



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

Appeal Numbers:
UI-2022-003124
(PA/55327/2021)
UI-2022-003125
(PA/55328/2021)
UI-2022-003126
(PA/55330/2021)

THE IMMIGRATION ACTS

Decision Promulgated

On 12 September 2023

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

SJM

HM

AA

(anonymity direction made)

Appellant

And

Secretary of State for the Home Department

Respondent

ANONYMITY

The second and third Appellants are minors. I therefore consider it appropriate to make the following order protecting their identity:

No-one shall publish or reveal any information, including the name or address of the Appellants, likely to lead members of the public to identify the Appellants or members of their family. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Appellants are all nationals of Pakistan. The first Appellant is the mother of the second and third Appellants, who are both minors. They appeal with permission against the decision of the First-tier Tribunal (Judge O'Hanlon) to dismiss their linked protection and human rights appeals.
2. The grounds of appeal are that the First-tier Tribunal erred *inter alia* in falling into the 'Mibanga trap' of reaching negative credibility findings on the Appellant's evidence before considering expert evidence which may have shed a positive light on her account: see Mibanga v SSHD [2005] EWCA Civ 367. In this case the Tribunal had before it the evidence of two experts which were directly relevant to the assessment of the account. Professor Bluth spoke to the position of women in Pakistan, and the plausibility of SJM's claims to be at risk of 'honour' based violence by her husband. Dr Hussain diagnosed SJM with Post-Traumatic Stress Disorder, which she attributed to the violence she has experienced throughout her marriage. Instead of evaluating all of this material in the round, the Tribunal instead rejected SJM's account of abuse and feared risk, and then used that finding to minimise the weight to be attached to the experts' views.
3. The Secretary of State accepts that the decision of Judge O'Hanlon is flawed for the error identified, and invites this Tribunal to remit the linked appeals to be heard afresh by a different judge of the First-tier Tribunal. In light of the error, and the extent to which it infects all of the key findings, I agree that the decision must be remade. I further agree that in light of the extent of the fact finding required, this matter should be remade in the First-tier Tribunal by a judge other than Judge O'Hanlon.

Decision

4. The decision of the First-tier Tribunal is set aside. The decision is to be remade following a hearing *de novo* in the First-tier Tribunal.
5. There is an order for anonymity.

Upper Tribunal Judge Bruce
23rd August 2023