



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

Appeal Number: AA/06732/2015  
AA/06735/2015

**THE IMMIGRATION ACTS**

**Heard at Bradford Phoenix House  
On 20 April 2016**

**Decision & Reasons Promulgated  
On 27 April 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SAFFER**

**Between**

**[TAZEEN A]  
[Z G]  
(NO ANONYMITY ORDER MADE)**

Appellants

**And**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Miss Faryl of Counsel

For the Respondent: Mr Diwnycz a Home Office Presenting Officer

**DECISION AND REASONS**

**Background**

1. The Respondent refused the Appellants' applications for asylum or ancillary protection on 30 March 2015. Their appeal against this was dismissed by First-tier Tribunal Judge Henderson ("the Judge") following a hearing on 2 July 2015.

### The grant of permission

2. Upper Tribunal Judge Blum granted permission to appeal (21 September 2015) on the grounds that it is arguable that;
  - “(1) ... if the Appellant’s family are aware of her circumstances, the absence of any direct attempt to contact her, as claimed by the Appellant, may be attributable to their knowledge of the illegitimacy of her children, and this in turn could arguably undermine the Judge’s finding that the Appellant is in contact with her family and they are supportive of her.
  - (2) The ... conclusion that the Appellant did not come from a strict Muslim family, based as it appears to have been, on the Appellant’s attendance at a college outside the family home and her travel to the UK, failed to take account of relevant evidence including the fact that she attended a woman’s university, that she stayed in a woman only hostel, that (sic) was employment at the Ladies branch of a bank, and her evidence of her father accompanying her in the United Kingdom.
  - (3) ... in light of the COI report identifying illegitimate children as “forbidden under Islam” and the “huge social stigma” associated with illegitimacy (63), the existence of an offence of fornication (61), and the difficulties the Appellant would have in explaining how she had children without disclosing that she was unmarried (61), the Judge erred in concluding that she would hold a well-founded fear of persecution.”

### Respondent’s position

3. It states in the Rule 24 notice that the Judge considered all the evidence, and was alert to the relevant issues, gave extensive reasons for her findings, considered the situation in Pakistan, applied **KA & Others** [2010] UKUT 216 IAC, and refers to the objective material.

### Appellant’s position

4. There was no comment on the issue of fornication in the Rule 24 notice. The Judge did not require statistics on the number of charges or convictions for fornication and **KA** was ignored.

### General Discussion

5. The Judgement ran to 26 pages and 74 paragraphs. The Judge noted that the Appellant worked for the Habib Bank Ladies Branch in Jhelum [11] until she came here. The Judge noted the Appellant’s evidence that her family are strict Muslims [13]. The Judge noted that the Respondent accepted that she had given birth to 2 children out of wedlock and was unmarried [30]. The Judge noted that the Appellant’s representative accepted that there was no risk to speak of from the Appellant’s family as no one was threatening her [35].

### The Judges findings in relation to grounds 1 and 2

6. The detailed findings are set out below and are underlined.

- “40. The Appellant is accepted as a national of Pakistan who was born in Pakistan where she was educated to college standard with the support of her family. She then worked in a bank and came to the United Kingdom for further studies. I was not provided with evidence of the Appellant’s additional qualifications but I note that the Appellant was granted additional visas to continue with her studies here which would indicate that she has completed some additional courses here.
41. The Respondent accepts that the Appellant is unmarried and that she has given birth to two children outside marriage. The Appellant has stated that this will result in the danger of an honour killing from her family or prosecution under the laws of Pakistan.
42. The Appellant has stated that she has had no contact with her family for five years and they are unaware that she has two children. She has stated that she has not received any threats from them but they are religious and will take action against her when they find out. The Respondent’s argument is that there is no reason for them to find out.
43. I do not accept that the Appellant is being truthful about her lack of contact with family members or about their knowledge of her circumstances. She gave evidence before me that she had always stayed with her family whilst growing up but that she lived away from home whilst attending college in Pakistan. She referred to her family being a strict religious family. She also stated that her father did not allow her to come to this country on her own. Her father came with her to keep an eye on her for 4-5 months after her course began. She also stated that her father came here in 2006, 2007 and 2009. He came to stay with her and he would even accompany her to the bus stop when she was travelling to college and wait for her at the bus stop when she returned.
44. The Appellant is asking me to accept her evidence that she broke off all contact with her father and her brothers because of her pregnancy. She stated they were trying to call her and she changed her telephone number. She also stated that people who know her and her family have informed her that they are all fine.
45. If the Appellant comes from a strict family and a very caring family and her father went to the effort of supporting her to study in this country, accompanying her on her trip to this country and making annual visits to see her I do not accept that he would simply accept that she was no longer in contact with him. As a caring parent his first concern is most likely to be regarding her welfare and whether or not she is ill or a victim of crime. I question why he or one of his sons would not contact the authorities in this country or family friends to make enquiries about the Appellant’s welfare if as she has stated she stopped contact with them. It is a dramatic change from being closely looked after and communicating regularly to a complete breakdown in all communication. The reaction of most parents would be to try and trace their child and the information given about the Appellant’s family and their inaction (aside from trying

to call her on her old telephone number) is not consistent with the family history the Appellant has given.

46. I do not accept that the Appellant has given a plausible account of this lack of contact between her and her family. It was put to the Appellant that if she was pregnant and simply contacting her family by telephone then the family would be unaware that she was pregnant. The Appellant referred to being afraid of other people telling her family. My conclusion is that the Appellant's family would be unlikely not to make strenuous attempts to locate her because of concern about her well-being given the family circumstances the Appellant has outlined.
47. The Respondent has stated that it is not accepted that the Appellant's family are aware of her situation. This statement is simply accepting what the Appellant has said - that her family are not aware of her situation. However I do not accept that it is likely that her family are unaware of her whereabouts given the evidence she provided in the hearing before me. She has stated that she is in contact with people who know her family and she asked about them. It is reasonable that the Appellant's family would use these same friends to make enquiries about the Appellant. This calls into question the Appellant's claims regarding her status as a single woman facing family retribution and a lack of support.
48. Whilst I appreciate that there is a very different attitude towards single unmarried mothers in Pakistan the Appellant has not provided credible evidence to show that her family are seeking any form of punishment or retribution against her and her children as a result of her giving birth to 2 children outside marriage. The Appellant has stated that she was well educated and worked in a bank prior to coming to the United Kingdom. She states now that the reason her father has not sought her out is because her father is mentally unwell as a result of the death of her brother. I cannot reconcile how the Appellant considers that her father would not have the same kind of concerns about her as a result of her disappearance or that neither he nor the Appellant's brothers would be content to accept that she was no longer in contact. Would this not increase her father's mental health problems? I also note that she stated in the Tribunal that she had been told that all her family are fine. At the same time however she has informed me that her father has been mentally ill as a result of her brother's death.
49. There is no evidence the Appellant's family will disown or harm her. There is no evidence that they are a strict religious family. She has been allowed to obtain education to a high level and did so by attending college outside the family home. This is inconsistent with her account of her father monitoring her in this country by staying with her and visiting regularly and is inconsistent with her account that her family would not make strenuous efforts to locate her. I do not accept that she could not return to her family. I do not accept that she has stopped all contact with her family or that they are unaware of her current situation. There is no evidence to show that her father is a strict Muslim who will perpetrate violence against her and her children.

There is no evidence to show that her brothers will take a similar stance against her. My conclusion is that there is insufficient evidence to show any risk to the Appellant or her children from family members."

### Discussion regarding grounds 1 and 2

7. There is no merit in grounds 1 or 2. The Judge does not have to recite every detail of the evidence. It is plain from reading the whole of the determination that the Judge was aware of the allegation that her father had strict control over her life. The Judge did not have to list every detail of that. The Judge gave multiple reasons for finding that she was not being truthful about her lack of contact with family members or about their knowledge of her circumstances [43, 45-48], and for finding that she had failed to establish she was from a strict Muslim family [49]. Those reasons are cogent and were available to her. She plainly understood the Appellant's case and rejected her account. She was entitled to do so. The grounds amount to nothing more than a disagreement with that.

### The Judges findings in relation to ground 3

8. The detailed findings are set out below and are underlined.

"51. The Respondent provided a response to country of origin information on the issue of registration of illegitimate children. Advice was received from the British Embassy who consulted with Khan and Piracha, a consultancy firm based in Islamabad, who reviewed the legislation and met with officials of the National Database and Registration Authority (NADRA). They have stated that it is mandatory for the parent of a child to register the child (with NADRA) within one month of the birth of the child (Section 9 (1) of the National Database and Registration Authority Ordinance 2002). Every citizen who attains the age of eighteen whether inside or outside Pakistan is mandatorily required to register with the same authority. The documents issued are a Child Registration Certificate (CRC) or Computerised National Identity Card (CNIC). The report states as follows:

*"Given the severe repercussions for the mother of admission of illegitimacy, registration of illegitimate children (except where abandoned and under the care of a listed orphanage) is not recognised by NADRA. "*

52. This report therefore appears to accept two issues - firstly that registration of illegitimate children with the national authorities is not possible in Pakistan and secondly that there are severe repercussions for a mother in the admission of illegitimacy. The further issue is whether it has to become apparent that children are illegitimate when an application for registration is made in this country or on return to Pakistan.

53. A question asked in the COI request was:

*"If a child of Pakistani origin is born in the UK, can a CRC or CNIC be obtained on production of a UK birth certificate?"*

The response is as follows:

*“Registration of birth with the Pakistan Mission in the UK in accordance with section 5 of the 1951 act (Pakistan citizenship Act) will probably be possible on the basis of a UK birth certificate. However to obtain CRC and CNIC, applications have to be made on forms prescribed under the 1952 Rules (the Pakistan Citizenship Rules) which forms required details/documentary evidence of details of both parents. For a CRC a birth certificate is valid documentary evidence but issuance of CRC will not only depend on production of the birth certificate as the requisite form will also have to be filled in.”*

54. The application of this advice is that the Appellant would have to provide details and documentary evidence of herself and the father of her children. The further question asked in the COI request was:

*“Does the father’s name have to be provided and/or a marriage certificate produced upon application?”*

The response is as follows:

*“The father’s name has to be provided for making application for obtaining CRC or CNIC. There is no requirement for furnishing a marriage certificate.*

*Issuance of a CRC is dependent on the production of a birth certificate from the Union Council and whose jurisdiction the baby is born. No other document is required for a child under the age of 10 years. However in order to obtain the birth certificate, names of parents will be required and the parents may be called to produce their CNICs.”*

...

*“Issuance of CNIC is dependent on the production of birth certificate or matriculation certificate or CNICs of immediate blood relatives. Father’s name is given in birth certificate as also matriculation certificate.”*

...

*“... father’s actual name or any dummy name has to be given to NADRA for registration as any application form for CRC or CNIC from which either of the parents name is missing will not be entertained by NADRA.”*

55. It is clear from this evidence that the production of a father’s identity document is not a mandatory required within Pakistan although the name of the father is a requirement and he may be required to provide a CNIC. The Appellant is aware of the full name of her eldest child’s father. She could have a birth certificate which names the child’s father. She has stated that she is not aware of the full name of her second child’s father. I have some concerns about whether she is being truthful. As I have previously stated the Appellant is an intelligent and well-educated young woman. She has referred to a second relationship and I conclude it is unlikely that she would not be aware of the full name of the father of her second child.
56. The Appellant argues that she would need to apply for passports or identity documents in this country for her children. The

documents produced from High Commission for Pakistan website show that they require valid original documents issued by NADRA before a Pakistan passport can be issued including one of the following:

- i. A Computerised National Identity Card (CNIC)
- ii. National Identity Card for Overseas Pakistanis (NICOP)
- iii. Smart National ID card
- iv. Computerised Child Registration Certificate (CRC/Form B) for under 18 years applicants only.

The website advises that if an individual does not have a valid version of any of these documents that an application needs to be made to NADRA. The additional requirements for children under 18 include the production of a National Identity Card for Overseas Pakistanis and a computerised CRC issued by NADRA.

57. I note that the High Commission for Pakistan require firstly a Pakistan passport for any individual making an application for a National Identity Card for Overseas Pakistanis (NICOP). Secondly the full birth certificates of the mother and father of the applicant are required in order to issue an individual child with a NICOP. The website also refers to needing the NICOP card of the child's mother and father. There is a final note stating that if the parents of the child are separated or divorced the custodian father or mother is required to produce court orders confirming his or her right to custody of the child.
58. Finally I note that the High Commission for Pakistan has produced a sheet on frequently asked questions in connection with NADRA. This states as follows:

*"NADRA holders are advised to get their marital status updated on the cards as soon as possible. The marital status on at least one of the parents ID cards must have been updated to "married" for child application process. NADRA system will not allow the child's application processing if both parents status is mentioned as single/unmarried."*
59. My conclusion from reading carefully through this information is that the concept of removal of these children cannot be divorced from the requirements regarding their identity and familial background. It shows that she cannot register them through the NADRA system as a single mother. The fact that their mother cannot register through NADRA or obtain a NICOP for them and therefore cannot obtain a passport for her children would mean that she would be returning without full travel documents or registration identification. Although removal of the Appellant and her children is a matter for the Respondent I am unclear as to how the Appellant would be able to avoid further enquiry into the family background of her children if she arrives in Pakistan without registration documents or valid passports or even a court order. I am aware that travel arrangements can be made by the Respondent for the two children through the use of a one way identity document without the use of national passports but it is likely to lead to enquiries on the Appellant's arrival about her

children. In the event that it does not lead to enquiries by the Pakistan Immigration authorities then the Appellant is still left with the problem of registering her children in Pakistan.

60. I find that it would be extremely difficult for the Appellant to register her children in this country without formal identification documents of the children's father's or being untruthful with her national authorities. The information provided in the COI does not answer the question of what the situation would be for a child returning from the United Kingdom without being formally registered by the Pakistan High Commission. In addition the information provided by the Respondent is not consistent with the information provided on the website of the Pakistan High Commission. The COI information ignores the requirement given for the parents of the child to be married before registration is possible and I therefore question whether there is now that same requirement for applications made within Pakistan. The information provided by the experts makes no mention of this requirement by NADRA. This is a gap in the COI request since it refers simply to the names of the father and mother of the child and ignores what is likely to be an important requirement of providing proof of marital status which is referred to on the High Commission website.
61. On the basis of this information I conclude that the Appellant would have difficulties in explaining how she has two children without disclosing that she is unmarried. The COI response to a request for information also referred to whether there were any statistics on the numbers of charges or convictions under the offence of zina. The Appellant has not committed adultery. The COI on the treatment of Women dated July 2014 states as follows:
- "2.5.3 Whilst the offence of zina defines "adultery" and is covered under the Hudood Ordinance described above, [67] sexual relations between parties who are not married is considered "fornication" and is deemed an offence under the Protection of Women (Criminal Law Amendment) 2006 Act. This offence is punishable by imprisonment for up to five years and a fine not exceeding 10,000 Rupees. An accusation of adultery must be lodged directly with the court. It is considered an offence to make false accusations of adultery and fornication. [68]"*
62. The COI response to a request for information does not properly differentiate between adultery and the offence of fornication. It referred to whether there were any statistics on the numbers of charges or convictions under the offence of zina. *"No statistics were available for charges or convictions for simple zina (adultery)."* I have not been presented with statistics on the number of prosecutions for fornication under the Protection of Women Protection of Women (Criminal Law Amendment) 2006 Act and the likelihood of the authorities using this legislation against the Appellant. The Appellant relied on a report from Law Nexus which is of little assistance. It refers to the Hudood laws and the Pakistan Penal code and makes the distinction between the two. It also states that the Appellant is liable to be prosecuted and refers to the punishments of stoning to death or whipping. It



is not consistent with the objective evidence which stated that there are no record of statistics and does not given any indication of the numbers of women who are prosecuted. It also contradicts the information provided in the country guidance case of **KA and Others** which I shall refer to later in this determination.

63. I have no evidence to show how the authorities would react to an unmarried mother of two children who are undocumented entering the country. According to the COI illegitimate children are referred to as “forbidden under Islam.” There is a reference to “huge social stigma” and not being able to inherit but the Appellant has not provided any evidence about how an illegitimate child would be treated in a family where he or she is supported.
64. The Respondent has accepted that the Appellant has given birth to two children in relationships outside marriage. I have concluded that it is not possible for the Appellant to register these children prior to returning to Pakistan. I find that unless the Appellant is willing to be dishonest about her marital status it is reasonable for me to conclude that she will have difficulties registering the children with the Pakistani authorities given her unmarried status. The authorities will be aware that she has no children yet her identity status remains as a single woman.
65. The further question therefore is how these children will be treated on their return to Pakistan. I have referred to their status as “forbidden under Islam.” The COI reply to a request on information refers to the absence of an ID card and its effect in Pakistan. I note that the requirement for an ID card is described as becoming increasingly vital for gaining access to admission to educational institutions, employment both in the private and government sectors and in all practical day-to-day affairs such as access to travel by air and telephone connections. Any access to the healthcare and social welfare/governmental sector will also be dependent on the production of ID cards. However the US State Department report states as follows:
- “While the government reported more than 75 percent of the population was registered, actual figures may be lower. Public services, such as education and health care, were available to children without a birth certificate.*
66. The Appellant’s objective evidence concentrated on the issue of honour killings. Some of the evidence concentrated on the murder of illegitimate children by family relatives. It would have been extremely helpful to have had further information on the treatment of children who are illegitimate or undocumented. As I have previously stated I find that there is no evidence that either the Appellant or her children are directly at risk of violence from the Appellant’s family or that they would not be supported by them.
67. I have read through the country guidance case of **KA and Others** and note that the guidance is that:
- “i. In general persons who on return face prosecution in the Pakistan courts will not be at real risk of a flagrant denial of their right to a fair trial, although it will always be necessary*

*to consider the particular circumstances of the individual case.*

*ii. Although conditions in prisons in Pakistan remain extremely poor, the evidence does not demonstrate that in general such conditions are persecutory or amount to serious harm or ill-treatment contrary to Article 3 ECHR.*

*iii. The Protection of Women (Criminal Laws Amendment) Act 2006 ("PWA"), one of a number of legislative measures undertaken to improve the situation of women in Pakistan in the past decade, has had a significant effect on the operation of the Pakistan criminal law as it affects women accused of adultery. It led to the release of 2,500 imprisoned women. Most sexual offences now have to be dealt with under the Pakistan Penal Code (PPC) rather than under the more punitive Offence of Zina (Enforcement of Hudood) Ordinance 1979. Husbands no longer have power to register a First Information Report (FIR) with the police alleging adultery; since 1 December 2006 any such complaint must be presented to a court which will require sufficient grounds to be shown for any charges to proceed. A senior police officer has to conduct the investigation. Offences of adultery (both zina liable to hadd and zina liable to tazir) have been made bailable. However, Pakistan remains a heavily patriarchal society and levels of domestic violence continue to be high."*

68. My difficulty in this appeal is the lack of information on the likelihood of the Appellant facing prosecution and as a consequence the impact this will have on her children. It could be argued that the concept of prosecution for "fornication" and the sentence involving a five year imprisonment and fine is an inhumane and degrading form of treatment and punishment against a woman where she would be forcibly separated from her two very young children. However I do not have the necessary evidence to show that this is a likely consequence for the Appellant.
69. I do not accept that the Appellant has provided sufficient evidence to show that she will be prosecuted as a result of her status as an unmarried mother. I do not accept that the Appellant is in need of state protection as there is an absence of any threat of honour killing against her. I do not accept that there is a reasonable likelihood that the Appellant faces a real risk of harm on her return or that she would be forced to internally relocate away from family members. I do not accept that she has shown that she is at risk for a convention reason. The Appellant has not established there is a real risk she would face treatment contrary to Article 3 of the ECHR in the event of her removal from the United Kingdom to Pakistan. There is no evidence to suggest that she would face rejection from her particular family or that her family would reject her two children."

### Discussion regarding ground 3

9. There is no merit in ground 3. The Judge considered all the evidence very carefully and gave multiple reasons for finding that the Appellant could produce birth certificates for her children identifying the father's names [55]. The Judge explains in detail the requirements regarding obtaining documents and registration for the children in Pakistan. She notes that there is no evidence that the Appellant and children would be unsupported [66]. She explained at length the lacuna in the evidence regarding the likelihood of being prosecuted for having children outside marriage [68, 69]. It was for the Appellant to make out her case, and the Judge was entitled to find she had failed to do so for the reasons she gave. These findings were open to the Judge on the evidence before her.

Decision:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Signed:  
Deputy Upper Tribunal Judge Saffer  
25 April 2016