

has attracted the adverse attention of the Pakistan authorities and the Jamat Al Dawah.

23. Notwithstanding the adverse credibility findings outlined below, we are satisfied to the requisite standard of proof that the Appellant is an active member of the JKNAP.

24. In reaching that conclusion, we have dismissed many of the arguments of the Respondent contained within the Refusal. We do not accept that the Appellant was vague in interview. We find that he answered questions asked of him in sufficient detail. We do not find his failure to detail the nature of his speeches during protests in the United Kingdom to be undermining to his credibility, given that he was not asked for this information. In fact, we find that the Appellant adequately answered all questions asked of him and was able to provide specific information. Whilst much of this information is available upon research, it nevertheless enhances his credibility. We do not accept that he wrongly named the UK president of the JKNAP and accept his subsequent explanation that his answer in interview was clearly in the past tense. It has been accepted by the Respondent that the name given is the name of a previous president.

25. We give significant weight to the Appellant's attendance and participation in protests in the United Kingdom and the fact that he has addressed a Select Committee at Westminster. We note that there is no dispute that he is from Kashmir and so some ideology one way or another about Kashmir independence is plausible.

26. We also give weight to the supportive letters that the Appellant has adduced and the evidence, both in writing and orally, from Mr Rajar.

27. The fact that we accept the Appellant's political affiliations enhances the credibility of his account of events in Pakistan. However, there are various features of the evidence that significantly undermine his credibility:

a. His assertion that he was released by Jamat Al Damah after three days so that he could obtain medical attention and that he was told that if he did not join their cause they would "finish" him is inconsistent with the fact that thereafter he was not approached by the group, despite remaining at his home address in Pakistan for several months before leaving Pakistan in 2011. Similarly, he encountered no difficulties upon his return in 2013;

b. The Appellant returning to Pakistan in 2013 is inconsistent with his assertion of fear. We do not accept as credible that he believed that the situation had improved in Pakistan. He could have made enquiries before returning to inform him whether he would be safe. We do not consider it credible that having returned he would attract potential adverse attention to himself by attending a further protest;

c. Despite the Appellant's account that his problem started in 2010, during which he was detained by both the Pakistan authorities and Jamat Al Dawah, he failed to claim asylum upon arriving to the United Kingdom in April 2011. He did not claim asylum until over six years later. This is particularly notable as

upon returning to Pakistan in 2013 he says he was advised by the President of the JKNAP that he believed that the Appellant would be targeted by the Pakistan authorities. His assertion that upon return to the United Kingdom from Pakistan in 2013 he did not claim asylum as he had hoped that the country situation would improve is not credible given his assertion that it had not improved between 2011 and 2013. Further, such a hope would not prevent him claiming refugee status as a grant of asylum would not preclude him voluntarily returning to Pakistan upon a change in circumstances. He has failed to give a reasonable explanation for the substantial delay in claiming asylum and we find this damaging to his credibility, pursuant to section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004.

28. We note the objective evidence within the Home Office Country Policy and Information Note entitled 'Pakistan: Background information including actors of protection, and internal relocation', published in June 2017, which details that "document fraud is endemic in Pakistan", for example, FIRs. In light of the aforementioned credibility findings, together with the features below, we are not satisfied that the FIR and the arrest warrant are reliable documents:

a. At paragraph 23 of his witness statement, dated 21st March 2018, the Appellant states that the FIR was lodged in 2013 and he found out about it in 2016. This is inconsistent with his oral evidence in which he said that he found out about it in 2013;

b. The reliability of the arrest warrant is undermined by the fact that it requires his presentation at court two years prior to the date of the document. We do not accept his account of this being a clerical error is persuasive. Also, it includes references to crimes that do not correspond with the details within the FIR, such as adultery, and whilst he Respondent identified this within the Refusal, the Appellant has offered no explanation. The reference to the amount for bail being "Nil" undermines the document. We do not accept that this is to indicate that he would not be permitted bail as if that was the case we find it would be detailed upon the document; and

c. Neither document details the Appellant's full name. Whilst he told us that he often does not use the name "K", he stated that the name "K" is upon his identification documents including his passport. As such, there is no adequate explanation as to why it has not been included on documents purporting to be formal court documents.

29. We have considered the evidence of the Mental Health Assessment Worker, to whom the Appellant has given a consistent account of events in Pakistan to that which he has pursued in his claim for asylum. The author details that the Appellant has told him that his General Practitioner has diagnosed high blood pressure resulting from stress. Whilst we do give some weight to that evidence, we note that it reiterates information provided by the Appellant and so his credibility is material when considering the weight to assign. We do note however that his General Practitioner records indicate that he has been assessed as having high blood pressure. We also note that stress, and high blood pressure, may have arisen simply as a result of the

Appellant wishing to remain in the United Kingdom yet not having lawful status to do so, rather than an indicator of previous trauma.

30. We note the written evidence of Mr Liaqat Hayat, who is the president of the Jammu Kashmir National Awami Party in Pakistan, and we note that he was unable to attend the hearing to have his evidence tested as he lives in Pakistan. He outlines how the FIR was obtained and that it was he that notified the Appellant of it. However, we note that he has failed to give details as to when he undertook these activities. Nevertheless, we do assign weight to this evidence and consider this in the round with all of the evidence in the case.

31. We do give weight to the evidence of Mr Raja. We note that at paragraph 7 of his witness statement he details that he was told by Mr Hayat that the Appellant had problems in Pakistan, although he does not know the details. He details at paragraph 11 that it is generally dangerous for party members in Jammu Kashmir and may be targeted by the authorities and other groups. He has also visited and spoken to the Appellant's family. We give that evidence weight, although note that he is not an independent witness and that he clearly shares a friendship with the Appellant. We consider it in the round with all of the evidence in the case. Further, in his oral evidence he detailed that JKNAP membership is illegal in Pakistan, but that members are generally unmolested. This is exemplified by the fact that he, as President of the UK unit, was able to travel to Pakistan and attend a party convention without any adverse attention from the authorities or other groups.

32. The Appellant has adduced other letters supporting his struggles in Pakistan but we note that these letters are from people who are generally repeating what they have been told, rather than detailing what they have personally witnessed.

33. We give weight to the objective evidence adduced by both parties. The Appellant relies upon objective evidence that is summarised within a helpful key passage index. It refers to the arrest and physical abuse against protestors. There are examples given of arrests against protestors within the UNHCHR document, dated July 2019.

34. We note the evidence within the Home Office 'Country Policy and Information Note - Pakistan: Security and humanitarian situation, including fear of militant groups', dated January 2019, which lists organisations that have been determined by the Pakistan Ministry of Interior as proscribed organisations. JKNAP is not upon that list.

3. At the resumed hearing, which took place remotely, the appellant gave evidence with the assistance of an interpreter. Although the appellant's first language is Urdu, he told me that he was able and willing to speak in Punjabi, the language in which the interpreter was authorised. The standard and burden of proof are as stated at [8-10] of the First-tier Tribunal's decision. I shall not repeat them.
4. The appellant adopted his witness statement of 10 August 2020 as his evidence in chief. He was cross examined by Mr Tan, who appeared for the Secretary of State. He was asked about Mr Raja, the United Kingdom

Chairman of JKNAP, the party with which the appellant is actively engaged. The appellant acknowledged that Mr Raja had returned to Pakistan in 2017. Mr Raja had been able to complete his visit and to return to the United Kingdom 'unmolested'.

5. I reserved my decision.
6. The appellant now relies on the expert report of Dr. Farhaan Wali, Lecturer in Religious Studies in the School of History, Social Science and Philosophy at Bangor University. Mr Tan's submissions focussed on this report, which firmly concludes that the appellant would be at real risk on return to Pakistan on account of his support for JKNAP. Mr Tan submitted that parts of the analysis of Dr Wali were not supported by the citation of source materials. For example, at [50] Dr Wali writes: 'There are some Human Rights reports indicating that JKNAP members have been targeted by ISI. Therefore, Mr K may face security threat from the Pakistani intelligence agencies. It is my opinion that Mr K is likely to face some form of persecution and/or imprisonment due to his membership in JKNAP. Moreover, Mr K is an active member of JKNAP, which may increase any potential threat.' No 'human rights reports' are cited in the text or the footnotes. As I understood his submissions, Mr Tan argued that the absence of citations should diminish the weight which I should attach to the entire report.
7. The report of Dr Wali is a detailed document which seeks to place the particular circumstances of the appellant in the context of Pakistani politics. Mr Tan did not question the qualifications of Dr Wali and nor do I. Dr Wali has, in the conclusion to his report, stated categorically that he considers that the appellant would be at risk anywhere in Pakistan on account of his political opinions. Mr Tan makes a valid criticism of the expert's failure in parts of the report (other parts are heavily referenced) to cite the sources of information. Is that failure sufficiently serious for me to reject the report as a whole and, in particular, its unequivocal conclusions? If I attach less weight to the parts of the report which lack citations, there remains a significant quantity of evidence in the report which is properly referenced, which Mr Tan did not directly challenge and which indicates that the appellant would face a risk on return. I am reminded also of the relatively low standard of proof in an appeal of this kind. I have concluded that Dr Wali's evidence, though in parts flawed for the reasons advanced by Mr Tan, is not entirely vitiated by error such that I cannot attach weight to its conclusions.
8. Mr Tan's second challenge concerned Mr Raja. He asked how it could be that the appellant, the President of JKNAP in the United Kingdom, would be at risk as whilst the party's most senior officer, the chairman, Mr Raja, had been able to visit Pakistan 'unmolested' for several weeks in 2017. He submitted that it must follow that, if the most senior party member had not suffered problems, then the appellant would not do so.
9. Again, Mr Tan's submissions are well made. The appellant did not offer any explanation for the fact that Mr Raja had not encountered trouble from

either state or non-state actors during his 2017 visit to Pakistan. However, the reasons for Mr Raja's untroubled visit are not clear. The state authorities and Mr Raja's political opponents may have had reasons for not challenging such a high profile member of the party; it may not necessarily follow that a lower profile member would be equally safe. Moreover, Pakistani politics are notoriously unstable; how the state authorities behaved towards an opponent four years ago may be an unreliable indicator of how they may respond in 2021. Thirdly, Mr Raja was in Pakistan for a few weeks and then returned to the United Kingdom . He has, I understand, not been back. It is likely that the Pakistan authorities considered that they were able to monitor and contain a political opponent for a limited period of time. If the appellant returns, it will be to remain indefinitely and consequently, he would pose a different kind of threat.

10. In my opinion, whilst Mr Raja's experiences in Pakistan are part of the totality of the evidence, it is important to consider the profile and circumstances of the appellant himself. Mr Tan did not disagree with evidence that that indicates that JKNAP is now an illegal party in Pakistan (notwithstanding the First-tier Tribunal's observations at [34] (see above)) and although the respondent raises valid points regarding Dr Wali's expert opinion those points do not undermine his report entirely; Dr Wali's unequivocal conclusion is that the appellant will be at real risk on return. Carefully weighing the background material, the expert report and the evidence of the appellant himself, I have concluded that there are substantial grounds for finding that it is reasonably likely that the appellant, a genuinely committed supporter and activist of JKNAP, a party outlawed in Pakistan, would be at real risk on return. Accordingly, I allow his appeal against the Secretary of State decision on asylum and Article 3 ECHR grounds.

Notice of Decision

The appeal is allowed on asylum and human rights grounds.

Signed
Upper Tribunal Judge Lane

Date 27 April 2021

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

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