



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

Appeal Number: AA/09105/2015

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 5 December 2015**

**Decision & Reasons  
Promulgated  
On 6 December 2017**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**FJM  
(anonymity direction made)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Miss Khan instructed by Greater Manchester Immigration Aid Unit.

For the Respondent: Mr A McVeety Senior Home Office Presenting Officer.

**ERROR OF LAW FINDING AND REASONS**

1. This is an appeal against a decision of First-tier Tribunal Judge V A Cox promulgated on 16 May 2017 in which the Judge dismissed the appeal on asylum and human rights grounds.

## **Background**

2. The appellant is a female national of Somalia born on [ ] 1976 whose immigration history was noted by the Judge. Having considered the evidence, the Judge sets out findings of fact. The Judge accepts the appellant has two daughters one of whom is now an adult and a child born on [ ] 2008 and who was aged nine at the date of the appeal hearing.
3. The Judge noted the appellant travelled to the United Kingdom bringing her dependent child with her because she wished to be reunited with her father, sister and adult daughter. The Judge notes the appellant is a member of a minority clan and finds at [79] that this is not a case in which the appellant will be able to rely on any nuclear family in Mogadishu.
4. The Judge finds the appellant will have access to financial resources by way of remittances from relatives in the United Kingdom to help support her on return. At [83] the Judge finds the appellant can return to live in Mogadishu but that she will be a lone woman with a dependent child.
5. The Judge considered the extent to which the appellant may be at a disadvantage, in that she is a lone woman and has a dependent child, in taking advantage of the economic boom in Somalia and finds the appellant will be able to access employment and this together with financial remittances will be sufficient to prevent her and the dependent child living in conditions that fall below those identified for the standard of humanitarian protection.
6. The appellant sought permission to appeal on a number of grounds which was granted by another judge of the First-tier Tribunal on the basis it was arguable the Judge placed too much weight on the fact the appellant would have access to remittances from abroad and arguably fact failed to consider all the factors in the country guidance case of MOJ.

## **Discussion**

7. Although the appellant may have a potential means of support from relatives in the United Kingdom this, as noted in the grant of permission to appeal, is only one factor.
8. The core finding made by the Judge is that the appellant will return to Somalia as a single woman with a dependent child. In assessing any risk, the appellant may face the Judge fails to adequately examine or reason the submissions made relating to the Home Office Country Information and Guidance Somalia: Women fearing gender-based harm and violence. Version 3.0. 2 August 2016 which was provided in the appellant's appeal bundle.
9. Relevant sections of the guidance include 2.3.5 in which it is recognised that in the country guidance case of AMM and others the Upper Tribunal held that 'women travelling without male friends or relatives are in

general likely to face a real risk of sexual violence', 2.3.6 in which it was held that women who are without family/friends/clan connections or without resources are in general likely to be at risk of sexual and gender-based violence on return, or relocating, to Mogadishu, 2.3.9 in which is stated that Female Genital Mutilation (FGM) is always almost universally practised throughout Somalia as the very strong cultural belief persists in its practice, 2.4.2 in which it is stated that in general a woman fearing sexual gender-based violence is unlikely to be able to access effective protection from the state, and 2.5.2 in which it is stated that for single women and female single heads of households with no male protection, especially those originating from minority groups, internal relocation will not be available in the absence of meaningful support networks or real prospect of securing access to a livelihood.

10. The respondent's policy summary, set out at section 3 of the report, is in the following terms:

3. Policy Summary

3.1.1 Discrimination and sexual and gender-based violence, including domestic violence, rape, sexual abuse, exploitation and trafficking, is widespread throughout Somalia. Despite this, it is unlikely that a proposed return to Mogadishu at the present time will raise Refugee Convention issues.

3.1.2 However, women without family or clan support and IDP women are in general likely to be at real risk of gender-based violence or serious harm on return.

3.1.3 There are very high levels of FGM throughout Somalia and strong cultural belief in its practice although the practice of FGM is declining in Somaliland and Puntland. Unmarried women under the age of thirty-nine years who have not undergone the procedure, and who can demonstrate that they are at risk of such mistreatment and could not escape the risk by internal relocation, form a particular social group and should be granted asylum.

3.1.4 In south and central Somalia (including Mogadishu), effective state protection is, in general, unlikely to be available for women fearing sexual gender-based violence. However, each case needs to be carefully considered its facts. The situation may be otherwise in Somaliland and Puntland where an assessment of whether effective protection is available needs to be considered in relation to the particular circumstances of the person.

3.1.5 Internal relocation to Mogadishu to avoid risk from gender-based violence may be viable in some cases, in particular where the person has a support network, etc. Single women are unlikely to be able to relocate.

3.1.6 Somaliland and Puntland in general only accept back persons who were former residents of those regions and are members of local based clans or sub-clans.

11. The respondent's country information highlights the extent of the sexual and gender-based violence in Somalia and notes in particular that women living in Internally Displaced Person (IDP) camps are particularly vulnerable to rape, abduction and forced marriage, and reports

documented patterns of sexual exploitation by troops, in which sex is exchanged for food and money.

12. It is clear legal error for the Judge not to have considered or made proper reference to this source of country information which was relied upon by the appellant.
13. It has been found the appellant is a female member of a minority clan being returned to Mogadishu, a city she has never lived in and has no connection with. It has been accepted the appellant has no family in Somalia and so no family support in Mogadishu and it is accepted the appellant cannot rely upon her husband for support. There is therefore a clear finding that the appellant will be returning to Mogadishu as a lone woman with a minor dependent child who is a member of a minority clan to a city she has never lived in. There is clearly a finding that the appellant will do so without family or clan support. Even if there are some remittances available from the United Kingdom, as noted at [13] of the ground seeking permission to appeal to the Upper Tribunal, it is difficult to see how those remittances can stop a lone woman from being subjected to gender-based violence, rape, domestic violence, robbery, exploitation and economic discrimination.
14. The Judge was right to note the need for a detailed examination of all relevant circumstances in accordance with the findings of the Upper Tribunal in *MOJ [2014] UKUT 00442* but those circumstances include the risk of gender-based violence and the reality of return as a single woman.
15. I find the Judge has erred in law in a manner material to the decision to dismiss the appeal and set that decision aside.
16. In light of the real risk faced by the appellant on return as a sole female with a dependent child and no male or clan support network, as identified above in the respondent's country information and guidance report, I find there is a real risk that on return the appellant will face ill-treatment sufficient to breach her article 3 rights. The Upper Tribunal remakes the decision allowing the appeal on this basis.

### **Decision**

17. **The First-tier Tribunal Judge materially erred in law. I set aside the decision of the original First-tier Tribunal Judge. I remake the decision as follows. This appeal is allowed.**

Anonymity.

18. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Signed.....

Judge of the Upper Tribunal Hanson

Dated the 5 December 2017