



IAC-AH-KRL-V1

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

Appeal Number: PA/12527/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 23 January 2020**

**Decision sent to parties on  
On 11 March 2020**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

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

Appellant

**and**

**M K (PAKISTAN)  
(ANONYMITY ORDER MADE)**

Respondent

**Representation:**

For the Appellant: Ms R Bassi, a Senior Home Office Presenting Officer

For the Respondent: Mr P Anderson, Counsel instructed by E&M Solicitors

**DECISION AND REASONS**

**Anonymity order**

*Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) The Tribunal has ORDERED that no one shall publish or reveal the name or address of [initials] who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of him or of any member of his family in connection with these proceedings.*

***Any failure to comply with this direction could give rise to contempt of court proceedings.***

1. The Secretary of State has permission to appeal against the decision of First-tier Tribunal Judge Abebrese on 30 September 2019, allowing the claimant's appeal against her refusal of international protection. The claimant is a Pakistani citizen.
2. The First-tier Tribunal did not anonymise its decision. This is an asylum appeal and the Upper Tribunal has decided to anonymise of its own motion.
3. Ms Bassi for the Secretary of State confirmed that the claimant's core account is not in dispute: the claimant came to the United Kingdom to study, her parents having identified an approved husband for her (the only remaining unmarried male cousin in the family) and engaged her to him. The claimant's father is said to be a well known artist in Pakistan, which makes him powerful and influential across Pakistan. In June 2016, while her engagement was being arranged, the claimant met another man in Pakistan, and they began a relationship. The claimant's partner was also promised to a cousin of his in marriage.
4. The claimant's Tier 4 visa was granted on 19 August 2017, valid to 30 September 2020. She left Pakistan on 18 September 2017, arriving in the United Kingdom on 19 September 2017. The claimant's partner from Pakistan was already in the United Kingdom on holiday and he picked her up from the airport. After that, they met every day and by 11 October 2017, she was pregnant with his child.
5. The claimant wrote to her parents telling them that she had met a boy she liked, and they replied, telling her to focus on her studies. She then wrote and told her parents that she was pregnant and they said that unless she had a termination they would kill her. The parents of the claimant's partner sent him voice notes to tell him that he would be killed for getting a girl pregnant without being married to her and going against their wishes for him to marry a cousin to whom he was already promised.
6. The claimant and her partner went ahead with the pregnancy and have subsequently married. The claimant was six months pregnant with a second child at today's hearing.
7. The only issue before the First-tier Tribunal and before me today is not the overall credibility of the claimant and her husband but whether they would be at risk on return to Pakistan, for the reasons set out in her evidence at [11]-[12]:

"11. The [claimant] and her partner gave evidence that the identification card system [in Pakistan] is relevant in big cities and this would make it very difficult for them to live there. She gave evidence that she comes from a wealthy family, her father is an artist and he is wealthy and has powerful connections. The outreach of her father she claimed would enable him to make contact with her and this with the need to carry an identification card would make it difficult for her and her partner to reside peacefully in Pakistan.

12. The [claimant] also gave evidence that she has an uncle who also has a lot of power and influence”.
8. The judge accepted that evidence and found at [13] that the claimant and her husband would not be able to relocate internally in Pakistan, and that there would be insufficient domestic protection because of the influence of both of their families, but particularly the claimant’s family whom the judge found to have “tremendous power and wealth in Pakistan”.
9. At [14], the First-tier Tribunal decision records that the Secretary of State did not accept the evidence set out at [11]-[12] but was unable to produce evidence to the contrary. There is no obligation on the Secretary of State to produce rebuttal evidence, but findings of fact and credibility are a matter for the fact-finding Judge in the First-tier Tribunal, who has seen and heard the oral evidence; the Upper Tribunal may not interfere with findings of fact and credibility save in the very limited circumstances set out at [90] in the judgment of Lord Justice Brooke in *R (Iran) & Ors v Secretary of State for the Home Department* [2005] EWCA Civ 982.
10. The finding in relation to internal relocation therefore turned entirely on the credibility of the claimant’s evidence overall, which the judge accepted.

### **Permission to appeal**

11. Permission to appeal was granted on the basis that the First-tier Judge had arguably placed on the Secretary of State the burden of disproving the wealth and influence of the claimant’s uncle and father and various cases are cited in the grounds. No specific reason for challenging the overall credibility of the claimant’s evidence is given in the grounds and at the Upper Tribunal hearing, Ms Bassi was unable to identify anything in the evidence before the First-tier Tribunal which ought to have led the judge to reach a different conclusion.
12. The Secretary of State’s appeal is in effect simply a disagreement with adequately reasoned findings of fact and credibility which the judge was entitled to reach.
13. There is an error of law in the First-tier Judge’s decision because the appeal is allowed on both asylum and humanitarian protection grounds. That is wrong because humanitarian protection is only available where asylum is not.
14. I therefore set aside the decision of the First-tier Tribunal to that extent and substitute a decision allowing the claimant’s appeal.

### **DECISION**

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

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

I set aside the decision and remake the decision in this appeal by allowing it.

Signed **Judith AJC Gleeson**  
2020  
Upper Tribunal Judge Gleeson

Date: 9 March