



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/13249/2015

THE IMMIGRATION ACTS

Heard at North Shields  
On 3<sup>rd</sup> April 2018

Decision & Reasons Promulgated  
On 21<sup>st</sup> May 2018

Before

DEPUTY JUDGE FARRELLY OF THE UPPER TRIBUNAL

Between

MRS.M J Z  
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs Brakaj, Iris Law firm.

For the Respondent: Mr McVeety, Home Office Presenting Officer.

DETERMINATION AND REASONS

Introduction

1. This hearing follows on from the Upper Tribunal hearing 24 November 2017.
2. The appellant said she was from a village in the Kabul province of Afghanistan. She was born in January 1988. She is uneducated. When she was young her marriage to her paternal cousin J was arranged. However, in adult

hood she was attracted to her neighbour, S and they wanted to marry. Her father learned of this and assaulted her. S was also assaulted by her brother and cousin.

3. J was subsequently murdered and suspicion fell on S. She overheard her family planning to kill him. She warned him and they eloped in 2010.
4. They married and moved to Iran where S had family. On 13 July 2011 she gave birth to their first child, Z. They learnt the appellant's family were making enquiries about their whereabouts and so they decided to leave Iran with the help of agent. However, they became separated. The appellant arrived in the United Kingdom in July 2012 and made her claim for protection. Her husband did not arrive until 30 November 2012.
5. The respondent did not accept the claim was true. Reference was made to a number of inconsistencies. Her evidence was inconsistent as to whether her marriage to J ever went ahead. She also claimed her father had beaten her and shot her in the leg but could not recall the day. It was not considered credible that she would not have required medical treatment. She was also unclear as to whether J had been killed or injured. She also truthfully said she had not claimed asylum en route to the United Kingdom whereas fingerprint records showed she had claimed protection in Italy in May 2012.

#### The First tier Tribunal

6. First-tier Judge Caswell found consistency between the evidence of the appellant and that of her husband, albeit at screening he had not referred to her being shot in the leg or being wanted by her family for J's murder. The judge referred to the limited medical facilities in Afghanistan and that it was plausible she had been shot and suffered a light wound not requiring hospital treatment. The judge also accepted in Afghan culture it was credible she was not kept informed of the fate of her would-be fiancée. The judge also accepted as credible that the agents would have separated the appellant from her husband en route. The judge also accepted the appellant's claim she had not sought protection in Italy. In summary, the judge found the appellant and her husband to be credible.
7. The conclusion was that she would face a real risk of serious harm from her father and brothers as well as the family of J if they return to their home area. The presenting officer, Mr McVeety after hearing the evidence of the appellant and her husband found this to be a generous conclusion but acknowledged had not been challenged the by way of rule 24 response. Rather, the outstanding issue related to relocation.
8. The appellant's claim before First-tier Judge Caswell was that they had heard her family discovered they were in Iran, was coming after them, and so

travelled onwards across Europe. However, the judge at paragraph 24 concluded that the appellant could relocate within Afghanistan because there was no evidence to indicate her family had the contacts or resources to locate them. The judge had regard to the reasonableness of such a move, bearing in mind at that stage she was pregnant and had a five-year-old daughter; a son who was two and a half and an infant daughter. The judge concluded it nevertheless would not be unduly harsh for them to relocate, for instance, to Kabul, Kandaahar, or Herate.

#### The error of law hearing

9. Following the error of law hearing I concluded the decision of First-tier Judge Caswell was flawed in respect of relocation. Relevant to the risk from her family was their ability to locate them in Iran. I preserved the positive credibility findings about the underlying claim as these had not been challenged by the respondent.

#### The resumed hearing

10. For the resumed hearing the appellant's representative has prepared a further bundle of 41 pages on behalf of the appellant. The appellant gave evidence and was cross-examined.
11. The appellant had been screened in October 2012. She said that she left Afghanistan in 2010 it took around two weeks to travel to Iran. She said that when she was in Iran two months she discovered she was pregnant and subsequently had her baby. When the child was six months old she and her husband left Iran.
12. At question 17 of her substantive interview the appellant said that her husband had been in touch with his relatives in Afghanistan. They advised him that her family were looking for them. She said they then left Iran in a matter of days.
13. There is a statement from the appellant in the bundle used in the First tier Tribunal further to a judicial review application. She states her father is aged 54 and is unemployed and that she has four brothers. She states she married her husband in a religious ceremony in Kabul and the same night they left to go to Iran, fearful of her family. She said they remained there for a year to a year and a half. Then her husband's cousin telephoned them and told them her family had found out where they were and advised them to leave.
14. Suffice it to say I found her account incredibly vague. In her statement she said that she and her husband stayed with a distant relative of her husband's in Teheran, Iran. She said that her husband maintained contact with his cousin, Sabour, who lived in the village. In her statement she says that Sabour

told her husband both families knew where they were and they were coming to get them. She said this is what prompted their departure.

15. In her oral evidence she said that this happened after they had been in Tehran some seven or eight months. In her statement she said she did not know how they had been located. In her oral evidence she suggested that Sabour had learnt this from relatives in Iran. She said that they were not in contact subsequently with anyone in Kabul.
16. In cross-examination she said she did not know what job her husband had in Kabul. She said that in Iran he worked as a butcher but did not know about his work. She was asked if she had been in contact with their relatives in Teheran. She said she had during her first month here but then lost their number. When she was asked how this could be she then suggested that the number had changed.
17. She was asked if anyone had explained to her when they were in Iran of the threat from her family. She said her husband's maternal aunt's son told them that they had been tracked down. She was asked how this came about. She said that he simply told them it could be a family member that they were staying with who informed on them. She was then asked why her husband's family would have informed on them. She suggested maybe it was not on purpose.
18. In an attempt to clarify matters I asked the appellant some questions. She said that when her husband lived in the village he lived alone, all of his relatives having been killed. However his maternal aunt's son, Sabour, lived in the village. I asked her how far the village was from Kabul city and she suggested about an hour's drive. I asked her about the distance from the village to Teheran. She had difficulty answering this but said they were travelling for a week to get there. I asked for details of the relatives they stayed with there. She said it was a far out relative, namely, the family of a grandson of a relative on her husband's side.
19. I asked her if she relocated, for instance, to Kandahar or Herate how her family could locate her. She said that her paternal uncle was well connected but beyond that statement she was not specific.
20. Mrs Brakaj indicated that her husband was outside minding the children and she had not intended calling him but in light of the appellant's evidence mentioned the possibility. The presenting officer objected to him giving evidence, particularly as was no statement from him for the hearing. In fairness to the appellant and bearing in mind what I saw as her performance when giving evidence I felt it would be helpful to hear from her husband about events in Iran.

21. He said when he lived in the village the only relative he had was his maternal aunt's son. He said his parents had been killed. He said he had lost contact with his cousin. He said when they were living in Iran he did maintain contact and was told that his wife's family were aware they were in Iran. He was asked how his wife's family could track them down if they relocated. He said that his father-in-law is 'a big person' and someone could tell him.
22. The appellant's husband had previously lived in the United Kingdom from 2002 to 2008 when he successfully claimed protection. As indicated, he is a butcher who has worked as such in Afghanistan and Iran. Her husband also had made a claim for protection. He was screened in December 2012. He said that he worked as a butcher in Afghanistan. He said that he had lived in Iran for nearly a year and where there also as a butcher. He said he had been in the United Kingdom from 2002 until his removal to Afghanistan in 2007. He indicated that his parents were deceased. He had three sisters and three brothers.
23. There is also a statement from her husband in the same judicial review proceedings. He states that his father also was a butcher and died during the Russian war. His mother was deceased. He said he had three brothers and two sisters who also were killed in the same explosion over 20 years ago. He said he then started living with his uncle. He said he had not been working for three years before his marriage. He said after they married they stayed in Iran for one year. His cousin discovered that his wife's brother had found out they were in Iran so they left. However the agent separated them and they were not reunited until France.
24. In submissions, the presenting officer acknowledged the positive credibility findings made in the First tier Tribunal but that these are very generous. He submitted that the appellant's oral evidence and that of husband was inconsistent. He submitted that the family could reasonably relocate within Afghanistan.
25. In response, Mrs Brakaj submitted the inconsistencies were minor and pointed out that the appellant and her husband had been separated in their journey. She referred to the fact that the First tier Tribunal had found the underlying account to be credible. She also pointed out that the appellant's husband had been away from the village for a number of years and only returned in 2008. The appellant for her part was confined to her home. She submitted if the appellant's family could trace them to Teheran then they could locate them within Afghanistan.

### Consideration

26. I was particularly unimpressed by the evidence of the appellant about events in Iran. I do not find it established that her family had located her and were

pursuing her. She was very vague as to the information about how close they were to tracking her down. It was unclear if she meant they knew she was in Iran or specifically where she was. It is inconceivable she did not know what his employment was. Her account of losing the telephone number of the family she said she stayed with was unbelievable. Her evidence was not consistent with that of her husband. They gave differing time frames for being in Iran

27. There is no evidence to support her claim her family have the resources to track her down. They are villagers on her account. She suggested Kabul was an hour's car drive away. The refusal letter paragraph 35 onwards sets out the geography of Afghanistan. It has a population of over 29 million people, with 34 provinces and heavily populated cities. Kabul's population has been put at around 4 million. It is my conclusion that she can safely relocate to one of these cities and her family could not locate her there. The respondent's policy document on 17 August 2017 records that the security situation does not reach that whereby article 15 C would apply and references made to the country guidance case of AK (article 15 C) Afghanistan CG [2012] UKUT 00163 This does not exclude the option of relocating in rural rather than an open area.
28. In terms of the reasonableness of moving, she and her husband speak the national language. He is a butcher. They have a young family. This would not prevent their relocation. Their move would be cushioned by any resettlement package. He has lived in the United Kingdom before and has had employment not only in Afghanistan but also in Iran. No other issues were identified which would prevent him from providing for his family
29. I have had regard to the interests of the children. Their best interests lie in being with their parents. They are young and I can see no reason why they could not adapt to living in the country of their parents. None of the family is settled. There is no evidence of any significant health issues. There was reference to the appellant suffering from depression but there is no evidence to indicate this is particularly severe. There is basic health cover in Afghanistan.
30. My conclusion, therefore, is that in all the circumstances, it is reasonable to expect the family to return to Afghanistan and that they could reasonably relocate where they would be safe from any risk from the appellant's family.

### Decision

The appeal is dismissed