 January 2019**

**Decision & Reasons**

**Promulgated**

**On 24 January 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

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

Appellant

**and**

**IA**

**(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mrs Pettersen, Senior Home Office Presenting Officer

For the Respondent: Mr Greer, instructed by Legal Justice Solicitors

**DECISION AND REASONS**

1. I shall refer to the appellant as the respondent and the respondent as the appellant (as they appeared respectively before the First-tier Tribunal). The appellant IA was born in 1980 and is a female citizen of Malaysia. She has a daughter living with her in the United Kingdom (AS) who was born in 2003 and is now aged 15 years. By a decision dated 14 December 2017, the appellant was refused asylum in the United Kingdom. She appealed to the First-tier Tribunal (Judge Andrew Davies) which, in a decision promulgated on 20 June 2018, allowed the appeal on asylum grounds.

The Secretary of State now appeals, with permission, to the Upper Tribunal.

2. The judge found that the appellant was entitled to asylum on the basis of being a member of a particular social group (she has a mixed race child born out of wedlock). The judge rejected part of the appellant's account (that she had a fear of her ex-husband's loan shark and claimed that her parents have disowned her on account of the illegitimate birth of her child). However, the judge accepted that the appellant's mixed race child had been discriminated against in Malaysia. The judge had the benefit of a number of expert reports. These dealt primarily with the likely deterioration of the appellant's daughter's mental state should she return to Malaysia. The appellant claims that her daughter was born following the appellant being raped by her former African/American boyfriend. The judge observed [33] that Dr Singh, a consultant child and adolescent psychiatrist, had concluded that there was a significant risk to the daughter's mental health being significantly affected if she returned to Malaysia without social support networks and "individual resilience" in the face of adversity. The judge also observed [34] that it would be "optimistic in the extreme" to expect a strategy to be put in place in Malaysia, educational institutions or Social Services or the healthcare system which might meet the requirements indicated by Dr Singh. It is not stated expressly in the decision but it is clear that the absence or likely absence of such systems would be true throughout Malaysia.
3. The grounds of appeal assert that the judge found that the appellant had overstated her case (viz. her reliance on the loan shark claim). First, it is not clear why that is relevant to the findings which the judge made in favour of the appellant and which concern matters wholly discrete from the loan shark claim. Secondly, the main thrust of the Secretary of State's grounds is that social discrimination cannot amount to persecution. This, however, is to fail to take into account the effect of the social discrimination upon the appellant's daughter, in particular her propensity to self-harm as a result of being bullied, abused and discriminated against. Mr Greer, who appeared for the appellant, submitted that the experts were clear that if support systems were not in place for the appellant and her daughter, then further and serious self-harm was a likely consequence. The judge agreed and made findings of fact accordingly. The grounds of appeal amount, in my opinion, to little more than a disagreement with findings available to the judge on the evidence. I find that the judge has taken into account all relevant evidence and has not had regard to irrelevant matters. I find that the judge assessed the evidence accurately and he has reached findings which were available to him on that evidence. The grounds do amount to a mere disagreement together with the suggestion that the judge should have rejected the entirety of the appellant's claim simply because he rejected part of it. For the reasons I have given, I find that the grounds are without merit. The appeal is dismissed.

## **Notice of Decision**

4. This appeal is dismissed.
5. An anonymity direction is made.

**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 her 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 10 January 2019

Upper Tribunal Judge Lane

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 10 January 2019

Upper Tribunal Judge Lane