

IMMIGRATION APPEAL TRIBUNAL

Date of Hearing : 20 April 2004

Date Determination notified:

26 May 2004

Before:

Dr H H Storey (Vice President)

Mr M G Taylor

Mrs J E Nichols

APPELLANT

and

Secretary of State for the Home Department

RESPONDENT

Representatives: Mr D. Bunting for the appellant; Mr A. Hutton for the respondent.

DETERMINATION AND REASONS

1. The appellant is a national of Nepal. She appeals against a determination of an Adjudicator, Mr M. Neuberger, dismissing her appeal against a decision giving directions for removal following refusal to grant asylum.
2. The basis of the appellant's claim was that she and her family owned a farm. In March 1999 they began receiving extortion demands from the Maoists who also asked the appellant to join them. In all her family had to pay the Maoists on seven occasions. The police were unable to help and in April 1999 she was arrested and detained when the police learnt her family had made payments. When reluctantly the appellant distributed leaflets for the Maoists she was arrested on 15 April 2002, detained for two-and-a-half months and released on condition that if

she helped the Maoists again her life would be in danger. She left Nepal in July 2002.

3. The Adjudicator accepted the appellant's account was credible. However, in view of the fact that she had been released without charge on both occasions she had been arrested and detained, he concluded that the police had no further interest in her. He further concluded that whilst the appellant 'might fear returning her to her home area', she would be able to avail herself of a viable internal relocation alternative.
4. Before proceeding further we should clarify that we are satisfied the Adjudicator accepted the appellant would face an objective fear of persecution from the Maoists in her home area. It is true, as was noted by the Vice President when granting leave, that the Adjudicator used words which could be read as suggesting her fear was subjective only ('she might fear'). But he was satisfied the appellant's account was credible and her account described a campaign of serious harassment and extortion.
5. Equally, however, the Adjudicator concluded the appellant did not face a real risk of serious harm from the authorities anywhere in Nepal. The written grounds of appeal did not effectively challenge this conclusion and in any event we consider it entirely sustainable. He correctly attached weight to the fact that the police had last gone to her home to enquire about her whereabouts approximately one year ago and the fact that her parents and siblings had not been subjected to any problems whatsoever. Accordingly the only issue in this appeal was whether the Adjudicator was justified in concluding she would have a viable internal relocation alternative.
6. Mr Bunting in amplifying the grounds of appeal contended that the Adjudicator failed to consider the difficulties that would beset the appellant wherever she sought to relocate, in particular the fact that she was a single woman aged twenty-eight for whom travelling alone would entail risk and hardship. As someone who had only ever worked on a farm she would also be unlikely to obtain employment. There was also, he submitted, a real risk arising from her marginalised existence, that she would come to the attention of the Maoists.
7. Dealing first with the last contention, we consider that the Adjudicator was fully justified in concluding that there were areas of Nepal where the appellant would run no real risk of coming to the attention of the Maoists. He very properly noted that there are areas in Nepal where the Maoists were not in control. This finding was wholly consonant with the objective country materials which identified the Maoists as having no significant presence in a number of provinces in Nepal: see

CIPU Report October 2003 paragraph 6.34. Furthermore, the Maoists' interest in the appellant was plainly a minor one: all she had done in their eyes was object to paying extortion money to Maoists in her area and refuse to continue distributing pamphlets. She was not likely to be on any list of persons of particular interest to the Maoists on a national level.

8. As regards whether the appellant would find internal relocation unduly harsh otherwise, we are not persuaded that the grounds identified any factors of real significance.
9. It is true that the objective country materials do chronicle significant discriminations facing women in Nepal, particularly in the context of domestic violence: see the CIPU Report October 2003 paragraphs 6.59-6.63. However, they fall well short of establishing that women who are single and have to live without the support of a family face a real risk of serious harm.
10. Whilst the appellant had only ever worked on a farm, she was young, healthy and had finished a school education. Once again, the objective country materials did not demonstrate that she would be unable to obtain employment either in the agricultural sector (40% of the country's population work in this sector), a sector in which she has relevant experience, or in some other sector.
11. For completeness we would observe that we found no substance in Mr Bunting's contention that the Adjudicator failed to follow the principles identified in the Court of Appeal judgment in the case of AE & FE [2003] EWCA Civ 1032. He clearly considered whether, by comparison with the appellant's home area, the appellant would be able to achieve safety in other parts of Nepal where the Maoists were not a force.
12. For the above reasons, we are not persuaded that the Adjudicator erred in concluding that the appellant would be able on return to achieve safety from the Maoists by means of internal relocation.
13. This appeal is dismissed.