



**UPPER TRIBUNAL  
(IMMIGRATION AND ASYLUM CHAMBER)**

**APPEAL NUMBER: AA/03900/2015**

**THE IMMIGRATION ACTS**

**Heard at Birmingham  
On 4 February 2016**

**Decision and Reasons Promulgated  
On 1 March 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MAILER**

**Between**

**R B**

**Appellant**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Respondent**

**Representation**

**For the Appellant: Mr. M K Mustafa, Kalam Solicitors**

**For the Respondent: Mr D Mills, Senior Home Office Presenting Officer**

**DECISION AND REASONS**

1. The appellant is a national of Bangladesh, born on 1 May 1985. Her appeal against the decision of the respondent dated 21 January 2015 to refuse to grant her asylum and to remove her by way of directions under s.47 of the Immigration, Asylum and Nationality Act 2006, was dismissed by the First-tier Tribunal Judge in a decision promulgated on 20 August 2016.
2. The Judge noted at [9] that the National Referral Mechanism was not in the Home Office bundle. It had been concluded by the respondent that the appellant was not a victim of human trafficking.
3. The Judge stated that he was left only with the respondent's assertion that that the appellant's account of her incarceration by her traffickers is unreliable. He was, in the circumstances, "driven to agree" with counsel for the appellant and felt obliged to proceed on the basis that the appellant had established that she had been a victim of

trafficking and that the Tribunal must accept her account up to her escape from her abductors [22].

4. It was submitted by the presenting officer before the First-tier Tribunal that “the protection issue/asylum claim is independent of the trafficking issue.” Neither party sought to adjourn the appeal to enable the NRM to be produced [22].
5. The Judge stated at [24] that “... it is not being suggested that the appellant qualifies for refugee protection because, for example, of the risk of reprisals because as a formerly trafficked person, she has given evidence against her traffickers”. Neither is it being asserted that she is part of a particular social group, namely “formerly trafficked women”. He stated that she had not been trafficked by her own family [24].
6. The Convention reason relied on by the appellant was that she is a former victim of human trafficking for the purpose of domestic servitude and that she is a single woman in Bangladesh.
7. She claimed that her uncle in the UK, [Abdul A], sent money to Bangladesh for the care of her grandmother. The appellant was then looking after her. On her grandmother's death in October 2010, her uncle stopped sending money.
8. She met a Mr Ali at a wedding in Bangladesh. He was visiting from the UK. A week later, on 10 May 2011, she married him. She did not tell her parents until after the marriage. Her parents were initially angry but they allowed them to stay in the home before he returned to the UK. Her husband later came back to Bangladesh and rented a flat where he and the appellant stayed. Her siblings visited her there.
9. When she arrived in the UK, after eventually receiving her visa, her husband sent her to stay with his friend and his wife as he had to work. He told her that she would live separately from the family as they would not accept her. After leaving her there, she had no contact with him. She accordingly stayed with [Anwar A], his wife and their six children; she had her own room in the attic.
10. She was mistreated by [Anwar A] and his wife for the five or six weeks she stayed there. She was required to do extensive domestic duties including gardening. On two occasions [Anwar A] made sexual advances towards her. [Anwar A]'s wife, [Sitara B], also beat her.
11. She left after they allowed her to visit her uncle; she told him what was happening. She went to stay with her uncle in Birmingham in June. He collected her from his maternal aunt's house in Ilford. She received a call from them in July.
12. In the same month, [Anwar A] came to her uncle's house in Birmingham with six or seven other people, including his wife. They wanted to take her away but her uncle refused and they threatened to have him imprisoned for keeping the appellant in the UK and also threatened to have her brother in Bangladesh killed.
13. The appellant then suffered a panic attack; the ambulance was called. Her uncle called her husband but he denied knowing the appellant and he hung up. She then became depressed.
14. [Anwar A] later phoned the uncle, threatening him but this was not reported to the police and the uncle changed his SIM card.
15. She reported her mistreatment in the UK to the police in 2014.

16. [Anwar A] went to Bangladesh in December and visited the appellant's brother with some other men. He said they would attack the appellant if she ever returned to Bangladesh. In February 2014 her father was threatened.
17. She takes medication for depression and is undergoing tests for unknown medical issues. Her family in the UK consists of one uncle, who is a British citizen.
18. The appellant feared that her ex-husband, his brothers and his friend, [Anwar A], will kill her if she returns to Bangladesh. The police in Bangladesh cannot protect her and her family.
19. As noted, the appellant had made a spousal visa application in June 2012 which was initially refused but was later allowed. The visa was issued on 26 April 2013. She arrived in the UK on 4 May 2013 to join her husband, [Moboshir A].
20. On 26 September 2013 she made an application for leave to remain under a domestic violence concession. Limited leave was granted until 26 December 2013. She then made an application for indefinite leave to remain as a result of domestic violence which was refused on 6 March 2014. Her leave was curtailed on the same date. An appeal against that decision was subsequently withdrawn by the appellant and the appeal was listed as concluded on 19 June 2014.
21. She then made an appointment to claim asylum in the UK in May 2014 and formally sought asylum.
22. The Judge had regard to the appellant's contention at [25] that if she returned to Bangladesh, she believed that the friend of her husband would kill her because he wants her to return to his house in the UK and live with him. As she is not going to do that, she feels he will kill her in Bangladesh. This she had stated in her screening interview.
23. The Judge noted that no explanation had been offered for a delay of a year before she contacted the police. She claimed in evidence that she had contacted the police, that they had telephoned her subsequently but she had been out and had missed the call.
24. The Judge found that account to be "most unlikely". The police would take allegations of trafficking/domestic slavery "extremely seriously"- [28]. They would not deal with it in such a cursory manner. He noted that her uncle, [Abdul A], asserted in his statement that as at May 2014 he had been afraid to speak to the police but that one day he might go and report it to the police in the UK.
25. The Judge noted that he was considering this matter in the context of whether the appellant has a genuine fear of serious harm from these individuals and concluded that notwithstanding that he accepted that she had been the victim of trafficking, since her "escape" she had not taken the steps which a reasonable person would to ensure her abusers were brought to justice and more importantly, to protect herself and neither has her uncle, her present guardian. He concluded that neither she or her uncles are in fear of her husband and his accomplices [29].
26. The Judge referred to the lethargy which the appellant displayed in reporting matters to the police in the UK, which contrasted with the "alacrity" with which her brother in Bangladesh who had been threatened by the same individuals, reported

the matter within days to the apparently far less effective Bangladeshi police force. He obtained proof of doing so.

27. That report is in the Home Office bundle. The respondent did not accept that document as genuine. The Judge found that on the face of it, it is difficult to do so. "It seems to be a jumble of words." He had not been provided with the original, and given the ease with which false documents are commonly available in Bangladesh, and having regard to the lethargy displayed by the appellant in reporting matters to the UK police, he was not satisfied that he can rely on the document [31].
28. He stated that even if he were wrong about that, the appellant's case has not substantially progressed. Since the claimed report to the police, there have been no further threats. Accordingly, either the document is false which would impact on her credibility, or the document is valid and the approach to the police has stopped the harassment from the individuals in question [32].
29. He stated that the fact is that the appellant only reported the events since her arrival in the UK after she made a claim for asylum and her domestic violence application was refused [33]. That was behaviour likely to delay the resolution of the claim and fell within s.8 of the 2004 Act, damaging her general credibility [33].
30. He noted that the appellant asserts that she cannot return to her family in Bangladesh as they have rejected her following her marriage. He however found that unlikely [34]. His impression from her witness statement "is of a very close and loving family, her parents were very concerned about her marrying [Mobishir A]" and "my parents told him he had better not ruin my life. They pleaded with him".
31. He then stated: "That their daughter has been duped and then held captive in domestic slavery is hardly her fault and I do not think any reasonable person, notwithstanding any cultural differences, would think otherwise." [34]
32. He found in the alternative that in the unlikely event that that is not the case, the appellant has an extended family in Bangladesh to whom she could turn. She has a brother she is in touch with and he has presumably provided the police report. Although she stated she was estranged from him on account of her marriage, she went on to say that the only reason she did not talk to him was that communication was generally through her uncle in the UK [35].
33. The Judge was fortified in his conclusion that she is not estranged from her family by the fact that her protector in the UK has been her uncle, [Abdul A]. The appellant contended that having been in the UK for 20 years, he is culturally different and more liberal than her extended family in Bangladesh. However, the Judge noted that even though he had been here for 20 years, he cannot write his statement in English indicating a lack of "enculturation" [36].
34. He stated that 'a more significant point' is that though he has befriended the apparently estranged appellant, he has not been cut off by his brother, the appellant's father. Nor has he been cut off by the family in Bangladesh but would seem to be in constant communication with them. Accordingly, any rift between the appellant and her family has been healed or is very easily "healable." The Judge was not satisfied that the appellant has established that she cannot return to Bangladesh and have the protection of her family [36].

35. If that is not correct, he found that the appellant could avail herself of the protection of the authorities in Bangladesh. He referred to the Country Information Guidance relating to Bangladesh, dated November 2014. He could not find that there is a sustained and systematic failure of state protection on the part of the authorities in Bangladesh [37].
36. Moreover, the appellant is a single woman, “unencumbered by a child”. [38] She has previously worked as a carer and tailor. She could internally relocate and it would not be unreasonable for her to do so. It might not be easy, but the Judge could not find that she could not establish herself in a large city such as Dhaka or Chittagong. Both are large cities, far away from her abusers who apparently come from the next door local village in Bangladesh. He referred to the refusal letter where the respondent points out that she would have the practical and financial assistance of Refugee Action [38].
37. The Judge was not asked to consider the appellant's case under Article 8.
38. On 16 October 2015, Upper Tribunal Judge McWilliam granted the appellant permission to appeal on the basis that it is arguable that the Judge, given that he accepted the appellant's account of having been trafficked (simply on the basis that the respondent had failed to produce the NRM report which according to the respondent decided that she had not been trafficked) did not adequately reason why the appellant would not be at risk on return.
39. Mr Mustafa, who did not represent the appellant at the First-tier Tribunal hearing, relied on the skeleton argument produced on 4 February 2016. He submitted that the First-tier Tribunal Judge's finding at [23] and [24] regarding the appellant's Convention reason for fear of persecution, lacked clarity and at best could be termed “clouded.” The “root cause” of her claim was that she is a former victim of human trafficking for the purpose of domestic servitude and is a single woman in Bangladesh.
40. He submitted that there is nothing in the determination to show that the appellant, having been trafficked to the UK, would face a risk of trafficking again. He was obliged to look at both the past as well as the future risk which has not been considered. He submitted that the general principle is that past persecution is a serious indication of risk on return.
41. The reasoning why the appellant would not be at risk on return “lacks sufficiency” and is materially flawed. He referred to the “remarks” by the Judge regarding the issue of delay at [29] and [33]. That delay, he submitted, “does not detract anything from the merits of the appellant's claim” and the explanation given by her. He relied on a passage from paragraph 12.184 of Macdonald's Immigration Law and Practice, 9<sup>th</sup> Edition.
42. Even if it is accepted that the Judge was correct to find that the appellant's credibility had been damaged, the Judge failed to attach sufficient weight to the fact that the “centrepiece” of her story and her risk of being persecuted on return holds strong ground. He relied on Chiver (Asylum: discrimination: employment: persecution) Romania [1994] UKAIT 1075 to the effect that it is possible for an adjudicator to believe that a witness is not telling the truth about some matters still to be persuaded that the centrepiece of the story stands.

43. Further, the Judge's assertion at [31] that the respondent did not accept the police report from Bangladesh to be a genuine document is a "misstatement" of the respondent's position. The respondent in paragraph 26 of her decision merely stated that limited weight could be applied to the documents in question. That mistake called into question "the quality of the First-tier Tribunal Judge's decision."
44. He submitted that the Judge's remarks between [34] and [36] demonstrated a failure to address his mind to the "correction question" (sic) which is whether state protection is adequate as opposed to whether family protection is adequate.
45. The finding at [37] that there is no sustained or systematic failure on the part of the Bangladeshi authorities is unsafe for want of reasoning and in view of the objective evidence contained in the 2015 Trafficking in Persons Report. The report noted that the alleged complicity of some Bangladeshi government officials and police officers in human trafficking remained a problem. Corrupt politicians, police, and Border Security forces on both sides of the India-Bangladesh border reportedly recognised a token used by human traffickers to evade arrest if caught at the border.
46. Further, the report asserted that the government made limited efforts to protect victims of trafficking. There was a lack of formal mechanism for the authorities to refer victims to care. The government did not provide services specifically designed for trafficking victims. The victims could access support services for vulnerable people through nine multi-purpose shelters. NGOs provide shelter and services specifically for trafficking victims; police sometimes refer victims to these services on an ad hoc basis.
47. Finally, he submitted that the Judge's findings relating to internal relocation at [38] failed to take into account (i) the social positioning of the appellant, including factors such as religion, education, economic independence, region, cultural and traditional values, marital status – and the manner in which such factors would act as a barrier; and (ii) security and socio economic conditions in the proposed area of relocation.
48. He referred to the respondent's country information and guidance relating to Bangladeshi women dated December 2014 setting out the general position of women in Bangladeshi society. If those conditions apply to them, then internal relocation may be unduly harsh for women with no support networks and there are no real prospects of securing access to a livelihood. He referred to paragraph 14, 15 and 16 of the appellant's witness statement. There she stated that she went against her family when she married as she did not tell them beforehand. They are ashamed of her actions and she will not be accepted by them going back after a failed marriage. It is a great shame for a husband to leave a wife in Bangladesh and often the girl is blamed, even if she is not at fault.
49. Moreover, her brother has had problems due to her and therefore he will not accept her, given that he has his own family to worry about, which she would add to if she lived with him.
50. She cannot go and live anywhere on her own in Bangladesh as a lone female as it is not safe. She will be targeted for sexual exploitation and other worse fates. Women are second class citizens and often exploited and demeaned. This is 100 times worse for women without families to protect them.

51. On behalf of the respondent, Mr Mills submitted that the Judge directed himself appropriately. The findings are properly reasoned and in particular his assessment as to why the appellant would not be at risk on return.
52. He referred to [23] and [24] to which I have set out. He emphasised that she has not been trafficked by her own family.
53. The presenting officer did not have the NRM. There were however no applications for an adjournment to obtain it. The Judge noted that it was not being argued that the appellant qualified for asylum simply on the basis of her having been a victim of trafficking. Rather, "the appellant's assertion is that her having been trafficked being unchallenged that provides her asylum claim with support and consistency" (sic). The Judge at [24] stated that it was not suggested that she qualified for refugee protection because, for example, of the risk of reprisals as a formerly trafficked person when she has given evidence against her traffickers.
54. He submitted that the contention that the Judge had not properly given effect to paragraph 339K of the Immigration Rules has to be taken in context. There is a difference between the claim by a person who established that as a child she had been trafficked abroad and was made to work as a slave, who on return as an adult would still remain at risk.
55. Here the appellant had been party to a marriage which was not arranged. She met her husband and married a week later. This had occurred when she was not a young person. The factual context must be appreciated. Although initially her family were angry they had eventually come to accept the relationship. Her husband had rented a flat where they started. They had subsequently applied to be admitted to the UK as his spouse. She received that visa. She came to the UK in 2013. Her husband sent her to stay with a friend who kept her at his home and where she was subjected to working for them as well as an approach by [Anwar A] who made sexual advances towards her.
56. She finally was "given permission" to go to her uncle's house in Birmingham. She told him everything that was going on. He told her to stay with him and not to go back. After two weeks, [Anwar A], his wife and a few family members tried to force her to return with them. Her uncle refused. Her brother was then threatened in Bangladesh.
57. In this case, however, he submitted that the appellant could return to her family. In her witness statement, she notes that her parents let them "stay the night" after she informed them that she had married. There they consummated the marriage and her husband stayed his last few days with her. He went to the airport from their home. Her parents in fact told him that he had better not ruin her life. They pleaded with him as set out at paragraph 29 of her statement in support of her asylum claim, referred to by the First-tier Tribunal Judge at [34].
58. He submitted that the Judge carefully considered this at [34] noting that "their daughter" has been duped and then held captive in domestic slavery. This was not her fault. No reasonable person, notwithstanding cultural differences, would think otherwise [34]. The Judge found it was unlikely that she could not return to her family in Bangladesh.
59. Accordingly, past persecution does not add to the risk.

60. With regard to the issue of delay, the Judge's findings are contained at [26]. He noted that the full extent of contact with the police with regard to the reporting of her abductors occurred about the beginning of July 2015: the reference to July 2014 at [26] is clearly incorrect. No explanation was offered for the delay of a year in contacting them.
61. The Judge also found at [29] that she had not taken steps which a reasonable person would have, to ensure her abusers were brought to justice and to protect herself. Neither had her uncle, her present guardian, done so. Accordingly he concluded that neither she nor her uncles were in fear of her husband and his accomplices. He submitted that that was a proper finding based on the evidence.
62. With regard to the assertion that the document presented was not "genuine", there was a reference to the respondent's characterisation in the refusal letter. The Judge however gave proper reasons for finding that he could not rely on the document [31]. He accordingly properly followed the approach set out in the decision in Tanveer Ahmed. All the evidence and points needed to be looked at in the round.
63. Insofar as the ground relating to protection and return is concerned, the Judge had properly found that the appellant was not at real risk from traffickers. He also found that she would have the benefit of family support. Even if there were a fear of traffickers, her family support is relevant. The Judge considered alternatives to protection from her own family, by having regard to her extended family in Bangladesh, and in particular her brother. Nor had the appellant's father become estranged from the appellant's uncle [Abdul A], who had been in the UK for 20 years. That uncle had not been cut off by his brother, the appellant's father, nor by the family in Bangladesh. He has been in constant communication with them. Accordingly, any rift between the appellant and her family has been healed or is easily 'healable' [36].
64. The Judge then appropriately dealt with her case on the basis that those sources of protection might not be available, by referring to the prospect of protection from the authorities in Bangladesh: [37] and [38]. His findings that there is not a systematic failure of state protection on the part of the Bangladesh authorities and that the appellant would have practical and financial assistance if she were to live alone was based on the available evidence.
65. Even though internal relocation may be harsh, he submitted that the Judge has adequately considered that she could internally relocate and that it would not be unreasonable for her to do so.

### **Assessment**

66. I have set out in some detail the competing submissions relating to the assessment and findings of the Judge.
67. Permission to appeal was granted on the basis that it was arguable that given that he accepted the appellant's account of having been trafficked on the basis of the failure to produce the NRM report, which according to the respondent decided that she had not been trafficked, the Judge did not adequately reason why the appellant would not be at risk on return.
68. I have however considered all four grounds raised in the grounds of appeal.



69. I find that the Judge's findings regarding the appellant's Convention reasons for fear of persecution do not, as contended, lack clarity. The Judge considered in some detail the context in which the appellant's claim was made. He particularly emphasised that the appellant had not been trafficked by her own family in Bangladesh.
70. It was in that context that the Judge considered her contention that should she return to Bangladesh, she would be subject to serious harm. The Judge noted, as already referred to, that the appellant had delayed for a year prior before reporting her abductors to the police. In evidence, she claimed that she had contacted the police who subsequently contacted her but she was out at the time.
71. In the circumstances, he found that neither she nor her uncle are in fear from her husband and his accomplices. He referred to the lethargy the appellant displayed in reporting matters to the police in the UK.
72. As part of the assessment as a whole, he was not satisfied that he could rely on the police document relating to the alleged threat to her brother in Bangladesh. The Judge had not been provided with the original and given the ease with which such documents are commonly available and the lethargy which the appellant displayed in reporting matters to the UK police, he was satisfied that he could not rely upon it. The Judge did not view that document in isolation but had regard to the evidence in the round.
73. Similarly, his finding that her behaviour was likely to delay the resolution of her claim within s.8 of the 2004 Act, damaging her general credibility, was not considered in isolation but with regard to the evidence as a whole.
74. The Judge considered the appellant's claim that she cannot return to her family in Bangladesh as they have rejected her following her marriage. Although her father and her family in general were against her marriage initially, they accepted it and condoned it by allowing them to remain in the house for several days. The appellant's husband also rented a flat in Bangladesh for the appellant. Although her parents were concerned about that marriage, her parents told him that he had better not ruin her life and they pleaded with him.
75. As noted by the Judge, their daughter had been "duped" and held captive in domestic slavery. This was hardly her fault.
76. In those circumstances, he found it unlikely that this close and loving family would reject the appellant and would not accept her should she turn to them on return to Bangladesh.
77. The Judge however has also considered whether she would be able to turn for support to an extended family in Bangladesh should her parents reject her. He noted that the appellant has a brother with whom she has been in touch. He noted that although she said she was estranged from him on account of the marriage, the only reason she did not talk to him from the UK was that communication was generally through her uncle in the UK.
78. The Judge also reached the conclusion that she is not estranged from her family by taking into account that her "protector" in the UK, her uncle [Abdul A], was not being cut off by his brother, the appellant's father, or the family in Bangladesh. It would seem that he had been in constant communication with them. There was therefore a

proper evidential basis for the conclusion by the Judge that any rift between the appellant and her family had either been healed or could easily be healed. Accordingly, she would on return to Bangladesh have the protection of her family [36].

79. The Judge also considered whether, if he were wrong about having the protection from her family or extended family, she could avail herself of the protection of the authorities in Bangladesh. Having regard to the COIG Bangladesh, November 2014, there is not a sustained and systematic failure of state protection on the part of the authorities in Bangladesh.
80. He noted that as a single woman, she would not be encumbered by a child. She had previously worked as a carer and tailor. If she had to internally relocate, that would not be unreasonable for her. Even though it might not be easy, he did not conclude that she would be unable to establish herself in a city such as Dhaka or Chittagong. In any event, she would have the practical and financial assistance of Refugee Action.
81. In summary, the Judge properly considered paragraph 339 of the Immigration Rules and has given sustainable reasons for his findings that the appellant would not be at risk on return.

**Notice of Decision**

The decision of the First-tier Tribunal did not involve the making of any material error on a point of law. The decision shall accordingly stand.

No anonymity direction is made.

Signed

Date 24/2/2016

Deputy Upper Tribunal Judge Mailer