



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005353
First-tier Tribunal No: PA/00423/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

13th February 2024

Before

UPPER TRIBUNAL JUDGE O'CALLAGHAN

Between

CCP (INDONESIA)
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K Wood, Counsel, IAS (Manchester)
For the Respondent: Mr C Bates, Senior Presenting Officer

Heard at Manchester Civil Justice Centre on 5 February 2024

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.

DECISION AND REASONS

Introduction

1. The appellant appeals with permission against a decision of the First-tier Tribunal (Judge of the First-tier Tribunal N Malik) dismissing her asylum appeal by a decision sent to the parties on 11 October 2023. Judge Malik allowed the appellant's human rights (article 8) appeal, and this decision is not subject to appeal by the respondent.

Anonymity

2. The Judge issued an anonymity order and no party before me requested that it be set aside. I confirm the order above.

Ground of Appeal

3. The grounds of appeal primarily rely upon inadequate reasoning. Additionally, it is contended that the Judge failed to make a finding of fact on a material matter of risk founded up the appellant's health. As to this complaint I observe para. 12 of the appellant's skeleton argument filed with the First-tier Tribunal, dated 11 July 2023:

“12. A risk of harm arises for the Appellant on account of suffering from mental illness due to the way sufferers are mistreated, including those with depression ... Without the protective factor of her family the Appellant would be at risk as a lone female.”

4. Judge of the First-tier Tribunal Gibbs granted permission to appeal by a decision dated 13 November 2023.

Decision and Reasons

5. In respect of her international protection claim the appellant relies upon being a single, female Christian with mental health concerns. She asserts that upon return she would be vulnerable and at risk of trafficking.
6. She produced medical evidence as to ill-health establishing that she suffers from, *inter alia*, PTSD, agoraphobia, depression, OCD (mixed obsessions and compulsion) and thalassemia, the latter leaving her fatigued. A consultant psychiatrist notes in a report dated August 2023 that the appellant denied any psychotic symptoms or morbid thought.

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7. The Judge noted in respect of the international protection claim the appellant's reliance on various objective evidence, at [27]-[30] and concluded, at [32]-[33]:
 - “32. Even accepting the appellant would be returning alone to Indonesia, a vulnerable woman given her health concerns, and as a Christian, I find the objective evidence which raises, in the main, one off incidents - and given the many millions of Christians in Indonesia - that whilst this 'new' evidence does indicate some discrimination against Christians - it does not I find amount, even to the lower standard, to persecution. I accept trafficking occurs, but there is nothing to suggest the appellant is at individual risk. I also accept that medical provision for those with mental health conditions may not be to UK standards, but again I find the objective evidence relied on now, even to the lower standard, does not suggest there is a real risk to the appellant.
 33. Consequently, I find, this is not one of those occasional cases where the circumstances surrounding the first appeal were such that it would be right to look at the matter as if the first decision had never been made.”
8. At the outset of the hearing Mr Bates conceded the error of law appeal on behalf of the respondent, accepting that the Judge's approach to the appellant's asylum appeal, and in addition her approach to the human rights (articles 2 and 3) appeal, was subject to material error of law. The respondent continues to defend the underlying challenge.
9. It was accepted by the respondent that [32] of the decision identified generalised findings, rather than adequate and lawful reasons in respect of the appellant's contention that she was at real risk upon return to Indonesia in respect of her mental health, being a single woman and being at risk of trafficking. The respondent accepted that the Judge had failed to provide any adequate and lawful reasons for rejecting the claim in light of the appellant's personal circumstances.
10. Further, there was no express engagement with the appellant's claim that she would suffer serious harm through mistreatment consequent to mental illness.
11. I consider the respondent's concession to be properly made. Though conclusions are provided, no adequate reasons are given beyond a general reference to the requisite test not being met and little more. Although there is a legal duty to give a brief explanation of the conclusions on the central issue on which an appeal is determined, those reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by a judge. However, it

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is axiomatic that a decision discloses with clarity the reasons for a judge's conclusion and a bare statement that the standard of proof is not met or that an appellant is not at individual risk is unlikely to satisfy the requirement to give reasons without more.

12. In the circumstances, it is proper and just to set aside the findings made in relation to the asylum and human rights (articles 2 and 3) appeal for lack of adequate reasoning.

Remittal

13. Both representatives requested that the matter be remitted to the First-tier Tribunal consequent to the Judge having failed to adequately consider core elements of the appellant's case.
14. I observe the guidance in *Begum (Remaking or remittal) Bangladesh* [2023] UKUT 00046 (IAC)
15. Being mindful of the duty to act fairly, and additionally that this appeal is concerned with an application for international protection, I consider it just to remit this matter to the First-tier Tribunal.
16. It is appropriate that I make two observations. The appellant's original asylum appeal was refused by the First-tier Tribunal (AA/04573/2014) in March 2019. There were six appellants to the appeal, one of whom was the appellant. In aiding the First-tier Tribunal in respect of applying the guidance in *Devaseelan (Second appeals - ECHR - Extra-Territorial Effect) Sri Lanka** [2002] UKIAT 00702, [2003] Imm AR 1 the appellant should properly identify at the next hearing the paragraphs of this decision that relate to her.
17. The appellant should be mindful that the contention advanced at para. 12 of her skeleton argument is presently constructed in very general terms. I observe the age of various objective evidence relied upon, and the generalised nature of certain documents. If the appellant seeks to rely upon the Human Rights Watch report, "*Living Hell*" (2016) to the extent identified in the grounds of appeal to this Tribunal, there is a proper expectation that the appellant provides up-to-date objective evidence, and additionally identifies where she hails from in Indonesia with sufficient clarity and confirms whether a sister and other relatives continue to reside in West Papua. This report is concerned with Java and Sumatra. Indonesia consists of over 17,000 islands with sizeable populations living in Sulawesi, parts of Borneo and Papua.

Notice of Decision

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18. The decision of the First-tier Tribunal sent to the parties on 11 October 2023 in respect of the appellant's asylum, humanitarian protection and human rights (articles 2 and 3 ECHR) appeal is subject to material error of law and is set aside.
19. No findings of fact are preserved in respect of these matters.
20. The decision of the First-tier Tribunal sent to the parties on 11 October 2023 in respect of the appellant's human rights (article 8 ECHR) appeal is not subject to appeal and so stands.
21. The findings at [34] to [39] and [41] of the decision sent to the parties on 3 August 2023 as well as the notice of decision at [43] are therefore preserved.
22. The appeal is remitted to the First-tier Tribunal sitting in Manchester to be heard by any Judge other than Judge of the First-tier Tribunal N Malik.
23. An anonymity order is confirmed.

D O'Callaghan
Judge of the Upper Tribunal
Immigration and Asylum Chamber

6 February 2024