



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

**Appeal Number: UI-2022-001641
On appeal from IA/04250/2021
PA/51899/2021**

THE IMMIGRATION ACTS

**Heard at Field House
On the 12 December 2022**

**Decision & Reasons Promulgated
On the 20 December 2022**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**N A (PAKISTAN)
[ANONYMITY ORDER MADE]**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms Emma Stuart-King of Counsel, instructed by Rahman & Co, solicitors

For the respondent: Mr Steven Walker, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision on 7 April 2021 to refuse her international protection or leave to remain on human rights grounds. The appellant is a citizen of Pakistan and is 66 years old.

2. **Anonymity order.** Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is 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. **Failure to comply with this order could amount to a contempt of court.**
3. **Mode of hearing.** The hearing today took place remotely by Microsoft Teams. There were no technical difficulties. I am satisfied that all parties were in a quiet and private place and that the hearing was completed fairly, with the cooperation of both representatives.

Background

4. The appellant is a 66 year old woman who left Pakistan in 1981 to work in Saudi Arabia as a nurse. She married a Pakistani man in 1989 and they lived together in Saudi Arabia, and had a daughter.
5. In 2008, the marriage failed and the appellant's husband returned to Pakistan with their daughter, who wanted to undertake medical training there. The appellant remained working in Saudi Arabia.
6. In March 2018, following an attempt by her father to marry her to a cousin, the appellant's daughter, who is lesbian, came to the UK and claimed asylum. She continued her studies here.
7. It is the appellant's undisputed account that she assisted her daughter in escaping from this unwanted arranged marriage, and that her husband and his family know that and would harm her if she returned to her home area in Pakistan.
8. The appellant's daughter was granted refugee protection in November 2018, following an asylum interview. Mr Walker has confirmed that she was been granted asylum on the basis of her lesbian sexual orientation.
9. On 10 August 2019, the appellant entered the UK with a visit visa valid until 10 February 2020. On 7 February 2020, the appellant claimed asylum, citing a fear of her husband and his family.
10. On 7 April 2021, the respondent refused the appellant's protection claim. The appellant appealed to the First-tier Tribunal, which dismissed her appeal.
11. The appellant appealed to the Upper Tribunal.

Error of law decision

12. By a decision sent to the parties on 9 November 2022, a panel of the Upper Tribunal set aside the decision of the First-tier Tribunal for remaking today. At the hearing, Mr Walker for the respondent accepted that the

brief treatment of the daughter's oral evidence at [20] in the First-tier Tribunal decision was inadequate:

"20. The Appellant's daughter, ... made a statement dated 24th July 2021 which she adopted as her evidence at the appeal hearing. She confirmed the Appellant's chronology of events. In cross-examination, she conceded that she would support her mother if she needed to."

13. In addition, the First-tier Judge's decision did not engage with the unchallenged expert evidence of Dr Giustozzi, which appeared inconsistent with the First-tier Judge's finding that the appellant would not be at risk from her husband, and/or that she could relocate within Pakistan and re-enter the employment market to support herself.
14. The directions made with that Order included a direction to disclose the interview record for the appellant's daughter, who has refugee status in the UK on the basis of her lesbian sexual orientation.
15. That is the basis on which the appeal comes before the Upper Tribunal today.

Updated evidence

16. A supplementary bundle has been received for today's hearing. It contains witness statements from the appellant and her daughter, setting out the difficulty of supporting her in Pakistan and the lengths to which her daughter has gone to support her mother emotionally and financially while in the UK, as well as reinforcing the history of the appellant's decision to help her daughter avoid a forced marriage in Pakistan and come to the UK, with the severe family consequences that has entailed.
17. There is also an updated report from Dr Antonio Giustozzi and documents supporting the account regarding the daughter's financial position and their joint accommodation. None of this evidence was disputed before me.

Expert evidence

18. Dr Antonio Giustozzi is a visiting professor at the War Studies Department of Kings College London, and holds a PhD from the London School of Economics. He has written widely on the subject of Pakistan, and in particular, terrorist groups there.
19. The original expert report of Dr Giustozzi stands unchallenged by the respondent, and included the following points:

"In [his] report -

- The expert gave two extreme examples, one in 2014 and another undated example where family in Pakistan committed honour killings. Those family members were punished harshly by the authorities.

- The Human Rights Commission suggested that honour killings were increasing although there were no statistics on incidence.
 - Homosexuality was illegal in Pakistan but discrete [sic] homosexual behaviour is tolerated. Expressions of gay identity are completely rejected. Crimes against homosexuals are not usually reported due to shame. Homosexuality may lead to loss of employment and difficulty in finding accommodation. The expert opines that because of the support for her daughter, the Appellant would be at risk in Pakistan.
 - The expert described the police as corrupt and police abuse was the norm. The Appellant would be ill-advised to rely to the police for protection against her husband's family. The police may even assist the Appellant's husband's family.
 - In order to relocate, the Appellant would need to visit her home area and obtain residence documentation. That would expose her to risk and being traced through the local administration, if the Appellant's husband's family were influential.
 - Being a separated woman in Pakistan still implies social disgrace. She would need to seek employment and her rent was likely to be half her salary."
20. In his updated report, Dr Giustozzi emphasised the difficulty for lone women in Pakistan, even in cities. There will be very heavy social pressure, difficulty in renting as landlords expect a male tenant, and a risk of abusive behaviour and harassment by landlords and neighbours. In Peshawar, women living alone are barred from renting flats following a spate of killings of lone women living in the city.
21. The average salary in Pakistan is £170, but even a single bedroom apartment can cost half of that and in city centres, £140-145 a month. The appellant is too old to find work easily, and is likely to be destitute on return: only about 20% of Pakistan's elderly receive a pension. Most private employers do not provide a pension scheme and there is no unemployment benefit or financial support for the elderly. The expectation is that family members will support them.
22. Dr Giustozzi's report concludes:
- "7. [The appellant] will therefore have to work in order to support herself, or face destitution. There were about 20 million homeless people in Pakistan before the recent floods, of which about 200,000 live in the streets, and the others mostly in slums. The number is likely higher now, but there are no up-to-date statistics. At her age, of course, finding gainful employment is going to be a major challenge and she will struggle to earn enough to pay for a single flat. She is extremely unlikely to earn the average wage, hence even under the best circumstances, her rental costs will be higher than the minimum 50% of income mentioned above."

Upper Tribunal hearing

23. At the hearing today, Mr Walker indicated that following a discussion with Ms Stuart-King, he did not wish to cross-examine either of the witnesses. He did not seek to challenge the evidence of Dr Giustozzi as to the difficulties the appellant would have in returning to Pakistan as a lone woman.
24. Mr Walker apologised that the Secretary of State had not been able to locate the asylum interview record for the appellant's daughter as directed.
25. It was not disputed that the appellant's daughter had been given refugee status on the basis of her lesbian sexual orientation which would place her at risk on return to Pakistan.
26. Mr Walker accepted that the appellant had no contact with her husband or his family and could not expect support, given that she had helped her daughter to leave and avoid an unwanted marriage to a man chosen by her father.
27. He was not instructed to concede the appeal, but made no further submissions.
28. I did not call on Ms Stuart-King for her submissions.

Analysis

29. There is a risk to the appellant in her home area from her husband and his family. Mr Walker has not challenged the daughter's evidence that she would be unable to support her mother financially in Pakistan: it has been a strain doing so in the UK and she is still paying off a loan from a friend for her mother's rent. They are now sharing accommodation which makes it possible, just, for the daughter to support them both.
30. Internal flight is not an alternative on the facts of this appeal. I am satisfied, on the evidence before me, that the appellant as a lone woman past retirement age and with no family support cannot be safely returned to Pakistan.
31. Accordingly, the appellant's appeal is allowed.

DECISION

32. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. I remake the decision by allowing the appeal.

Signed [Judith AJC Gleeson](#)
2022

Date: 12 December

Upper Tribunal Judge Gleeson