



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/10480/2013

THE IMMIGRATION ACTS

Heard at Manchester
On 24th November 2014

Decision & Reasons Promulgated
On 12th December 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE LEVER

Between

MISS HAJARA BEEVI SEYYADU MUSTHAFA
(ANONYMITY NOT RETAINED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr McVea
For the Respondent: Mr McVeety

DECISION AND REASONS

Introduction

1. The Appellant born on 14th October 1974 is a citizen of Sri Lanka. The Appellant was present and represented by Mr McVea. The Respondent was represented by Mr McVeety a Home Office Presenting Officer.

Substantive Issues under Appeal

2. The Appellant had arrived in the United Kingdom on 8th January 2011 on a visit visa and made application for asylum on 29th August 2012. The Respondent had refused that application on 10th November 2013. The Appellant had appealed the decision and her appeal was heard by First-tier Tribunal Judge Frankish on 26th March 2014 and he had allowed the appeal. The Respondent had made application for permission to appeal and that was granted on 19th May 2014.
3. The matter came before me to decide whether or not an error of law had been made on 11th September 2014. I found errors of law had been made in the reasons provided in the determination promulgated on 25th September 2014. Directions were issued for the remaking of this case before myself in the Upper Tribunal. The matter comes before me in accordance with those directions.

The Proceedings - Introduction

4. As the Appellant was present I firstly explained to her the nature of the proceedings and the way that they would be conducted. I firstly checked the documents available to me in this case.
5. The Respondent's documents consist of:
 - Immigration history.
 - Those documents listed at folios A to G on the index sheet.
 - Refusal letter.
 - Removal directions.
 - Notice and Grounds of Appeal.
6. The Appellant's documents consist of:
 - Those documents listed at folios RFT-1 to page 191 on the index sheet to the bundle.
7. Mr McVea raised a preliminary issue that being a request for an all female court. He made reference to the Appellant's concern that the male interviewer at the asylum interview stage had been somewhat aggressive and that may have affected her ability to provide evidence.
8. I refused the application. Firstly I had noted that the hearing before the First-tier Tribunal had been conducted before a male judge and with a male Presenting Officer and there were no references within the determination to any difficulties or problems arising out of male individuals at the hearing. At

the error of law stage I also noted that myself had been the judge and the Appellant had been represented by Dr Mynott also a male.

9. Thirdly it was apparent that the Appellant had been able to provide instructions and be represented on previous occasions by male representatives. Fourthly I referred Mr McVea to the Tribunal Procedure Rules and the need to deal with matters in a fair and effective manner without incurring unnecessary costs or delays.
10. Finally I indicated that given the potential central matters to be considered it did not necessarily appear to be the case that there would be extensive cross-examination of the Appellant and in particular in respect of the alleged sexual abuse which was perhaps at the heart of the concern and application. Mr McVea accepted my decision and for the record there was no stage during the proceedings when I had any concern that the Appellant was unable to deal with questions or provide answers to those matters put to her.
11. In order to identify the central issues in this case in part to remove the need for unnecessary questioning I had a brief discussion with both representatives. Following those discussions I outlined to the representatives those issues that had been raised as follows:
 - (1) Credibility of the Appellant's account in particular:
 - (a) Is she Tamil?
 - (b) Was she detained as claimed?
 - (2) Is it likely that she is on a stop list and therefore at risk at the airport if returned to Sri Lanka?
 - (3) Can she relocate safely to her husband's home area?
 - (4) Is there an overriding risk from religious extremists towards the Appellant being a convert from Muslim to Hindu?
 - (5) Does her current medical condition mean that she has a claim under Article 8 of the ECHR with reference to Section 55 of the Borders Act 2009 in respect of her young child?

Evidence

12. The Appellant was called to give evidence and provided her full name. She confirmed her witness statement dated 15th March 2014 was true and accurate and adopted that as her examination-in-chief. That statement appears at pages 1 to 6 on the bundle before the First-tier Tribunal.
13. In cross-examination she said that she recalled the Home Office interview and the question of ethnicity and said that she was a Muslim at question 15 and

confirmed that she had told them that she was a Tamil Muslim. Although she had given a different answer in the interview record she was adamant that she had said that she was a Tamil Muslim and said that she spoke Tamil and that she was now a Hindu.

14. She said that she came to know through her friend, Jothi, what was happening in respect of the Tamils after she played a video for her. She had not any first hand experience of what was happening with the Tamil population in Sri Lanka. Her family did not fight or support the LTTE. She said that her father was diabetic and was unemployed and that her uncle looked after her parents and herself as an only child. Her uncle ran a clothing business and used to travel frequently to India. She said that he knew many people.
15. The area in which she had been born contained Sinhalese, Muslims and Tamils. She had moved to Colombo in 2005 when she was about 31 years of age. She said that she had been arrested by the police at the end of 2009.
16. She had collected parcels on behalf of her friend. She did not open or see the contents of those parcels but on one or two occasions she had been shown and was aware that they contained passports on occasions. She said she had also purchased mobile phone sim cards in Colombo and had been taking part in those activities until arrested.
17. She met her husband in the UK in 2012, she thought it was the beginning of the year. She had come to the UK in 2010 with Kuwait employers.
18. Her employer had gone back to Kuwait and he had called her to accompany him. The Appellant said that she had problems in Sri Lanka and if her employer was able to keep her in Kuwait with him then she would go. He said that he would at least initially have to send her back to Sri Lanka and as a result she asked for her passport which he gave to her. She then left the house and went outside. She said that she found someone who looked a Tamil and spoke to him and he is the person who is now her husband. She said her purpose for going out had been to buy a phone card so she was able to speak to her parents.
19. She said she spoke to her parents once monthly and had thus far not told them that either she was married or had a child.
20. Her uncle had sent her to Kuwait to work for an employer in March 2010 and she had been in Kuwait between March and November 2010 before coming to the UK with the Kuwaiti family. She said that family had never beaten her and they were kind to her.
21. She had moved to Colombo to work and had gone with her uncle who had left her there and she had worked as a domestic assistant for a family in Colombo who were Saudi Arabians and connected to the Saudi Embassy. Although she

worked in their private home she had her own accommodation and thereafter Jothi had joined her in that accommodation.

22. In re-examination she was referred to two birth certificates. She said that she had purchased sim cards for Jothi and had worn what she described as a Muslim outfit when going to get the cards describing this as simply a head veil.
23. I next heard from the Appellant's husband, Mr Selvarajah. He provided his full name and confirmed that his witness statement dated 15th January 2014 appearing at pages 7 to 10 on the Appellant's bundle was true and correct and adopted it as his examination-in-chief.
24. In cross-examination he confirmed that he had met his wife in London at a shop and that she had asked him if he was Tamil to which he had replied that he was. He confirmed he was Tamil and said that he had met her in July 2012. He said his parents lived in India now and he spoke to them occasionally.
25. I then heard submissions on behalf of the Respondent. I was referred to various matters concerning the credibility of the Appellant's account. It was submitted that the Respondent's case was that due to the lack of credibility in the Appellant's account it was not accepted that she had been detained and therefore by logical flow not accepted that she had been abused physically or sexually as described. There were matters raised concerning what was said to be inadequacies within the medical evidence that had been presented. In respect of the report prepared by Dr Chris Smith in terms of Sri Lanka it was submitted that many of the points that he made predated GJ and were dated.
26. I finally heard submissions on behalf of the Appellant and I was referred helpfully to the skeleton argument. It was submitted the Appellant had provided a consistent and true account and I should accept her credibility. It was further noted that the Appellant had at the stage of the First-tier Tribunal accepted that she was not a Tamil. I was referred to the medical report and to the country material and the country guidance case in terms of those at risk and it was submitted that the Appellant would be at risk on return.
27. At the conclusion of the hearing I reserved my decision to consider the documents and evidence submitted. I now provide that decision with my reasons.

The Law

Asylum

28. Paragraph 334 of the Immigration Rules states that the applicant will be granted asylum if the provisions of that paragraph apply. The burden of proof rests on an Appellant to satisfy me that she falls within the definition of a refugee in Regulation 2 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006. In essence an Appellant will have

to show there are substantial grounds for believing that she is outside her country of nationality or if applicable her country of former habitual residence by reason of a well-founded fear of persecution for a Refugee Convention reason, and is unable or unwilling owing to such fear to avail herself of the protection of that country.

Humanitarian Protection

29. Paragraph 339C of the Immigration Rules states that an applicant who does not qualify as a refugee will be granted humanitarian protection if the provisions of that paragraph apply. The burden of proof rests on an Appellant to satisfy me that she is entitled to humanitarian protection under paragraph 339 of the Immigration Rules. In essence an Appellant will have to show there are substantial grounds for believing that if returned she would face a real risk of suffering serious harm and she is unable or owing to such risk unwilling to avail herself of the protection of the country of return.

The ECHR

30. The burden of proof rests on an Appellant to satisfy me there are substantial grounds for believing that as a result of the Respondent's decision she will be exposed to a real risk of torture or inhuman or degrading treatment or punishment contrary to Article 3.

Decision and Reasons

31. The Appellant's claim was essentially based upon two fears if returned to Sri Lanka. Firstly she had initially claimed to be a Tamil and had endured arrest, detention and torture at the hands of the Sri Lankan authorities as an LTTE supporter based upon activities she claimed to have undertaken on behalf of her flatmate and friend Jothi, who was a member of the LTTE. Secondly the Appellant was originally a Muslim but had converted to Hindu upon marriage to her husband in the UK, himself a Hindu and a failed asylum seeker. She feared retribution from her family and Muslims as a result of her conversion and "mixed" marriage.
32. The Appellant's original claim to be Tamil, was consistent with her speaking Tamil. It would also have provided some credible support for her claim to be enlisted by Jothi an LTTE member or supporter and the subsequent adverse interest in her by the Sri Lankan authorities.
33. In closing submissions Mr McVeety referred to a number of evidential features to demonstrate her claim to be Tamil was not credible. Although overlooked at the time, it was accepted by Mr McVea in his closing submissions, that the Appellant had on an earlier occasion conceded that she was not Tamil. It is recorded at paragraph 9 of the First-tier Tribunal Judge's determination that a hearing on 9th December 2013 the Appellant had conceded that she was not Tamil. Accordingly whilst it is accepted and clear the Appellant speaks Tamil,

having been brought up in a mixed language/ethnic area of Sri Lanka, she has never herself been a Tamil. The concession deals effectively with that issue. It does raise concerns however as to her credibility generally, given her claim for asylum in August 2012 was fifteen months prior to her concession on this point. It also raises the need to look carefully at the Appellant's account of her alleged activities and difficulties immediately before leaving Sri Lanka as her lack of Tamil ethnicity may have some significance upon that account.

34. By way of background the Appellant's oral evidence disclosed that she was an only child. Her father did not work as he was diabetic nor did her mother. They were essentially looked after by her maternal uncle who ran a clothing business, and travelled reasonably extensively on business between Sri Lanka and India. She confirmed that none of her family had been involved with the LTTE at any stage or at any level. Indeed she was wholly unaware of any LTTE activities or the conflict between that group and the authorities. As observed by Mr McVeety that seems somewhat implausible for a Tamil, but far less implausible perhaps for a non-Tamil from a family that had no political involvement or possible interest and whose sole focus may have been financial survival.
35. The Appellant had left home in about 2003/2004 to work in Colombo. She was employed as a housekeeper in a private residence but rented her own room in shared accommodation elsewhere. It would seem a proper inference from the Appellant's evidence that her employment in Colombo was arranged perhaps by her uncle. It is also an inference that the Appellant and her family were at least content that she could lead an independent life in Colombo as a single Muslim lady aged about 28/29 years of age. There is no suggestion that she suffered any difficulties or adversity because of those features whilst in Colombo.
36. It is also noteworthy that although the Appellant had indicated she left Sri Lanka for the first time in March 2010 (question 104/105), she had in fact left Sri Lanka in 1998 on a previously issued passport and had gone to Kuwait. Her time and circumstances in Kuwait at that time were not explored but it does show that on that earlier occasion the Appellant had been independent enough to have left home, travelled abroad and then returned because she claimed "she did not like it" (question 177).
37. Her account of events leading to her alleged arrest and ill-treatment stem from her assertion that in 2005 she met a friend of her cousin called Jothi who needed accommodation in Colombo and it was agreed that she would share with the Appellant. The Appellant's account is that Jothi turned out to be working for the LTTE and in due time enlisted the Appellant to collect parcels at a bus station from another. She also gave the Appellant cash so the Appellant could buy significant numbers of mobile sim cards and credit top-ups. The Appellant described those activities increasing significantly in 2009.

38. There are some matters of credibility arising from this aspect of the Appellant's claim. Firstly would an LTTE member/activist such as Jothi trust a non-Tamil, non-political individual with such work that was so easily traceable directly back to Jothi herself? It is also a feature that Jothi and the Appellant did not even share the same religion, Jothi being Hindu and the Appellant Muslim. Secondly if Jothi as the account suggests was an operating member of the LTTE working wholly or in part out of Colombo would she need to rely upon a casual acquaintance in 2005 for accommodation? Thirdly if the Appellant was working full-time as a domestic worker would her employers be sufficiently relaxed about her working hours to allow her time off during the day, often presumably at short notice, to make trips to the bus station or shops. Finally, although the Appellant in interview made reference to collecting parcels whose contents were unknown to her she made no reference to purchasing sim cards and phone top-ups which appeared only in her witness statement of 15th March 2014.
39. In respect of her ill-treatment following arrest the Appellant relies upon a medical report prepared by Dr Davidson. This is dated 20th March 2014. There appears to be either an error or misinformation at paragraph 41 of that report which indicates that she and her husband were drawn to each other as they were both Tamils. The Appellant is not Tamil. There was also reference by her to the doctor at paragraph 43 that she found it difficult to engage in a physical relationship with her husband at first because of her experiences. However the evidence discloses that she met her husband in July 2012 and by August 2012 she had already suffered a miscarriage. That does not suggest a difficulty in forming a physical relationship (understandable if she had been gang raped). However the doctor does not deal with that discrepancy although he refers to the miscarriage in August 2012 himself at paragraph 54.
40. The Appellant's main physical condition or complaint was pain in her neck and right shoulder with potential reduced movement. The doctor noted she attributed that to her ill-treatment in detention. The doctor does not appear to note whether she is right or left handed. He does note at paragraph 80 that on 9th October 2013 when seen by a physiotherapist she had full movement. He noted that shoulder pain is a common condition in the general population and could be caused by a range of matters including repetitive movements and heavy lifting. He accepts the latter to being potentially experienced by someone who has been engaged as a housemaid. He noted they also arise from those who have survived torture such as repeated beatings or positional torture.
41. The only scar or mark found on the Appellant was curve mark on her right lower back. The Appellant was unsure how long she had had the mark and whilst thought it may have arisen from kicks or punches was uncertain (paragraph 63). However the doctor states this is highly consistent with her attribution of trauma from kicks/punches (paragraph 111). That does not appear to accurately reflect the Appellant's uncertain position as noted earlier.

The doctor further states at paragraph 110 that the findings on her rights shoulder are consistent with her account. However he does not seem to resolve the fact that as well as being a common general complaint they are also consistent with the type of repetitive manual labour she may have been doing for some years. Indeed the evidence does disclose that she had been employed in such domestic labour for many years.

42. I have also noted some not insignificant differences in the account given by the Appellant of her detention to the doctor in March 2014 and her own witness statement in January 2014. In her own witness statement she claimed that after her confession she was detained for one month in a cell and during that time she was repeatedly beaten and tortured. She further claimed that a soldier who regularly served her food was the person that she spoke to, to get in touch with her uncle. However in her account to the doctor she claimed that following her confession she was placed in the cell for one month but was never again abused physically or sexually (paragraph 22 doctor's report). She also made no reference to a soldier serving her food but instead had referred to seeing a Sinhalese uniformed man once, immediately after being released from the room where she was raped and it was he who said she could be released by payment of a bribe and she provided her uncle's address. Those inconsistencies are in my view significant features. They occur at times when the Appellant has had many months to consider her case and in non-confrontational conversations with her own solicitor and a doctor preparing a report on her behalf and instructed for that purpose.
43. I have noted the medical evidence regarding psychological matters. I am bound to observe that her uncertain position in the UK, the fact her husband is a failed asylum seeker, the prior miscarriage and the current caring for a young baby are factors in themselves that could create depression, anxiety and other symptoms associated with PTSD. I have in this respect noted the doctor's comments on these features at paragraphs 112 to 113 and taken those into account.
44. I find the medical report whilst helpful seems to rather swiftly reach a conclusion upon the shoulder pain and single mark whilst not dealing with any sufficiency as to other potential causes. It is a report that inevitably only forms part of the overall evidence that I need to consider when assessing credibility.
45. I have also considered the submission made by Mr McVeety as to why in 2009 Jothi or the Appellant would be operating given the defeat of the LTTE and the end of the war. I find it difficult to presume the end of the war would necessarily bring to an end all activity and I have also noted the country report from Dr Chris Smith.
46. The Appellant has been in regular contact with her family since arrival in the UK. There is no evidence that her parents or uncle have at any stage been detained or questioned regarding her position. There is no reference by the

Appellant of her cousin experiencing any questioning or problems due to her alleged friendship with Jothi. Again I have referred to Dr Smith's report, suggesting as it does a reasonably comprehensive intelligence service in Sri Lanka and a ruthlessness in dealing with LTTE supporters.

47. There has been no arrest warrant, summons or any other document to show any adverse interest in the Appellant from the Sri Lankan authorities. There is nothing to suggest that she is regarded as someone who escaped from detention or is still wanted. The regular contact with her family indicates that such document or news would be capable of being passed to her in the UK if it existed.
48. Finally there is the mechanism of her alleged escape. Whilst I accept that bribery does exist and it is theoretically possible that she would escape through bribery it would seem perhaps a little unlikely that an LTTE supporter would be able to leave by payment of a bribe. However leaving that factor to one side the Appellant's evidence is that on her release in January 2010 with the assistance of her uncle. It was incumbent upon her to leave Sri Lanka as swiftly as possible. Given her uncle's clear connections with India and the proximity of that country and his frequency of movement between the two countries it may be thought that would be the likely means of escape even if that were only to be a temporary measure to secure her immediate safety.
49. However the Appellant's Visa Application Form would suggest a rather different set of circumstances. Firstly it discloses that she was issued with a Sri Lankan passport in August 2009. On the Appellant's evidence this was at the height of her clandestine work for Jothi but prior to her arrest in December 2009. It begs the question why in August 2009 did the Appellant apply for a passport while she was happily working in Colombo, had not been arrested or detained and was allegedly carrying out clandestine work. She further claims that in January 2010 on her release or shortly thereafter her uncle arranged for her to work in Kuwait for a different family that brought her to the UK in November 2010. Her visa application shows that prior to her application in September 2010 to come to the UK. She had been working as a domestic worker for a diplomatic household in Kuwait sponsored by the Kuwait Embassy in London. Further her application in September 2010 was to accompany the Kuwait Military Attaché's family to the UK again sponsored by the Kuwait Embassy in London.
50. I finding it lacking in credibility that when arrested and detained in her own flat her passport issued only a few months earlier was not confiscated. I find no explanation as to how or why the Sri Lankan authorities would have overlooked this crucial item of identification. I further find no explanation why she had applied for her passport when she did in the first instance. I do not find it credible that her uncle would be able to secure her departure from Sri Lanka in early 2010 by obtaining employment for her by Kuwaiti diplomatic officials and that her visa was essentially sponsored by the Kuwait Embassy in

London nor, that by coincidence the same embassy sponsored her visa in September 2010.

51. In summary I find a lack of credibility in the Appellant's account when examining all the evidence in the round. I find the Appellant is not a Tamil but a Muslim woman. She may well have come from a family with modest means due in part or in whole to her father's illness. She had in the past in 1998 obtained a passport and gone to seek employment in Kuwait. The length of her stay in Kuwait or elsewhere then, is unknown as she claims to have lost that passport so records cannot be checked. She may well have gone to work as a domestic worker for a diplomatic family in Colombo in 2004. She again applied for and obtained a second passport in August 2009 prior to any arrest or detention. She was able to retain that passport and on 24th March 2010 left Sri Lanka without let or hindrance, on her own passport to go to Kuwait for which she had already been issued with a visa (C3 Respondent's bundle). She then came to the UK from Kuwait as a domestic worker with the Kuwait Military Attaché. That visa was valid until September 2012. She claimed asylum on 29th August 2012 very shortly before that visa expired. I find no credibility in respect of her claim for asylum. I find that she has been a domestic worker essentially for diplomatic households for several years if not longer and merely used her presence in the UK as an opportunity to claim asylum on a false basis.
52. I find that she is not a Tamil. I find that she has never worked for or supported the LTTE. I find that she has at no stage adversely come to the attention of the authorities. I find that she is not even known to the authorities in any adverse manner. She has been able to obtain a passport and leave Sri Lanka without any difficulties even at the claimed height of the adverse interest in her. I find that she has worked for substantial periods of her life as a domestic worker in diplomatic households and has for many years led a life independent of her family earning her own way in life through employment. She has lived and worked independent of her family in both Colombo and in Kuwait and potentially elsewhere.
53. In view of my findings I have considered the country material and the country guidance case. I find no shred of evidence to suggest she would be on a "stop" or "watch" list that may place her at risk on return at the airport in respect of the former or under general surveillance in respect of the latter. She has no profile that would arise any general suspicion, i.e. she is neither a Tamil nor an LTTE supporter. In respect of return as a failed asylum seeker she would be returning on a valid passport. She had left Sri Lanka openly and lawfully on that passport with visas demonstrating her purpose in leaving and for her work abroad. She has undertaken no activity in the UK that would cause any concern.
54. I turn to the second aspect of her case namely her conversion to Hindu. The Appellant is 40 years of age, married and with one young child. Her husband

is a failed asylum seeker himself. His account was in large measure found to be lacking in credibility by a judge on an earlier occasion. In particular the judge found he faced no difficulties from the Sri Lankan authorities, and could live in Colombo. He found the husband may have specific difficulty in his home village as he had given the name of an LTTE supporter to the Sri Lankan authorities. However that was something that occurred in 2007/2008 now some several years ago. Although the Appellant claims to fear her family and other Muslims because of her conversion I find no reasonable risk in that respect. The Sri Lankan Government is not run by Muslim extremists or otherwise and Muslims form only 7% of the population. I find no reasonable likelihood she would suffer risk for her conversion from the authorities. I find no evidence that her family consisting essentially of her father, mother and uncle pose a threat. Her own parents have been content to allow the Appellant to forge her own life over many years. Her uncle is essentially a businessman with no evidence that he or other family members are mindless fanatics. I accept of course that in Sri Lanka there may well be extremist Muslims or indeed extremists from other religions who may theoretically be outraged by anyone's conversion or lifestyle that did not echo their own narrow interpretations. However there is no evidence of any specific threat to the Appellant. It is also a sad fact of life that such extremism can now be found in almost all societies including the UK. Indeed it may be there are more extremists in the UK than Sri Lanka. It is simply not known. However I find no reasonable risk from those theoretical individuals to the Appellant.

55. I have noted Dr Smith's report. He refers to difficulties for the Appellant on return in terms of registration, movement, employment etc. based essentially upon her lack of a national identity card. With respect, that is entirely based on the Appellant's claim to have had such document confiscated. Dr Smith does not seem to query whether that is credible nor does he seem to either know or cross-reference that matter with the fact that the Appellant was able to retain her own passport. I find no credible evidence to suggest her national identity card was confiscated. If she has lost it, as she allegedly lost her first passport, then no doubt she can get a replacement with the same reasonable ease that she appeared to obtain a second passport.
56. I find no evidence to indicate why the Appellant could not live in her home area. I find no evidence to suggest why she and her husband could not live in Colombo given the judge on an earlier occasion found it safe for her husband to live there and the Appellant has spent many years in that city herself.
57. In terms of removal the Appellant does not fall within the terms of the Immigration Rules. In respect of residual judicial discretion under Article 8 of the ECHR this case does not disclose features that suggest that I should exercise that discretion favourably. In respect of the Appellant's child that child is 18 months old and therefore very young. On the evidence available and applying proper inferences from such evidence the best interests of that child are to remain with her parents. Therefore it would follow that the best interests of the

child are to be removed with her parents to maintain the family. It is also in my view a proper inference that it would be in the child's interest to have knowledge of and share time with extended family members who exist within Sri Lanka but not within the UK. It is also in my view another natural inference that it is in her interest to be brought up in the country of her nationality, with her own culture, society and attitudes until at least such time she is old enough to make her own informed choice of location.

58. The fact the Appellant may not have told her parents that she is married and has a child is a matter of choice. The fact that they know nothing means that the Appellant has not even tested their reaction or views and has not discharged any burden of proof in that respect to show that they would reject her or their granddaughter. As indicated above the Appellant's husband is a failed asylum seeker whose appeal rights are exhausted and I find no basis for this family remaining in the UK and nothing disproportionate in their removal together as a family to their home country of Sri Lanka.

Notice of Decision

59. I dismiss this appeal on asylum grounds.

I do not find the Appellant is in need of humanitarian protection.

I dismiss this appeal under Human Rights Act.

60. Anonymity not retained.

Signed

Date **11th December 2014**

Deputy Upper Tribunal Judge Lever