



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/08063/2012

THE IMMIGRATION ACTS

Heard at Field House
On 11 November 2014

Decision & Reasons Promulgated
On 4 December 2014

Before

UPPER TRIBUNAL JUDGE PINKERTON

Between

MS SYEDA FATIMA ZAHRA HAROON
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Brown of Counsel
For the Respondent: Mr Tony Melvin

DECISION AND REASONS

1. It is not in issue that the appellant is a national of Pakistan who was born on 6 November 1978. She entered the United Kingdom on 7 February 2011 with a UK Tier 4 student visa valid until 29 June 2012. On 17 July 2012 she made an

appointment to attend the Asylum Screening Unit and did so on 15 August 2012 when she claimed asylum.

2. The appellant said in her asylum interview that she had undergone a marriage against her will when she was 26 years old and that she had been subjected to extreme domestic violence at the hands of her “now estranged” husband. He joined her in the United Kingdom around two months after her arrival and although his abuse of her during that time was confined to verbal threats he scared her enough to leave him which she did in mid-April 2012. By then he had called his father and told him that the appellant had threatened to report him to the police in the UK. Her father-in-law implied that she would be harmed on her return to Pakistan and she thereafter received e-mails from him.
3. On 29 August 2012 the appellant’s asylum claim was refused and she was served with a decision to remove her. As stated in the reasons for finding that the First-tier Tribunal made an error of law such that the determination fell to be set aside it was significant that no material facts in the appellant’s case were rejected by the respondent although the decision-maker stated that it was uncertain whether she had been the subject of domestic violence. This appeared to have been on the basis that the medical evidence upon which the appellant relied did not state the cause of her injuries.
4. The key reasons given for rejecting her claim for asylum were that as an educated and professional woman she was not at real risk of being killed or made subject to inhuman or degrading treatment on her return to Pakistan, and that she would be able to relocate from Lahore to another area of Pakistan where she would be able to live independent of her family. She had not explained how it was that her family or her husband’s father would be able to find her in Pakistan should she relocate to another large city.
5. The appellant appealed unsuccessfully to the First-tier Tribunal. The determination which was promulgated on 17 September 2012 was set aside by the Upper Tribunal on grounds of procedural unfairness and remitted to the First-tier Tribunal on 1 October 2012 with the direction that the remitted appeal was to be on a de novo basis with no findings preserved, and the appellant was to prepare for that hearing on the assumption that her credibility was in issue in all respects.
6. After a number of adjournments and considerable delay the appeal ultimately came before Judge Elek in the First-tier Tribunal whose decision was set aside at a hearing on 8 May 2014 by a panel comprising the Honourable Mrs Justice Andrews DBE and myself.
7. Although setting aside the decision of the First-tier Tribunal Judge we did not set it aside in its entirety for the following reason. The First-tier judge looked at the scars which the appellant asserted were caused by injuries suffered as a result of her husband beating her. Although the medical reports produced by the appellant made no allusion to domestic violence the judge accepted that the injuries sustained were

consistent with her account and, taking into account the background evidence of violence against women in Pakistan to which the judge had referred in detail, she accepted that there were some incidents of domestic violence. To that extent therefore a key issue of credibility was resolved in the appellant's favour.

8. The representative for the Secretary of State at the hearing before us agreed that the fact findings of domestic violence made by the First-tier Tribunal Judge should be preserved and as a result that part of the claim was not any longer an issue before me at the resumed hearing.
9. There are a very large amount of documents before me. I do not set them all out here but the main ones comprise: - the respondent's refusal bundle which includes a typed record of interview; the appellant's bundle numbered 1-289; the respondent's skeleton argument and documents referred to; the respondent's written submissions; the appellant's skeleton argument, and the expert report of Mrs Uzma Moeen.

The Appellant's Evidence

10. The appellant gave oral evidence before me in English. She relies on three written statements. The first and second in time are very short and were written by her when she was detained at Yarl's Wood Removal Centre in 2012. The most recent statement is dated 7 May 2014 which was produced for the error of law hearing.
11. I have read those statements. I have also read the record of the interview that took place on 15 August 2012. I have heard oral evidence from the appellant and she has been cross-examined at length. My conclusion is that the appellant has been telling the truth throughout. Her evidence has been consistent and has not wavered or changed in more than two years. On cross-examination she did not move her position. She did not give monosyllabic answers but was willing to expand to explain those answers more fully. I refer to the e-mails and why I accept the truth of them later in this decision.

Submissions

12. Mr Melvin submitted that the case of **SN & HM (Divorced women - risk on return) Pakistan CG [2004] UKIAT 00283** still provides relevant guidance in cases such as this. Although that case is now some ten years old the general questions that judges should ask themselves in cases of this kind are probably the same as they were then and these are as follows:-
 - (a) Has the claimant shown a real risk or reasonable likelihood of continuing hostility from her husband (or former husband) or his family members, such as to raise a real risk of serious harm in her former home area?
 - (b) If yes, has she shown that she would have no effective protection in her home area against such a risk, including protection available from the Pakistani State, from her own family members, or from a current partner or his family?

- (c) If yes, would such a risk and lack of protection extend to any other part of Pakistan to which she could reasonably be expected to go (**Robinson [1997] EWCA Civ 2089, AE & FE [2002] UKIAT 036361**) having regard to the available State support, shelters, crisis centres, and family members or friends in other parts of Pakistan?

I agree that judges need to grapple with the matters set out in **SN & HM**.

13. Mr Melvin submitted also that the appellant had deliberately sought to mislead the Tribunal. Nothing suggests that the e-mails are from Pakistan. He generally took issue with their makeup and the way they concluded. Would her mother really sign an e-mail in her full name?
14. As to the appellant's "expert's" report there was no record that Uzma Moeen is a recognised expert or that her evidence has ever been tested by the Upper Tribunal and she appears to be a lawyer with no academic country experience relating to Pakistan and is employed by Asian Legal Advice Service who appear to be a group of legal experts at the University of London. Mrs Moeen is no more than an advocate seeking to assist the appellant and her evidence is no more than an argument with the findings made by the Upper Tribunal in the last country guidance decision **KA & Others (Domestic violence - risk on return) Pakistan CG [2010] UKUT 216 (IAC)**. There is nothing that supports the assertion that anyone can find anyone else in Pakistan which is a highly populated country. The experts in the case of **KA & Others** were Drs Lau and Balzani who were instructed by the appellants' representatives with Dr Shah being instructed by the respondent.
15. I have read and considered the appellant's skeleton argument. Furthermore I have had regard to the submissions from Ms Brown. She made reference to the COI report from the Home Office in relation to women; the Pakistan background information including actors of protection; and internal relocation and the "women" section of the COI report of July 2013. This was updated as far as Pakistan women are concerned on 14 July 2014 and is therefore the most up-to-date information before me. Also before me is the expert opinion of Mrs Uzma Moeen which is dated 7 May 2014 to which there is an addendum and an e-mail dated 11 November 2014.

My consideration of the evidence

16. I have borne very much in mind that the appellant is an intelligent, well educated and capable woman. Mr Melvin asked me to find that the e-mails that were produced that appeared to support her position were a complete fabrication but I do not find that they are. At an early stage at interview the appellant was asked about the e-mails and whether she was the sole author of all of them. She responded that some of them she wrote herself and some of them she did not. For instance, the e-mails to two NGOs she wrote herself but "I took a bit of help from my friends with the NGOs as it's a bit professional". (See questions 79-82). She did not seek to exaggerate or mislead with regard to those e-mails.

17. Having said that I have noticed that there are one or two matters to which I do not have answers. They were not canvassed at the hearing. For instance, in an e-mail from The appellant's mother of May 10 2012 she states the following:-

".....Your brothers are also of my opinion so be careful we are not going to appreciate you to come back here with divorce or separation. Coz if anything wrong happens with you we will not be responsible, we will only be crying and moaning on your fate, so mind this here is no place for you. You know we can't help you in any case. I don't want my sons to go for mishappenings as well. I want them to live respectfully and not going for quarrels, I don't to lose them, they also have their families, I am so scared for all this, do compromise with your husband and live with him."

However, in an e-mail some four days later (D14 of the respondent's bundle) the appellant's mother refers to

"... still the people living here are stubborn towards their customs, they will not spare you rather they will shoot your father and brother".

18. The appellant has said throughout that she has only one brother so it is difficult to understand why her mother would have referred to "brothers" in the e-mail of 10 May and yet only to one brother in the later e-mail.
19. There is a further e-mail from the appellant's mother dated May 11 in which there is reference also to one brother. It may be that the explanation is in the appellant's mother's relative lack of fluency in the English language. These are relatively minor matters and were not put the appellant at the hearing and I do not consider that of themselves these matters damage her credibility but they make me wary of accepting all that the appellant has said is the truth.
20. Considering further the e-mail trail it is to be noted that the appellant's visa ran out on 29 June 2012. The appellant was in correspondence with her mother prior to the expiry of the visa expressing her wish to go back home (D12 in the respondent's bundle dated Friday May 11 2012). In that e-mail the appellant says, amongst other things, that she came to London to escape from everything, and that her husband promised he would change his behaviour. The thought of being back in Pakistan and living with him scared her. This is a "begging" e-mail for her to be allowed to go back home to live with her family rather than to have to live in Pakistan with her husband or his family.
21. The e-mails from her mother roundly reject the suggestion that the appellant should return to her parents but they also cast some light on the attitude of the society in which the appellant lived to someone such as the appellant and to the position of women in Pakistan generally. The appellant's mother makes it very plain that she accepts that the appellant's husband is not mentally fit, but that the appellant still has to live with him and that the appellant's mother is not in a position to help the appellant.

22. On 13 May 2012 the appellant acknowledges the point made by her mother that it may affect “your family badly”. This elicits the response that the appellant’s in-laws are very stubborn and they will not spare the appellant

“... and us as well they will kill your brother or they will harm your sister, I can’t protect you, nobody is here to help you or your family; if court takes any decision in your favour here in Pakistan, still the people living here are stubborn towards their customs, they will not spare you rather they will shoot your father and brother.”

Later that month the appellant sent two e-mails to NGOs in Pakistan referring to her plight and the fact that her student visa was about to expire and also that she was planning to return to Pakistan. Those e-mails make clear that the appellant does not want to live with her husband as she wants a divorce but refers to her parents being against this and not wanting to help her in any way. She states that she is very stressed out and lost and does not really know what to do because she fears that her husband is going to take out all his anger on her and will hurt her. She refers also to not being in contact with her husband as they do not live together and she does not know what are his plans. She would not be staying with her in-laws and her parents do not want her back and she is not safe “in both places”.

23. The evidence is, and it has not been controverted, that she heard nothing in response to those e-mails. There are further e-mails passing between the appellant and her friends in Pakistan who tried to intercede with her family without success. On 13 July 2012 the appellant’s friend Zunaira Iqbal writes as follows:-

“I am doing fine. But I am really worried about you. I’ve met your family today again. I didn’t find any change than before. Even this time they were very rude to me. I was hoping that they might be thinking about you but I was wrong. They are like as before mean minded.

Fatima! sweetheart try to understand they are not thinking about your protection, life and happiness. They are still holding the issue of their dignity and self-pride. I tried my hardest to convince them but in vain.

Don’t come to Pakistan in these circumstances. It’s not safe for you. My pr(a)yers are for you dear, take care of your health. My last advice for you is stay there in any case.”

24. It is reasonable to assume that it was this last e-mail that finally triggered the appellant making an appointment on 17 July 2012 to attend the Asylum Screening Unit.
25. The appellant’s evidence at the hearing was that her contact with her friends in Pakistan diminished over a period “slowly slowly” because she is worried about what action her father-in-law may take against them. They are her good friends and she does not want them to be in trouble and she is scared to contact anyone. Her parents have disowned her – and there are documents in the papers to evidence this.

It is likely that in part her parents disowned her to appease the appellant's father-in-law in some measure with the hope that by doing so they would secure their own protection. Alternatively, I am alive to the possibility that this is purely contrived evidence to support the appellant's contention that she has no one to whom she could turn in Pakistan.

26. Having heard evidence from the appellant that was tested under cross-examination and having considered all these matters in the round I find that the e-mails are not false ones for the purpose of aiding the appellant's application. Although she is intelligent, educated and capable and could have been afforded considerable help by her friends and family to manufacture evidence I do not find that this is what occurred. It would have been a formidable task to set up such a story over a number of months. The e-mails make sense in context and apart from the presence of one e-mail from the appellant's mother in which some of the contents are unexplained all the others are consistent, fit well together, and accord with the appellant's oral evidence. As a result I find that the appellant's family members no longer have contact with the appellant. This is because of the problems that the appellant's father in law has made for the family as a result of the breakdown of the appellant's marriage and the shame that this has brought upon them.
27. As to the appellant's friends in Pakistan I do not accept so easily that there is any likelihood that they could be in trouble with the appellant's father-in-law by keeping in contact with the appellant and this is because I do not understand by what means he would be able to make trouble for them or know that they were still in contact. I have considered also that it helps the appellant's case not to be in contact with anyone in Pakistan but I prefer the view, because I find the appellant credible, that this is not a deliberate ploy on her part to distance herself from friends and family.
28. I find that the appellant could have done more to contact NGOs or other possible sources of help in Pakistan to establish what help she might obtain from them. One e-mail to two organisations written in 2012 does not indicate to me that she has made a big effort to establish how her own country might be able to help her live without fear of harm. It is likely in my view that she has persuaded herself that whatever the future holds it is not a future in Pakistan because, subjectively anyway, she fears that her father-in-law will be able to establish her whereabouts anywhere in Pakistan and cause her harm for bringing dishonour to his own family.
29. What of her father-in-law? There are two e-mails from him. The first is dated August 11 2012 and states as follows:-
30. "Fatima,

I have been trying to reach you through phone but you have not been attending my calls lately. I need to talk to you about a few issues and I hope you will understand and not disappoint me. First of all who do you think you are? I got you married to Haroon despite of him being married to Bina just because I wanted you to give my family a grandson which you have been unable to do.

The only reason I went out of my way to get you married was this but you have disappointed us. Secondly I'm giving you the option to come to Pakistan and stay with me because I will never let you stay anywhere else. If you are thinking that you will stay in Pakistan and I will not find out then you are mistaken because that's never going to happen, I am not a kid I have a lot of contacts with the police and army it's not very hard for me to use those contacts to find you in case you come back and hide somewhere. Fatima you know it very well that if and when I say something I mean it, and I have been saying that to you for quite sometime now. I hope you realise this well before time, if you don't want to get into trouble. I still don't understand the reason why you want to take divorce from Haroon. The reasons you give to me for that decision don't make much sense because everyone here beats his wife so you are not the only one who had to suffer and go through it. How many women do you know who do not have to go through it. So stop complaining all the time and try to work on this relationship. I have told you all these things so many times so I am not going to repeat myself over and over again. All I have to say is that you know Haroon's mental condition very well do you know you can expect anything from him, its nothing new you have been living with him for so many years you have an idea so don't even think for leaving him. Come to Pakistan and settle this issue without creating a scene otherwise you will be responsible for the consequences. I think you are in denial. I want you to take my calls so I can make arrangements for your ticket."

A further e-mail from the same person is dated 11 September 2012 and says as follows:-

"Fatima,

I have been trying to contact you but your mobile number is not going through and why are you ignoring my phone calls? I just heard that you are trying to get some sort of protection in UK. What do you think that would you be able to do so. Fatima don't even think that you would be able to humiliate me and my family. You know me and my resources very well that if I am able to get updates about your activities living in Pakistan I can very well get you back to you homeland. Do not do this to me you have already done whatever you wanted to do in UK it's unacceptable and a matter of social honour for me now.

I have contacted to my friend who works in airport and passed your details to him that as soon as you will land I will be informed. So it is better for you to contact me before getting in any trouble due to all this just come back quickly."

31. As we observed at the error of law hearing on any view that message contains not so thinly veiled threats and might be regarded as giving rise to a legitimate concern that if she were to return to Pakistan the appellant might not get as far as a women's refuge, because she would be tracked down before she even left the airport. It supports the appellant's case that her father-in-law has friends in high places and that she could not hide from him simply by going to live elsewhere in Pakistan. It

must have been of concern to the appellant that she attended the Screening Unit on 15 August 2012 and claimed asylum but by 11 September her father-in-law was already aware that she was claiming "some sort of protection" in the United Kingdom.

32. Furthermore the appellant's mother wrote an e-mail on 4 October 2012 which said as follows:-

"Fatima,

I have heard from one of my friends that you have appealed for asylum, Fatima! What the hell are you doing? Why are (you) creating problems for us, your father-in-law came day before yesterday, and threat us that if we are going to you in allowing to give you shelter in our house, he will harm your younger sister Maryam, we are really scared. We can't bear this situation, we are old and nobody is our strength here, they mean what they say, you know they have long hands, your father is scared and worried, he is not allowing you to come here ever, he says you are disgust for him, he is ashamed for being your father, you're creating disrespect and disgrace for him, he is saying he will rather prefer to die instead to bear this disgrace. He is ashamed to face all relatives, all are calling names on him. Why don't you accept Haroon and bear him, live with him don't go anywhere don't think to come to us, we can't afford any mishappening.

For your kind information your brother Ali has left us, he has gone somewhere else with his family, he don't want to stay with us because of you, as you are disgrace for him as well, he will never help you, he says, I don't want any problems for my family. Fatima is your daughter, I can't help her creating danger for my wife and kids, rather I will kill her.

Now it is up to you to make life miserable for us or help yourself there. Your father-in-law is behaving madly, he will never spare you as you have made troubles for their family, it is their insult that their daughter-in-law has decided to leave Haroon their son, Fatima make sure we are not in favour of you, therefore don't ever try to comeback, they will harm you in all ways. They will kill us or kidnap Maryam.

Regards".

33. Another e-mail from the appellant's mother is dated 26 October 2012 :-

"Fatima,

I am getting all news of you, you are not following our rules and are not respecting our values.

You are not a good daughter, you can't expect our terrible condition, Fatima we are unable to bear the burden of your in-laws. They are continually harassing

us, your brother has left us, he has gone away with his family, why should he put his family in danger, your father-in-law is saying again and again that they will not leave you, once they reach you.

They are saying that we are hiding you somewhere so they will harm us. You can understand your sister is in danger. Nobody is here to help us, what to do? Tell me should we go for suicide, or should we allow them to abuse us daily outside our gate.

Finally your father has decided to disown you so from now you are no one to us. Mind this we are nothing to you we are going to inform your in-laws to forgive us and do whatever they want, they are freehand, we are helpless.

Bye.”

My Findings of Fact.

34. As I accept the appellant's evidence and the truth of the e-mails for reasons already given some of the salient facts that I find are that the appellant entered into a marriage in Pakistan when she was 26 years of age to a man who was already married and had two daughters. She did this against her will. Shortly after the marriage her husband became abusive to her, both verbally and physically. She has always been extremely unhappy in that marriage. She came to the United Kingdom in February 2011 to study. Her husband followed her here and although he was verbally abusive he was not physically violent to her, probably because the appellant threatened to report him to the police. Nevertheless the relationship did not improve and when the chance arose she moved to another address with the family with whom she had been staying.
35. Following her move there has been no contact at all between the appellant and her husband. His whereabouts are not known to her. Her parents are not supportive of her and, certainly, in 2012 reached the stage that they were being harassed by the appellant's father-in-law to the extent that they disowned her publicly. Her father-in-law has made threats which are not empty ones as he was able to establish that the appellant was claiming protection in the UK very soon after she made her asylum claim. As far as the appellant knows divorce proceedings have not commenced either in the United Kingdom or in Pakistan. There is no suggestion from the appellant or anyone else that the appellant has been or is in a relationship such that she might be accused by her husband or in-laws of being an adulteress. In oral evidence before me she said she had finished with men. Presumably that was on the basis of her experience with her husband.

Uzma Moeen's report

36. As far as the report from Uzma Moeen is concerned I have considered the points made by Mr Melvin and will go so far as to say that I treat with some caution what she has to say. In her report she says that as an experienced expert she fully understands that it is her duty in providing written expert reports and giving

evidence to assist the Home Office or the court and that this duty overrides any obligation to the party which has engaged her. She has complied and will continue to comply with this duty. She states also that she is producing the report as an expert witness on matters within her expertise, personal research and as a specialist in Pakistani law and practice. She gives details of her academic career and I note that she has provided reports to the Tribunal in other cases. In the ones that have been produced to me, at least, there is no suggestion that she has not prepared her reports in an objective manner or is in any other way not to be treated as an expert.

37. My concern, such as it is, and why I treat with some caution what Mrs Moeen has to say, arises from the error that she acknowledges that she made and to which she refers in her addendum opinion of 6 October 2014. In paragraph 86 of her report of 7 May 2014 she made reference to the risk that the appellant might face returning to Pakistan with a “young daughter”. “I must clarify that the reference to a child in this paragraph is inserted by error while formatting the document”. She goes on to say that a detailed analysis of her report would show that it was not based on an assumption that the appellant would be returning to Pakistan with a child. The difficulty with that is that the reference to formatting suggests that this was a mistake made while cutting and pasting using material from another report. There must be a concern that in circumstances where each case is fact specific and opinions are given on the basis of those facts a mistake such as this gives the appearance that in providing the opinion certain facts have been taken into account where they should have not been or alternatively have not been taken into account and should have been. On balance, however, and in the light of the detail into which Mrs Moeen has entered which is clearly specific to this appellant my fears that this might be less than an expert opinion have been allayed. To find the report unreliable on the basis of one error would be close to irrationality and I am unable to find any other errors even though at times it appears that the report appears to suggest that any woman returning to Pakistan on her own would find no protection. If that is the suggestion I reject it. The country guidance case of KA & Others and other cases do not support such a view.
38. The report refers in places to KA & Others which was a case heard in April 2010 and is therefore now more than four and a half years old.
39. I note in paragraph 125 of KA & Others that honour killings are described as a custom in which mostly women and some men are murdered after accusations of sexual infidelity. The killers seek to avenge the shame that victims are accused of bringing to their families. As I have stated already there is no evidence before me that the appellant is at risk of an honour killing by reason of any alleged sexual infidelity. At paragraph 15 of her report Mrs Moeen states that thousands of women are murdered in the name of honour due to their actual or perceived “immoral” or “irreligious” behaviour and for bringing shame to their families.
40. I note also that the Home Office in its refusal letter dealt with this issue on the presumption that there is an effective legal mechanism to deal with violence against women in Pakistan and that reforms are now in place to assist women in situations

similar to the appellant and has suggested internal relocation to avoid the likely harm. However, in Mrs Moeen's opinion, based on objective evidence in Pakistani society, women like the appellant who seek to extricate themselves from the violence of their husbands (independent of their families' wishes) are seen as rebellious and adulterous and are often chased, tracked down and eventually exterminated by their estranged husbands, in-laws, even by their own families to restore their honour. In paragraph 16 some women who seek divorce or separation suffered mutilation i.e. their nose, ears and hair are cut off by angry revengeful husbands or in-laws. Acid throwing is another abuse inflicted on women to "teach them a lesson". The appellant herself referred to her fears of an acid attack in oral evidence.

41. Mrs Moeen has given a few examples of well publicised honour killings that do not do more, in my finding, than indicate that they occur. I have no idea how many married couples there are in Pakistan but I note that the population was estimated in July 2008 to be nearly 173 million. I am more prepared to accept the point that women in Pakistan are seen as the repository of family honour – although not regarded as honourable in themselves – and any perceived slight to that honour, whether true or not must be punished. Mrs Moeen states that it must be punished and adds "in the most brutal way". I am not persuaded that every perceived slight to honour is punished in a brutal way but on any view there are repercussions in circumstances of perceived slight to honour.
42. At paragraph 30 of the report Mrs Moeen takes issue with the Tribunal's view in **KA & Others** regarding reduction in violence against women and/or crime of honour killing in Pakistan due to legislative reforms. The Tribunal observes that

"the legislative reforms introduced during the past decade to safeguard women against violence and abuse, in particular the Honour Killings Act 2004 and the adoption in 2006 of the Criminal Law Amendment Act to facilitate the prosecution of honour killings have clearly had a significant effect."

However, that was not all that the Tribunal said in paragraph 212 of its decision. It stated that it is clear from the background evidence that honour killings remain a serious problem in Pakistan; something like 600 women are killed each year in such killings. The Tribunal rejected the view that honour killings are as prevalent and entrenched a problem as the experts and the authors of a report called "Safe to Return?" contend that it was. Firstly, the Tribunal found that the worst examples of the phenomenon are largely confined to areas of Pakistan where the Jirga systems still holds sway, such as the North-West Frontier Province. Secondly, it is clear that the continuing incidents of honour killings are predominantly located in rural areas of Pakistan, not in the urban areas. Only then did the Tribunal go on to find that the implementation of legislation clearly had a significant effect. Mrs Moeen at paragraph 34 onwards has been able to provide the latest statistics in relation to honour killings and physical violence crimes which show that there is not the slightest indication that those crimes have decreased. She also refers to the other findings made in paragraph 212 of **KA & Others** and provides some evidence that show that a large number of women were victimised in the province of Punjab and in

the capital city of Islamabad and the Metropolitan City of Karachi indicating that honour killings are not a “Jirga” based crime. Her conclusion is that the Government of Pakistan is systematically failing to provide adequate protection for women against abuses in the custody of the state and in the family and community. She opines that it is reasonably likely that once (the appellant) returns to Pakistan she would be tracked down, chased, tortured and killed or mutilated either by her own family, in-laws and/or estranged husband in the name of honour for bringing shame and disgrace to the family.

43. In paragraph 45 she finds that there is no realistic possibility that the state authorities in Pakistan will be of any meaningful assistance to the appellant if she needs their help.
44. The report proceeds to comment on “all female police stations” in Pakistan and indicates there are none. She opines at paragraph 55 that if returned to Pakistan if the appellant were to seek assistance from the police if it is needed it is likely that she would face serious hostility. The police as an institution have systematically failed to protect the common man – much less vulnerable women – and emerge as a failed and corrupt institution.
45. What of women shelters and NGOs? In paragraph 61 and following Mrs Moeen notes that state and private shelter homes for women have miserably failed to protect women from the clutches of criminalising opportunists much less to say from their own families, husbands/in-laws or extended family who would be after their lives for one reason or another. The living conditions of these shelters reinforce women subordination and oppression by establishing control over their sexuality and mobility instead of providing them with a supportive environment where they could rebuild their own lives. Although agreeing that Pakistan is a large country more than half the population of all women are reportedly subject to some form of risk due to domestic and other forms of violence. Given the limited number of shelters and/or safe houses the evidence shows that it is unrealistic to believe that they can provide any system of real protection to a lone woman such as the appellant. Evidence that a few hundred women have been helped is neither here nor there, and it is not by coincidence that many organisations including Amnesty International warn that the number of shelters and refuges available in Pakistan is totally inadequate. In her opinion it is a stretch too far to assume that a few refuges in a few urban areas in Pakistan can offer meaningful and effective protection to vulnerable women who fear for their lives either by their own family members or by other opportunist criminals in Pakistan.
46. At paragraph 66 the most recent COIR of 9 August 2013 is said to provide all sorts of self-contradictory and contrasting reports regarding availability and sufficiency of protection to vulnerable women by state authorities and shelter homes maintained by NGOs in Pakistan. It is to be noted that the information provided in the UKBA COIR of August 2013 at 23.171 is in sharp contrast to the realistic assessment of working with any such women’s organisation in Pakistan.

47. At paragraph 23.173 and 23.174 of the same report I pause to comment that the COIR is not necessarily self contradictory simply because it gives examples of evidence which is produced from different sources providing opposing views. It must be that such evidence is produced and referred to in an effort to enable an objective view to be taken by decision makers.
48. I note further that in **KA & Others** at paragraphs 236 and 237 the Tribunal finds that the focus has to be not only on the provision of available and adequate centres and refuges but also on the general position of women who make use of such centres will find themselves in in the longer term. Referring to the "Safe to Return?" report it informed the Tribunal that although in several centres and refuges women are expected to leave after a relatively short time, those who run them do sometimes allow women to stay longer and sometimes even allow them back. Paragraph 67 of the expert's report notes that mostly the shelter homes provide a temporary relief to vulnerable women. The COIR with reference to the Immigration and Refugee Board of Canada noted that sources indicate that shelters, both government and NGO run, try to reconcile victims with the perpetrator of domestic violence. According to the Shirkat Gah representative this occurs "sometimes" as managers of shelters often believe that it is "safer" for women to go home.
49. Mrs Moeen then deals with the option of internal relocation. She agrees that Pakistan is a large country and that there are many vulnerable individuals living in that country. However at paragraph 75 of the report she talks of the State of Pakistan controlling all information and important data of its citizens through compulsory registration with the National Database and Registration Authority (NADRA). It is mandatory for every citizen over 18 years of age to register and to acquire a Computerised National Identity Card (CNIC). Every citizen needs a CNIC to seek employment, obtain accommodation, to buy and sell property, to open a bank account or business, to get a passport, etc. Even the police or local authorities in Pakistan are now bound to keep records of all tenants in their localities. It is imperative for all landlords and employers to keep photocopies of the CNICs; the NADRA mobile SMS verification system is available for the convenience of the public, in addition to public and law enforcement agencies. The public can verify any registered citizen instantly using their mobile phone. The service is beneficial for the general public, as it would allow them to verify the credentials of the people with whom they are making business deals and can also verify their employees, household workers, maids, etc. At paragraph 78 since it is imperative in Pakistan for all landlords, and employers to keep photocopies of these CNICs of their tenants or their employees, in Mrs Moeen's opinion if they wanted to therefore it is highly likely that her own family, her husband and/or her in-laws who would hold her personal details could easily get greater information about her whereabouts to that available to the public by winning favour of the police or clerks of the NADRA offices (which are established in all cities and also have a central life database) by a simple bribe which is common practice in Pakistan.
50. In paragraph 80 Mrs Moeen is aware that the appellant has work experience in Pakistan but her profile would be changed if she returns to Pakistan now. She would

be living on her own without any male member support. In Pakistani society economic opportunities for such women are marked by gender bias and social stigma attached to single women/working women. This is so because people are extremely curious about one's family circumstances. A single woman could not avoid constant unwanted attention from inquisitive neighbours and male co-residents in whatever accommodation she might secure, if she could even afford anything like a place to live by herself. "I do not think" that the appellant would be safe living as a single woman anywhere in Pakistan because Mrs Moeen is acutely aware of the moral unacceptability of such an independent existence for a woman who tries to remain respectable in Pakistan. A single woman would be seen by many men in Pakistan as "fair game". She would find it difficult to protect herself, on her own in such a male dominated society against unwanted advances by such men or even against rape or serious physical harm. The conclusion on that point is that being a single/lone woman it would be very difficult for her to find a respectable way to survive in Pakistani society because living alone and finding work she would be stigmatised as a woman with bad character and loose morals. At paragraph 23.96 of the COIR:

"The Immigration and Refugee Board of Canada (IRB) noted in a response by its Research Director, dated 14 January 2013, that, according to a representative from the Human Rights Commission of Pakistan it is "next to impossible" for a single woman to live alone in Pakistan due to prejudices against women and economic dependence."

51. The report of Mrs Moeen paints a very grim picture of life for women in the position of the appellant in Pakistan. She has argued with some of the conclusions that were reached in **KA & Others** which as I have mentioned previously is a case that is more than four and a half years old. Assuming that her report is correct – and there is none from the respondent other than the COI report - then little has changed in Pakistan in recent years for women, some of the conclusions reached by the Tribunal in **KA & Others** are simply wrong and a firm conclusion is reached that the appellant will be in serious trouble on her return there.
52. I add for completeness that there is nothing to indicate that an FIR has been issued against the appellant. This is the first step that is taken in a criminal case but then it is difficult to know how the appellant would have found out if one had been issued given that she is not in touch with anyone in Pakistan and she has not actively given information as to where she is living in the UK.

Conclusions

53. The appellant claims to be a refugee whose removal from the United Kingdom would breach the UK's obligations under the Refugee or Person in Need of International Protection (Qualification) Regulations 2006 and also that to remove her would breach the UK's obligations under the Human Rights Convention. The burden rests upon the appellant to prove that at the date of the hearing of the appeal there are substantial grounds for believing that she satisfies those requirements.

54. In **Shah & Islam HL [1999] Imm AR 283** the House of Lords held that women in Pakistan constitute a particular social group because they share the common immutable characteristic of gender. In a reported case of **AW (Sufficiency of protection) Pakistan [2011] UKUT 31 (IAC)** the Upper Tribunal found that there is systemic sufficiency of state protection in Pakistan but that an assessment has to be made as to whether effective protection is available in relation to the particular circumstances and profile of the person about whom a decision is to be made.
55. On the facts that I have found the appellant suffered domestic violence at the hands of her husband and she received no protection in relation to it. On one occasion the evidence I accept is that the appellant was thrown down the stairs by her husband and kicked hard by him. One of their neighbours heard the appellant's screams and called the police but the appellant's father-in-law bribed the police and they went away. This fits entirely with the background evidence. Furthermore it is chilling evidence of the circumstances for many if not most women in Pakistan to read of the attitude of the appellant's father-in-law in his e-mail of August 11 2012:
- "The reasons you give to me for that decision (a reference to the decision of the appellant to seek a divorce from his son) don't make much sense because everyone here beats his wife so you are not the only one who had to suffer and go through it. How many women do you know who do not have to go through it so stop complaining all the time and try to work on this relationship."
56. I am satisfied that the appellant's father-in-law has made threats and also that the appellant would receive no help from her parents, or brother. Her sister is in no position to help her either. On return to Pakistan she might be able to renew her friendships there but from what she said in evidence she would not wish to get her friends into trouble and it is apparent that she believes they would be in trouble if they took her side.
57. Although her father-in-law has said that through his contact or contacts at the airport he would be able to find her anywhere that may not be the case upon her arrival but accepting what Mrs Moeen says, and bearing in mind that wherever she went the appellant would need to find accommodation and a job, she would appear on the NADRA. If her father-in-law is as vengeful as I accept he appears to be the lapse of two years since any communication would be unlikely to aid the appellant in avoiding him. There is evidence from the appellant and her parents as well as the father-in-law himself that he has friends in high places and influence in Pakistan and I accept that evidence. His family background, his actions, and his knowledge of the appellant's actions lead me to conclude that he is likely to carry out or will attempt to carry out his threats.
58. The appellant may be able to go to a shelter of some sort but being an educated woman she makes the very good point that it would be easier for her to avoid her father-in-law if she were a village girl who could be integrated into a village without notice but as an educated woman she would need a job to survive. The position of

women in Pakistan in the same situation as the appellant since **KA & Others** was decided has not improved and I am not persuaded that the shelters that might be available to the appellant would give adequate protection other than in the short term on the facts as I have found them to be. Even if the report of Mrs Moeen paints a more pessimistic picture than is in fact the case for the majority of women I am not deciding this matter on the balance of probabilities. To the lower standard the appellant succeeds in showing that there would not be adequate protection for her in Pakistan and that she is in danger of suffering treatment contrary to Article 3 ECHR. On the particular facts of this case the appellant runs a substantial or real risk of serious injury or worse and the state has not provided adequate protection and is not in practice capable of providing it for her.

59. Bearing in mind all those circumstances the appellant succeeds in her asylum claim.

Decision

60. This appeal is allowed on asylum grounds. As a result the appellant does not require Humanitarian Protection and that ground of appeal is dismissed. The appellant's appeal on Human Rights grounds under Article 3 ECHR is also allowed.

61. No anonymity direction was sought and the circumstances do not warrant one being made so I make no such direction.

Signed

Date

Upper Tribunal Judge Pinkerton