



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

Appeal Number: AA/11787/2014

THE IMMIGRATION ACTS

**Heard at Manchester
On 16 September 2015**

**Decision & Reasons Promulgated
On 17 September 2015**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**NG
ANONYMITY DIRECTION MADE**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Dr Mynott (instructed by IAS, Manchester)
For the SSHD: Mr Harrison (Senior Home Office Presenting Officer)

DECISION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties.

1. The appellant is a citizen of Libya born on 29 November 1983. She claimed asylum in the United Kingdom on 10 August 2014. This claim was refused by the SSHD on 8 December 2014 for reasons set

out in a detailed letter of that same date. I have anonymised this decision because it refers to the appellant's asylum claim.

2. The appellant contends that she has a well-founded fear of persecution for reasons relating to her membership of a particular social group: Libyan women. She claims that she faces a real risk of serious harm from her father and brother because she disobeyed them and stands accused of various offences against her and the family's honour.
3. This is a matter that has previously been considered by the First-tier Tribunal. In a decision dated 11 May 2015 I decided that the decision contains errors of law such that it should be set aside and remade by me. The full procedural history and reasons for my decision are set out in my earlier decision.

Hearing

Issues in dispute

4. At the beginning of the hearing both representatives agreed that the only real issue in dispute is the credibility of the asylum claim. Mr Harrison accepted that if credible, the appellant faces a real risk of persecution for reasons relating to her membership of a particular social group and the appeal should be allowed.

Evidence

5. The appellant's solicitors submitted a very helpful comprehensive bundle containing detailed evidence supporting the asylum claim as well as background evidence. This included two important items of evidence not available to the First-tier Tribunal. First, statements provided to the Home Office confirming the appellant's claim that she explained her fears whilst in Libya to a member of staff in the UK Embassy. Second, a statement from Mr McAndrew, a former long-serving member of the British Army, who knew the appellant whilst in Libya.
6. Mr Harrison explained that he had not been provided with a copy of the updated bundle (although it was served on the SSHD). Having considered its contents for the first time on the morning of the hearing Mr Harrison was content to proceed with the hearing and did not request an adjournment. Mr Harrison indicated that in light of the further information provided by the appellant cross-examination was unlikely to be lengthy.
7. Dr Mynott submitted two additional documents. First, an email from the team from the Home Office who interviewed the appellant regarding her claim to have told a member of the staff at the UK Embassy about her difficulties. They indicated that the matter had been closed by their team. Second, a letter from Manchester Rape

Crisis dated 10 September 2015 confirming their view that the appellant was a victim of rape.

8. The appellant then confirmed her witness statements. These set out a very detailed and lengthy account of harm and threats of harm by family members over a number of years when she was residing in Libya. The appellant was cross-examined briefly by Mr Harrison. I then heard evidence from Mr McAndrew. He knew the appellant when he resided in Libya. She confided in him and told her about the difficulties she was facing. He confirmed his statement and was cross-examined very briefly by Mr Harrison. He clearly indicated that he entirely believed the appellant's account. Mr Harrison did not press Mr McAndrew further on this.

Submissions

9. Mr Harrison asked me to note the reasons for refusal letter. He however acknowledged that there was now cogent supporting evidence to support the credibility of the appellant's asylum claim.
10. Dr Mynott relied upon a carefully drafted and helpful skeleton argument. Having read that skeleton argument together with all the detailed evidence submitted and in light of Mr Harrison's submissions, I indicated that I did not need to hear from Dr Mynott because I accepted the appellant's account and would be allowing her appeal, for reasons which I set out below.

Legal framework

11. It is not in dispute that if the appellant's account is a credible one, she succeeds in showing a well-founded fear of serious harm for a Convention reason in Libya. I therefore do not need to set out the well-established legal framework when determining a claim for asylum or humanitarian protection. In assessing the appellant's credibility I must apply the lower standard of proof i.e. I must consider whether it is reasonably likely that the core aspects of his account are true. Credibility findings must be made in the round and in light of all the evidence available. This includes background evidence on the country of origin, which may support (or not support) the plausibility of a claim.
12. AT and others (Article 15c; risk categories) Libya CG [2014] UKUT 00318 (IAC) addresses the position of women in Libya. This decision refers to reports prepared by the SSHD such as the COI and OGN, which describe the problems faced by women in terms of domestic violence and discrimination. They also describe the prevalence of sexual violence and restriction on women's movements and accommodation. Other reports describe Libyan society as having become more socially conservative and male dominated since the revolution.

Credibility findings

13. The SSHD's refusal letter sets out in considerable detail, discrepancies and implausibilities in the appellant's evidence. I have read these all with care. I accept that there are some minor discrepancies in the appellant's account. However I accept the central and important aspects of her account are reasonably likely to be true. The appellant's evidence is detailed, consistent and supported by the documentary and background evidence. This includes evidence from Manchester Rape Crisis that the appellant has demonstrated signs of being the victim of ill treatment and rape and considerable documentary evidence from Libya regarding her identity and supportive of her claim that she has been harmed in the past.
14. The central theme in the appellant's claim relates to her fears regarding her father and brother for breaching social mores and not following their demands as to how she should behave. She confided in a number of individuals about this whilst in Libya. I accept this included Mr McAndrew and a member of staff at the UK Embassy in Libya.
15. I now set out my specific findings regarding the central aspects of the appellant's account.
16. I accept the appellant is well educated and a qualified dentist. I accept that the appellant's father and brothers have adopted an extremely conservative view toward her and what she is permitted to do as a woman. The appellant is however a determined and intelligent woman, and notwithstanding the opposition from her family members managed to qualify as a dentist. This is entirely consistent with the background evidence on how many men behave in Libya. The chronology of events is also supported by the background evidence to the effect that Libyan society has become more male-dominated and conservative and the situation for women worsened significantly following the revolution. I note that the SSHD is concerned that the appellant's description of the father's attitudes reveals very inconsistent attitudes on his part. At some points he was prepared for her to make her own choices and at other times he was more dogmatic. I however accept that in the context of Libya a father's role will generally be less intrusive when his daughter is married and 'under the protection of a man' and this helps explain the different attitudes exhibited by the appellant's father at different times.
17. I accept the appellant's description of her three marriages. I accept that the appellant was extremely unhappy in all of her marriages because she was treated badly by her husbands. I accept that the appellant had two children with her first husband and they now reside with him. I accept that when the appellant was divorced by her first

husband in 2010 she initially had the children but her father and brother considered it was more consistent with Libyan custom for the father to have the children and they forcibly returned the children to their father's care and this has caused the appellant extreme angst and upset.

18. I accept that the appellant was so deeply unhappy in her second marriage that she attempted suicide in 2011. She returned to the family home around the time of the revolution. I accept that her father was distracted by the events of the revolution given his role in the Gadhafi regime. I accept that the appellant went to live with her uncle in August 2011 and started to practice dentistry shortly after this but that her father found about this and made her return home and stop working.
19. I accept that the appellant married for a third time in 2012 in order to try to get away from her father and to be nearer to her children in Tripoli. I accept the appellant's third husband was violent toward her and wanted to divorce her. I accept that the appellant remained living on her own in her flat in Tripoli in 2013 but she was being regularly threatened by her father because of the shame he believed she had brought on them and because of her refusal to return home now that she was no longer living with her husband, yet had discovered she was pregnant.
20. I accept that the appellant's father and brother coaxed her to return home for a short period on 28 August 2013 and once there, they beat her, tied her hands and legs and were threatening to kill her. I accept that the appellant genuinely believed that they were preparing a grave for her and this motivated her to escape from them. The appellant has set out in considerable detail how she managed to escape in her statement. I accept this account on the lower standard of proof. I accept that the appellant had medical treatment but lost her baby. This is supported by a letter from Zlitan Hospital referring to the incident but dated 15 May 2014. I accept the appellant attempted to report her brother's continued threats to the police. This is also supported by a police report dated 13 May 2014 recording a complaint made on 8 September 2013 by the appellant that her brother had threatened her with murder. I accept that the police were unable to assist the appellant. This is entirely consistent with the Home Office's own guidance on Libya: Violence Against Women dated 8 October 2014 at 2.2.11
21. I accept that the appellant returned to live with her third husband and was tricked into travelling to Turkey where she was raped by a neighbour. I accept the appellant believed that her husband was entirely unsympathetic and may have been involved in this scheme. I accept the appellant divorced her husband on 7 April 2014 and felt compelled to leave Libya for her safety.

22. I accept that the appellant sought the assistance of the British Embassy in Libya in December 2013 as explained in the statements she has provided to the Home Office investigating team. These statements are consistent with the appellant's previous claims. I accept the submissions in the appellant's skeleton argument that the SSHD plainly regarded the appellant's account to be sufficiently credible to pursue an investigation and take two statements from her. The fact that the appellant took a number of steps to protect herself from harm including confiding in a member of the British Embassy staff lends support to the credibility of the central aspects of her claim. I accept that the appellant also told Mr McAndrew about her treatment from her father and brother. Mr Harrison accepted that it was significant that Mr McAndrew believed this account and was prepared to attend the Tribunal hearing having travelled from Grimsby in order to be cross-examined about it. Mr Harrison accepts, as do I, that Mr McAndrew has an unblemished record working in the British Army and is well placed to make judgments on credibility in the context of Libya, given his experience there. I do not of course have to accept his judgment but it is an additional factor in my view supporting the central aspects of the appellant's account.
23. I accept the appellant left Libya on 10 August 2014 because of the continued threats made by her brother and because she feared a repetition of serious harm at the hands of her father and brother in light of her third divorce.
24. I accept that since being in the UK the appellant has discovered from another neighbour in Tripoli that her brother has attended her flat with his militia and has now taken over the flat, and that the militia have provided an order for her arrest. This is supported by arrest orders provided by the appellant. I note that the current state of lawlessness in Libya is such that these documents could be easily manufactured. However I am prepared to accept on the lower standard of proof that the appellant's brother has made it known that he is aware the appellant is in the UK and he shall be following her up with the assistance of his militia if she returns to Libya.

Risk upon return

25. I note that the appellant did not see her father after 28 August 2013. The refusal letter submits that this indicates that her father was no longer adversely interested in her. I accept the appellant's detailed explanation for her father not targeting her after 28 August 2013 in paragraph 99 of her witness statement. I accept that having now found out about the appellant's third divorce, the appellant is at real risk of a repetition of serious harm at the hands of her father and brother if returned to Libya.
26. The appellant has already suffered sexual violence, ill treatment, serious harm and threats of serious harm. Much of this has taken

place because she has been accused of or is suspected of offences against family honour. She therefore comes within a category of women at heightened risk in Libya - see the headnote of AT (*supra*) at (10c)). I am satisfied that having already been subject to serious harm in the past, there are no good reasons to consider that such harm will not be repeated and there is a real risk that it will be repeated (see para 339K of the Immigration Rules).

27. For the avoidance of doubt the appellant remains at risk throughout Libya and internal relocation is not available to her - see the headnote of AT (*supra*) at (22). The state of uncertainty and dangerousness caused by the continuing conflict is such that as a lone woman she would need some form of 'protection' in order to survive and would be compelled to reach out to family members, and sooner or later her father and brother would find out about her return. It is noteworthy that the appellant shall be returned to Tripoli airport as a lone woman without a 'male protector'. There is a real risk, given the prevailing attitudes toward lone women without 'male protectors' that the militia controlling the airport or the checkpoints from the airport will ensure that she has family members to escort her to a home, and this is another way in which she is reasonably likely to come to the attention of her father and brother.

Conclusion

28. I accept the credibility of the central aspects of the appellant's account as to what happened to her in Libya. As accepted by Mr Harrison it follows that the appellant faces a real risk of persecution for reasons relating to her membership of a particular social group (women in Libya).

Decision

29. The appeal is allowed on asylum grounds.
30. The appeal is allowed under Articles 2 and 3 of the ECHR.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
17 September 2015