IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-005137
First-tier Tribunal No: PA/53050/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 28 May 2023

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

AQ
(ANONYMITY ORDER MADE)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:
For the Appellant: Ms S Aziz, Counsel instructed by Sriharans Solicitors
For the Respondent: Mr A Basra, Senior Home Office Presenting Officer

Heard at Field House on 5 May 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant and/or any member of her family, are granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant and/or her family. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Background

1. The appellant is a citizen of Pakistan who claims to face a risk of an honour killing on account of her refusal to marry her cousin and her relationship with her partner, with whom she has two children.

2. She claims to come from a very traditional religious family who strongly oppose her relationship with her partner and would kill her because of the “shame” she

has brought on them. She also claims that her cousin is politically well-connection and that, whilst she has been in the UK, he went to the home of her partner's family with armed men and assaulted them. She claims that her immediate family (and her cousin) will be able to locate her wherever she lives in Pakistan because she would need to register for a computerised national identity document (a "CNIC"). The appellant also claims that she will face a risk in Pakistan because her children were born out of wedlock.

3. The respondent did not accept that the appellant faces a risk from her family or cousin. It was also not accepted that, even if such a risk exists, she could not avail herself of state protection or relocate to another part of Pakistan. Accordingly, her protection claim was rejected. The respondent also did not accept that the appellant's removal would breach Article 8 ECHR.

4. The appellant appealed to the First-tier Tribunal where her appeal came before Judge of the First-tier Tribunal Peer ("the judge"). In a decision dated 24 May 2022, the judge dismissed the appeal. The appellant now appeals against this decision.

Decision of the First-tier Tribunal

5. The judge did not accept that the appellant had been truthful about the risk she claims to face in Pakistan. The judge gave numerous reasons for not believing her, which are set out in paragraphs 64 – 81 of the decision, with an overall conclusion on her credibility at paragraph 63. Paragraph 63 states:

> "Although the appellant's account has a level of external consistency with the background evidence given the country context, otherwise there is no documentary evidence to corroborate her claims. Although the appellant's account has remained consistent, the account is implausible in specific instances and overall and there is a lack of sufficient detail about key aspects. The appellant has produced little if any additional detail to counteract the points raised in the refusal decision. I was not convinced that the appellant's account was wholly truthful and there was little to no real corroboration of most of the account."

Grounds of Appeal and Grant of Permission

6. There are three arguments in the grounds.

7. The first argument is that the judge applied the wrong standard of proof, because in paragraph 63 he stated that he was "not convinced that the appellant's account was wholly truthful".

8. The second argument is that the judge erred by not directing himself, and failing to appreciate, that a witness need not be "wholly" truthful; i.e. a witness can lie for a number of reasons and lying about some matters does not mean she lied about other matters.

9. The third argument in the grounds is that it was irrational for the judge to find it implausible that the appellant would enter into a relationship her family disapproved when it is common for young people to have relationships their parents oppose.

10. The Upper Tribunal granting permission identified a fourth arguable error, which is that the judge may have erred by, in several places, referring to the lack of corroboration.

Ground 1: Standard of Proof

11. Ms Aziz observed that in two places in the decision (paragraphs 63 and 81) the judge stated that the appellant had not been "wholly truthful". She submitted that this is the wrong standard of proof.

12. Mr Basra argued that the judge correctly directed herself as to the standard of proof and, critically, when (in paragraph 79) setting out her conclusion as to whether the appellant would face a risk on return, used terminology that makes clear the correct standard was applied: the judge stated that the appellant was "not reasonably likely" to face a threat or harm on return to Pakistan.

13. In my view, it is clear from reading the decision as a whole that the judge applied the correct standard of proof. First, the judge, in paragraph 56, gave a clear self-direction that the standard of proof was "reasonable degree of likelihood".

14. Second, in paragraph 79, when setting out her overarching conclusion as to risk on return, the judge used language that indicates the correct standard was in her mind: she stated that the appellant was "not reasonably likely" to face a threat or harm.

15. Third, in paragraph 81, when the judge set out her overall finding on whether the appellant had been truthful, she referred to the "lower standard".

16. Fourth, the judge's finding that the appellant has not been "wholly truthful" needs to be understood in the context of the judge making multiple adverse credibility findings. The judge did not find the appellant's account lacking in credibility solely because she was not satisfied that she had been "wholly truthful". Rather, as set out in paragraph 63, the judge rejected her account for a range of reasons, including inconsistencies, the implausible of certain parts of it, and lack of corroboration. The finding that the appellant was not "wholly truthful" is just one of several reasons given by the judge for finding that it was not reasonably likely that the appellant faces the risk she claims. Accordingly, I am satisfied that the use of this phrase does not indicate a misapplication or misunderstanding of the standard of proof.

Ground 2: Failure to Recognise that Lying in One Area Does Not Mean the Appellant Lied in Other Areas

17. It was submitted by Ms Aziz that the finding that the appellant was not "wholly truthful" indicates a failure to recognise that lying about one thing does not mean the appellant lied about everything. There is no merit to this submission because the judge did not dismiss the appeal because she inferred from one lie that the appellant lied about everything. Rather, she identified a range of factors that led her to not believe the core of the appellant's account.

Ground 3: Rationality of Finding it Implausible that the Appellant Would Enter Into a Relationship Against Her Family's Wishes

18. Ms Aziz submits that it was irrational to find it implausible that the appellant would enter into a relationship despite her family's opposition. She observed that such marriages are commonplace.

19. Mr Basra submitted, in response, that, from reading the decision as a whole, it is clear that the judge reached a sustainable finding about the plausibility of the appellant's account in the light of the appellant's own evidence about her family and cultural background.

20. In my view, Ms Aziz's submissions in respect of ground 3 are premised on an inaccurate reading of the decision. Contrary to what is asserted in the grounds, the judge did not find it implausible that the appellant would enter into a relationship against her family's wishes. In fact, the judge stated in clear terms that such relationships might occur. In paragraph 67 the judge stated:

> "I remind myself that this does not mean it is untrue and the couple may have experienced such strong connection from the outset that the appellant felt compelled to continue the relationship remotely and covertly despite the strictures of her upbringing".

21. However, the judge did find (in paragraph 67) that embarking on the relationship was "highly risky" and "highly unusual" given "the religious and cultural upbringing [the appellant] had been imbued with". These findings need to be understood in the context of the judge making multiple findings of implausibility in respect of the appellant's account. The judge found implausible that (a) the appellant's partner's family proposed marriage despite the clear opposition of her family to the relationship; (b) she and her partner were able to carry on the relationship covertly, including during a visit to the UK when the appellant was shopping for her wedding to her cousin; and (c) there was a lengthy engagement with her cousin even though she was subject to control by her family. None of these implausibility findings are challenged in the grounds. In the context of these unchallenged findings, it was plainly open to the judge to find that it would be highly risky and unusual for the appellant to enter into the relationship.

Argument Identified in the Grant of Permission: Corroboration

22. Ms Aziz referred to the recent Court of Appeal decision *MAH (Egypt) v Secretary of State for the Home Department* [2023] EWCA Civ 2016, where corroboration in protection claims is considered. She submitted that the judge's approach was inconsistent with *MAH* because she rejected the appellant's account for lack of corroboration. Mr Basra argued that the judge's approach was consistent with *MAH*.

23. In *MAH*, the Court of Appeal considered the issue of corroboration in protection claims. In paragraph 86 the law was summarised succinctly as follows:

> "It was common ground before this Court that there is no requirement that the applicant must adduce corroborative evidence: see *Kasolo v Secretary of State for the Home Department* (13190), a decision of the then Immigration Appeal Tribunal, 1 April 1996). On the other hand, the absence of corroborative evidence can, depending on the circumstances, be of some evidential value: if, for example, it could reasonably have been obtained and there is no good reason for not obtaining it, that may be a matter to which the Tribunal can give appropriate weight. This is what was meant by Green LJ in *SB (Sri Lanka)* at para. 46(iv)."

24. In paragraph 63, where the judge summarised her overarching assessment of credibility, she made two references to a lack of corroboration. She stated that "there is no documentary evidence to corroborate [the appellant's] claims" and that "there was little to no real corroboration of most of the account". On its

face, these references to a lack of corroboration indicate an erroneous approach. However, it is important to appreciate that paragraph 63 only sets out an overview of the assessment of credibility. The actual assessment is carried out in paragraphs 64 – 81. Careful consideration of these paragraphs reveals, in my view, that the judge did not improperly reject the appellant's account because of a lack of corroboration.

25. The references in the decision to corroboration (other than in the overarching conclusion in paragraph 63) are in paragraphs 68, 74 and 75.

26. In paragraph 68 the judge stated:

> "The prohibitive nature of the different backgrounds for a partnership is presented as a fait accompli and is an aspect of the account that is not specifically corroborated".

27. The judge has not, in this paragraph, rejected an aspect of the appellant's account because she was unable to corroborate it with documentation relating to her individual circumstances. She has not, for example, drawn an adverse inference from the absence of documents from the appellant's family corroborating that the relationship between the appellant and her partner was prohibited. Rather, the point being made by the judge is that there was no objective background or expert evidence to support the contention that a relationship between a woman from the appellant's background and a man from her partner's background would be considered objectionable by the appellant's family. The absence of expert or background evidence to support this was something the judge was entitled to take into account.

28. In paragraph 74, the judge considered the appellant's claim that she would need to register for a CNIC and that this would expose her to a risk of being located. The judge stated that

> "There was no background or other corroborative evidence of this particular [CNIC] service".

29. Given that the appellant was seeking to establish that obtaining a CNIC would put her at risk, the onus was on her to establish (to the lower standard) that this would be the case. The judge was entitled to have regard to the absence of objective evidence to support the appellant's claims about the CNIC. Although the judge referred to corroboration, as with the reference to corroboration in paragraph 68, the judge was in fact referring to the lack of supporting objective and country evidence about a feature of life in Pakistan (the CNIC).

30. In paragraph 75, the judge considered the appellant's explanation as to why she has not entered into a religious marriage in the UK, which was that she needed a particular form of ID. The judge stated:

> "There was no corroboration of this statement which would not have been difficult given she said it came from a mosque in the UK, although did not identify any particular mosque".

31. The reason there is no requirement to adduce corroborative evidence in protection claims is the difficulty and/or potential risk in obtaining such evidence in the country a person has fled from. No such difficulty arises for events occurring in the UK. The appellant made an assertion that on its face seems surprising: that she and her partner have been unable to enter into an Islamic

marriage in the UK because of not having a particular form of ID. It was entirely reasonable for the judge, when considering the weight to attach to this, to take into account that corroboration could have been, but was not, obtained in the form of a letter from the mosque that she claims refused to undertake a religious marriage ceremony from her.

Conclusion

32. None of the grounds identify an error of law in the decision. I have therefore dismissed the appeal.

Notice of Decision

33. The decision of the First-tier Tribunal did not involve the making of an error of law and stands.

D. Sheridan

Judge of the Upper Tribunal
Immigration and Asylum Chamber

22.5.2023