Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/11263/2018

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 17 September 2019	**On 23 September 2019**

Before

UPPER TRIBUNAL JUDGE O'CALLAGHAN

Between

H W
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr. J. Fraczyk, Counsel, instructed by IMK Solicitors
For the Respondent: Mr. N. Bramble, Senior Presenting Officer

DECISION AND REASONS

Introduction

1. This is an appeal against the decision of First-tier Tribunal Judge Thomas ('the Judge'), issued on 22 July 2019, by which the appellant's appeal against a decision of the respondent to refuse to grant her international protection was dismissed.

2. Judge of the First-tier Tribunal Neville granted permission on all grounds.

Anonymity

3. I am mindful of Guidance Note 2013, No.1. concerned with anonymity orders and I observe that the starting point for consideration of anonymity orders in this Chamber of the Upper Tribunal, as in all courts and tribunals, is open justice. However, I note paragraph 13 of the Guidance Note where it is confirmed that it is the present practice of both the First-tier Tribunal and this Tribunal that an anonymity order is made in all appeals raising asylum or other international protection claims.

4. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant. This direction applies to, amongst others, the appellant and the respondent. Any failure to comply with this direction could give rise to contempt of court proceedings. I do so in order to avoid a likelihood of serious harm arising to the appellant from the contents of the protection claim becoming publicly known.

Background

5. The appellant is a national of Morocco. She asserts that whilst living in Morocco she resided with her family, a number of whom have connections to the Moroccan military and police. In 2011 she met an Albanian national, Mr. F, who lived in the United Kingdom and was holidaying in Morocco. Because her family did not permit her to socialise with men she continued to meet Mr. F. in secret when he visited Morocco. Eventually, after a passage of time Mr. F met the appellant's family and he secured the permission of the appellant's father to marry her.

6. In July 2015 the appellant entered the United Kingdom as a visitor, intending to stay her paternal uncle. The appellant's intention, in part, was to discuss her future with Mr. F. The couple progressed their relationship into a physical one. The appellant stopped communicating with her family in Morocco. Over time the appellant became more and more suspicious as to Mr. F's true intentions. He became evasive and made excuses as to future plans. He also explained that he had to resolve problems before he could marry her. The appellant became pregnant in or around November 2017 and informed Mr. F that they should marry as her family would consider it as a disgrace for her to be a mother outside wedlock. Mr. F arranged for an Iman to conduct a marriage ceremony and the Iman demanded evidence of the appellant's virginity. Without receiving such assurance, he refused to conduct the ceremony. Mr. F placed the appellant under pressure to have an abortion. He made threats to her. She was scared and so went through with the abortion. The relationship deteriorated and the appellant was subjected to physical abuse. Mr. F then informed her that he was married to a British citizen in this country, from whom he had separated, and they had a child. He also had a wife in Algeria through an Islamic marriage, and they had a child. He told the appellant to leave the house, refusing to permit her to take

her clothes and documents. He then phoned her family in Morocco and informed them that she was not a virgin. He stated that the appellant had been dating a lot of men in this country and had several boyfriends. Subsequently, the appellant received a voicemail from her father informing her that she would be killed if she returned home. She also received messages from her father and brother making similar threats.

7. The appellant claimed asylum in February 2018. The respondent refused her application for international protection by way of a decision dated 12 September 2018.

8. Meanwhile, in March 2018, the appellant met a Zimbabwean national and a relationship began which lasted 8 months. The appellant was assaulted, bringing the relationship to an end. She relies upon several police documents arising from her complaint as to physical assault.

Hearing before the FtT

9. The appeal came before the Judge at Birmingham on 13 June 2019. The appellant detailed the core of her claim in a witness statement, dated 12 December 2018.

> *'I can't return to Morocco because I am no longer a virgin and my father and brother now know this. They will surely kill me.'*
>
> *'I can't live elsewhere in Morocco because no one will accept me. I can't marry because I am not a virgin. I will have no family support. In my culture, a woman can't live alone, especially if I am single. I will be discriminated against in work, housing, education, socially, everything. I have no skills. I will be ostracized and destitute. I can't work because my father has all my documents and I need these documents to work.'*
>
> *'My father will find me. He is well known in many places in Morocco because […] He will kill me for the shame I brought to the family. I will be exploited, and everyone will try to use my lowly position. It will make everyone greedy to exploit me as I will get no respect. I will be exposed to physical abuse and mental abuse if I don't agree with their demands. I can't live like that. I'd kill myself.'*

10. Ms. T, a friend, attended the hearing and gave evidence. The appellant also relied upon a country expert opinion authored by Dr. Katja Zvan-Elliott, an associate professor in political science/ North African and Middle East Studies at Al Khawayn University, Morocco. She also provided transcripts of messages received from her father.

11. The Judge found the appellant to be an incredible witness as to her history and so found that she did not possess a well-founded fear of persecution in Morocco. She further found that the appellant was unable to satisfy the requirements of article 8 both under and outside of the Immigration Rules.

Grounds of appeal

12. The appellant relies upon grounds drafted by Ms. Rutherford, who represented her before the First-tier Tribunal. At their heart, the grounds complain that the Judge erred in law by failing to consider relevant evidence presented to the Tribunal.

13. In granting permission to appeal, JFtT Neville observed at [2] and [3]:

> '*The grounds first assert that the Judge erred in failing to have regard to, or misunderstanding, several identified evidential considerations. I turn first to those argued at paragraphs 5 and 6 of the Grounds. The appellant's claim included a relationship with a man called [Mr. F]. At [26-29] the Judge noted the appellant's claim that her father was a strict Muslim with high-level connections, and that as a result 'it is not credible' that she could have had the relationship with [Mr. F] that she claimed, nor is it 'credible' that her father would permit the appellant to travel to the UK alone or that it was 'logical or credible' that she would have come to the UK to plan a wedding that would take place in Morocco.*
>
> *Given the need for caution when relying upon plausibility as an adverse indicator of credibility, and no other factors being identified by the Judge when rejecting this part of the account, the grounds' assertion that fairness required at least some reasons why alternative explanations had been rejected is sufficiently arguable to elevate the application beyond a mere quarrel with the facts. This is in addition to the alternative argument that in the following paragraphs the Judge may have impermissibly compartmentalised her assessment of credibility, as cautioned against in Mibanga [2005] EWCA Civ 367. All grounds may be argued.'*

14. No rule 24 response was filed by the respondent.

The hearing

15. Both representatives at the hearing informed me that the parties considered the Judge's decision to be flawed by legal error such that it should be set aside.

Decision on error of law

16. Ms. Rutherford in her grounds and Mr. Fracyzk by way of his skeleton argument make several complaints as to the Judge's approach to credibility, in particular the finding made at [26] as to the ongoing nature of the appellant's relationship with Mr. F. in Morocco:

> *'The appellant lives in Rabat-Sale in Morocco with her father, brothers and sister. Her family are Muslims and strict. Her father […] and previously served in the military. Her paternal uncle works with the monarchy as an officer and her two cousins are bodyguards to the monarchy. Her family members have contact with other people in different cities. Against this background, I find it is not credible that the appellant met [Mr. F] in 2011 and continued having telephone contact*

> *and meetings with him, by leaving her job hours earlier and crossing the bridge to Rabat to meet him in public places, regularly over a period of four years, without any of her claimed influential family members finding out.'*

17. The Judge further observed as to the appellant having travelled to this country at [27] and [28]:

> *'Given the strictness of the appellant's father, I find it is not credible he would permit the appellant to travel to the UK alone, as an engaged woman, to visit her uncle and to meet with her fiancé [Mr. F].*
>
> *It is not logical or credible, (sic) the appellant would come to the UK to plan a wedding intended to take place in Morocco.'*

18. A striking aspect of these three paragraphs is that the Judge makes significant adverse credibility findings on key issues without providing any reasoning as to why such findings are made beyond the evidence presented not being logical or credible. These are not reasons. They are simply assertions.

19. The Judge then proceeds to determine at [29]:

> '*Given my findings thus far, I do not find the appellant is from a strict religious family in Morocco. The fact she was allowed to work and travel alone in Morocco, remain unmarried at the age of 30; and travel as a visitor to the UK alone, indicates she is from a more liberal family.'*

20. It is not the appellant's case as presented by way of this claim that her family are religiously extreme. Rather, upon considering her evidence in the round, she identifies them as being religiously observant and culturally conservative. She does not identify them as being stricter, either in religion or culturally, then an ordinary member of Moroccan society. It is apparent that the Judge has noted the respondent's observations at [53] and [54] of the decision letter, namely purported references in the appellant's interview that the family 'live in a conservative community' and are 'very religious' and has proceeded to find that the family are strict as to religion. However, upon inspection of the interview, the appellant simply confirmed that her family are 'religious' at Q38, not 'very religious', as asserted by the respondent in her decision letter. This error of fact as to the appellant's case adversely flows through the Judge's decision.

21. Consequent to her findings at [27] to [29], which I have identified as erroneous in law, the Judge proceeded to determine at [30]:

> *'Given my findings thus far, I do not find the appellant had a relationship with [Mr. F] in Morocco or that she was engaged with him.'*

22. Having dismissed a core element of the appellant's claim in three paragraphs, running to a total of nine lines, without adequate reasoning, the Judge proceeded to consider in greater detail as to whether the appellant had a relationship with Mr. F. in this country. However, such consideration is infected with the flawed findings previously made, because the adverse findings as to the long-term relationship in

Morocco, the travelling to this country to meet up with Mr. F and their engagement are at the heart of the appellant's claim and cannot be disengaged from the subsequent consideration of the appellant's relationship with Mr. F in this country. In such circumstances, the errors of law are material.

23. The Judge seeks to consider the claim in the alternative at [39] but then, strikingly, proceeds to fail to undertake any adequate consideration of the expert opinion before her. The opinion is referred to merely in passing, referenced as a 'report', with the simple observation as to having been 'considered'. No further reference is made to it and the Judge proceeds to find at [39]:

> *'... The appellant had employment in Morocco prior to coming to the UK, and worked, albeit unlawfully in the UK. There is no evidence she would not be able to secure future employment in Morocco. The country offers sufficiency of protection. There are shelters for those who suffer domestic violence and a number of supporting non-governmental organisations. In these circumstances, whilst I recognise the appellant may experience a level of discrimination, I do not find she is likely to be destitute or exposed to a risk of serious harm or treatment of a level to breach article 3 ECHR. Relocation in Morocco is not unreasonable or unduly harsh.'*

24. I have grave concerns as to the underlying process taken in making such findings of fact as they fail entirely to engage with expert opinion before the Tribunal, which on certain issues addressed at [39] are in stark contrast to the findings of the Judge.

25. It is trite that the consideration of an asylum claim, and a consequent appeal, should be undertaken with the 'most anxious scrutiny'. A judge is required to carefully consider any expert opinion relied upon by either party before it. In this appeal the Judge ought properly to have been alive to the fact that Dr. Zvan-Elliott was providing expert evidence on the relevant legal regime existing in Morocco and also upon country circumstances, both of which would be expected to aid a judge considering an asylum appeal concerned with Morocco.

26. I note that the Judge had before her Dr. Zvan-Elliott's CV, by which she confirmed that she presently works in Morocco as an associate professor and has supervised undergraduate and graduate theses concerned with sexuality, gender-based violence and Moroccan legal reforms. She has detailed her academic work including various publications concerned with gender-based violence in Morocco and the political rights of women in Morocco. I observe that her MPhil, undertaken at the University of Oxford, was concerned with the politics of the reform of family law in Morocco. In addition to her publications she has presented talks on gender-based violence in Morocco at several universities in the USA and also at the University of Oxford and Queen's University, Belfast. She opines that the appellant's fears are objectively well-founded and that there is a lack of protection for women who suffer from domestic violence in Morocco and also societal and employment discrimination for unmarried women who do not enjoy the support of their father.

27. The failure to adequately consider the report, or even to make a basic finding as to whether Dr. Zvan-Elliott is an expert, is a significant error of law.

28. It is well-established that the evidence of an expert witness is not to be rejected lightly: *Karanakaran v. Secretary of State for the Home Department* [2000] Imm AR 271. Dr. Zvan-Elliott's qualifications and expertise were not challenged by the respondent at the hearing. It was therefore incumbent upon the Judge to assess Dr. Zvan-Elliott's expertise and if satisfied that she was an expert as to the issue or issues before the Tribunal, to assess the nature and context of the expert evidence presented.

29. The clearest statement of the basis on which a court or tribunal should permit expert testimony in a case is found in the judgment of Chief Justice King in the South Australian case of *R v Bonython* (1984) 38 SASR 45, 46 in which he set out a test with three limbs. The first may be summarised as 'does the court need expert evidence to reach an informed conclusion?' The Judge was therefore required to consider as to whether the issue or issues upon which Dr. Zvan-Elliott was instructed to opine are ones that require expert evidence. In my view, they clearly are. The second limb may be summarised as 'is there a reliable body of specialist knowledge?' It is whether the subject matter of the opinion forms part of a body of knowledge or experience which is sufficiently organised or recognised to be accepted as a reliable body of knowledge or experience, a special acquaintance with which by the witness would render his or her opinion of assistance to the court. I find that Dr. Zvan-Elliott does enjoy such acquaintance with the position of Moroccan women who have had sex outside of marriage and the sufficiency of protection available to them from hostile family members, a clearly identifiable subject. The third limb may be summarised as 'is the particular witness an expert in that field?' I observe that the consideration undertaken by this limb is as to whether the expert witness has acquired by study or experience sufficient knowledge of the subject to render his or her opinion of value in resolving the issues before the court.

30. The approach adopted in *Bonython* was approved by the Supreme Court in *Kennedy v Cordia (Services) Ltd* [2016] UKSC 6; [2016] 1 WLR 597, at [43], where Lord Reed and Lord Hodge (on behalf of the Court) considered the evidence of skilled witnesses in civil proceedings at [38] - [61]. The approach adopted to civil proceedings appears, for the purpose of this appeal, to be consistent with the approach to be adopted in Tribunal proceedings. It was held that there are threshold questions as to the admissibility of expert evidence, [39], and at [41] it is noted that 'an expert in the social and political conditions in a foreign country who gives evidence to an immigration judge also gives skilled evidence of fact.' The Judge was therefore required to assess as to whether a witness, Dr. Zvan-Elliott, purporting to be an 'expert' providing skilled evidence of fact, actually possesses the necessary knowledge and experience, [44]. The possession of such knowledge and experience was addressed by the Supreme Court at [50]:

> *'The skilled witness must demonstrate to the court that he or she has relevant knowledge and experience to give either factual evidence, which is not based exclusively on personal observation or sensation, or opinion evidence. Where the skilled witness establishes such knowledge and experience, he or she can draw on*

the general body of knowledge and understanding of the relevant expertise: Myers v. The Queen [2015] 3 WLR 1145, para. 63.'

31. Having carefully considered her qualifications and research history I find that Dr. Zvan-Elliott satisfies the requirement that she has acquired by study or experience sufficient knowledge as to the availability of protection for women in Morocco from their families who believe they have dishonoured the family to render her opinion of value in resolving issues in this appeal. Therefore, she is an expert on the issues before the Tribunal. In such circumstances, I find that the failure by the Judge to consider such expert opinion was a material error of law and so the respondent cannot rely upon the Judge having considered the appeal in the alternative to preserve it from the material errors of law detailed above.

Re-making the decision

32. Both representatives confirmed at the hearing that if I were to find a material error of law, I could re-make the decision without requiring a further hearing. The appellant and her witness, Ms. T, gave evidence at the hearing on 13 June 2019, some three months ago and the evidence provided was recorded by the Judge. I have considered the record of proceedings. There is no new evidence post-dating the decision of the First-tier Tribunal that requires my consideration.

33. The burden of proof falls upon the appellant. It suffices that substantial grounds have to be shown that there is a real risk or a reasonable degree of likelihood of the appellant suffering persecution in Morocco for one of the reasons cited in the 1951 UN Convention on the Status of Refugees: *RT (Zimbabwe) v. Secretary of State for the Home Department* [2012] UKSC 38; [2012] 3 WLR 345, at [55]. For the purpose of humanitarian protection, the appellant must establish to the same standard that she would face a real risk of suffering serious harm.

34. In relation to the assessment of past events, I have reminded myself of the judgments of Brooke and Sedley LJJ in *Karanakaran v. Secretary of State for the Home Department* [2000] EWCA Civ 11; [2003] 3 All ER 449, particularly at 469f and 479d-f, and as to Sir John Dyson JSC's consideration of the standard of proof in *MA (Somalia) v. Secretary of State for the Home Department* [2010] UKSC 49; [2011] 2 All ER 65, at [12] - [20].

35. The appellant has set out a detailed and plausible history of meeting, falling in love with and becoming engaged to a man she met whilst he was holidaying in Morocco. The history as presented is internally consistent. Observing the cultural and religious observances of her parents, that I accept are consistent with the general, prevailing observances in Morocco, and noting that the respondent's primary challenge to this element of her history is the mistaken factual understanding as to the strictness of the family's religious beliefs, I find to the lower standard that the appellant met and then commenced a relationship with Mr. F as explained by her. I accept that whilst the relationship was initially kept secret from the appellant's family at the outset in 2011, by 2015 the appellant was confident to be able to introduce Mr. F to her family and

for her hand in marriage to be requested. As far as the appellant and her family were aware, Mr. F was a practicing Muslim who was eligible for marriage.

36. Again, being mindful of the requisite standard of proof, I accept that the appellant travelled to this country with several intentions, including meeting Mr. F and furthering their wedding plans. Whilst there is a discrepancy in her evidence as to how long she initially stayed with her uncle in this country, I note that the inconsistency is in terms of weeks and not months. I therefore find that this inconsistency does not undermine the appellant's general credibility. I further note that Mr. F resides and works in the United Kingdom and so it is plausible that the couple would wish to spend time together in this country and discuss future plans. I further accept that the relationship became physically intimate in this country and that the appellant remained here so as to reside with her fiancé. I further accept that her contact with her family diminished and then stopped over time because she did not want to explain that she was living with Mr. F outside of marriage. Whilst the appellant continued to believe that the relationship was strengthening, Mr. F's commitment began to wane over time and the relationship was deeply fractured by the appellant's pregnancy and termination, which I accept to the requisite standard as having occurred. I further accept that it was around this time that Mr. F informed the appellant that he was already married to a woman in this country and also had a wife by way of Islamic marriage in Tunisia. I find the breakdown of the relationship being accompanied by physical violence and hostility to have been credibly explained in detail by the appellant.

37. I have carefully considered as to whether Mr. F. communicated a number of unsubstantiated allegations to the appellant's family as to the appellant having been sexually promiscuous in this country leading to the making of serious threats of harm. The appellant's evidence that Mr. F, a regular visitor to Morocco, informed her family that she had been sexually promiscuous in this country, frequenting with several boyfriends, is plausible and is supported by Ms. T, whose evidence was not challenged to any extent before First-tier Tribunal. Ms. T detailed in her evidence that she was initially a friend of Mr. F, having known him for almost two decades and having grown up locally with him. She came to know the appellant through her relationship with Mr. F. Ms. T took the appellant into her home in February 2018, after she had left Mr. F's home. Ms. T observed that the appellant had signs of having been beaten and she was fearful for her safety. I further note Ms. T's evidence that she personally saw the appellant being visibly upset at having received a threatening voice messages from her father for having brought shame on the family. Ms. T continues to be a friend with the appellant and has brought her long-term friendship with Mr. F to an end as a consequent of his actions.

38. I have read the translations of text messages relied upon by the appellant, which I accept were sent by her father, referencing that she is a '*slut*', a '*whore*' and that '*you have damaged my reputation as well as your brothers. You forget that you have a 19-year old sister. Who will marry her, after what you did?*' One message bluntly states, '*you are lucky that you're not in Morocco. If we were there, I would have slaughtered you and drunk your blood. From now on, never say you have a family in Morocco until you die, or we will murder*

you, me or your brothers.' I accept from the clear tone of the messages that her father had clearly determined that she was to play no further part in the life of the extended family. The messages convey significant hostility.

39. At this juncture, I consider Dr. Zvan-Elliott's opinion and I proceed having accepted her expertise in her field. At [31], she opines:

> '*... Women are expected to behave in ways which preserve their and their family's honour (by dressing modestly and not engaging in relationships with boys – both romantic and non-romantic). Losing virginity outside the sanctity of marriage or getting married without the presence and approval of the bride's tutor [*fathers are legal tutors (*wali*), see [28]) *are probably the most dishonourable acts a woman can commit against her family's honour.'*

40. Considering the evidence in the round, I find that Mr. F did make adverse allegations to the appellant's close family as to the appellant being sexually improper in this country and that her family believed that she had breached the boundaries of social mores by losing her virginity in this country and conducting several sexual relationships. I accept that having been informed that she was sexually promiscuous, the male members of her family believed that she had brought great shame upon them and threatened her with serious violence. I further accept that the threats to kill were genuinely made. I accept that such views have not diminished in intensity over time. I therefore find that the appellant is at real risk of serious harm from members of her family, because of their belief as to her having dishonoured the family.

41. For the purpose of the 1951 Convention, I find that the appellant is a member of a particular social group, consequent to her holding a characteristic that is beyond her power to change, namely a Moroccan woman who is considered by her family to have brought dishonour upon them by sexual promiscuity outside of marriage and upon whom family members have threatened death to bring to an end such dishonour: *Shah and Islam v. Secretary of State for the Home Department* [1999] 2 A.C. 629; [1999] 2 W.L.R. 1015

42. However, that she is a member of a particular social group is not by itself sufficient to permit the appellant to succeed on this appeal. I am required to consider both sufficiency of protection and the availability of internal relocation.

43. I accept on the particular facts as arise in this matter that the appellant, who I have found to be a credible witness as to her personal history, is truthful as to her family's connections to the police and military and so there is a real likelihood that an effort by her to secure protection from the authorities will become known to her family.

44. Dr. Zvan-Elliott observes at [34] that Moroccan criminal law does not permit the police to intervene in domestic disputes unless there is an 'imminent' threat of death, '*a policy aptly described by the infamous catchphrase 'is there blood?'* She further details that prosecutors are incapable of investigating cases of assault unless a woman provides a medical certificate that proves she has been incapacitated for more than 20 days due to her injuries.

45. At [17], Dr. Zvan-Elliott identifies the relatively high prevalence of gender-based violence in Morocco and the limited written reports completed by the police when a complaint is made (25%), arrest (1.3%) or indictment (1.8%). As to the availability and sufficiency of the protection offered by the Moroccan authorities, she opines, at [25] and [27]:

> '*The secretary of state concludes in paragraph 81 that '(…) it is believed that the authorities in Morocco are able to provide [the appellant] with effective protection to the standard set out in Horvath and thus she is not in need of international protection. This is a surprising conclusion based on the evidence the secretary of state provides in paragraph 78, which clearly demonstrates the weakness and oftentimes non-existence of legal and police protection. In addition, my own peer-reviewed published research and extensive ethnographic fieldwork allows me to conclude that women's rights in Morocco may be improving on paper or surface, but that the limited legal and economic reforms have little to no impact in the lived situation of women. This conclusion is supported by the Global Gender Gap report of 2017 where Morocco ranks as 136 out of 144 countries.'*
>
> *'Osire Glacier, a Moroccan sociologist, recently published a book on femininity, masculinity, and sexuality in Morocco in which she persuasively argues how violence against women in Morocco is normalised: 'Families employ systemic violence towards their daughters' with the aim 'to break their bodies, silence wills, and stifle desires.' She furthermore asserts that 'the masculine state relegates some of its monopoly over violence to family members.' This is done through different stipulation in various legal codes, such as the aforementioned Family Code, Commercial Code, and more importantly Penal Code.'*

46. As to the substance of any potential protection Dr. Zvan-Elliott details at [40] that there are multiple NGO reports which show a deep distrust by vulnerable persons in the justice and police systems. She observes, at [35], that Law no. 103-13 on violence against women fails to provide any civil protection or temporary restraining orders or other civil remedies or establish any specific services or provide concrete support for women survivors of violence. She further opines at [38] - [39]:

> '*The secretary of state states in paragraph 77 that 'there is evidence available that the authorities are able to offer [the appellant] protection in the circumstances [she has] described.' Based on the previous section of the legal situation, I would argue vehemently against the secretary of state's conclusion at paragraph 78, that authorities in Morocco 'are willing to provide [the appellant] with protection.' In addition to what I have already stated, Human Rights Watch reports that 103-13 law on violence against women 'set out duties of police, prosecutors and investigative judges in domestic violence cases, or fund women's shelters.' However, they 'know of fewer than 10 shelters in the country that accept domestic violence survivors, and these have limited capacity' … all of these shelters are severely limited in terms of how many women they can admit, they are underfunded and understaffed as they belong to women's rights associations and hence cannot offer long-term accommodation and/or help.'*
>
> *'Women understand and are very aware of how little protection they can get from the state. It is for this reason that many endure in violent family environments. One client of the Listening Centre, after showing us her bruised body and me asking her if she will*

> *divorce her husband, replied to me somewhat surprised by my questions: 'of course no,' and ended the conversation with a Moroccan proverb: 'a covered head is better than a naked one.' In other words, the status of being a member of your family, regardless of the constant humiliation, violence and profound vulnerability, continues to be the only alternative of being stripped of not only your home but, more importantly, your dignity. Women who are on their own in Morocco continues to be stigmatized, as society blames them for dishonouring their families arguing that they failed to show respect towards their fathers and/or husbands, were not obedient and were not patient.'*

47. In the particular circumstances arising in this appeal, I find that the appellant would not secure adequate protection from the serious threat of harm posed by family members because the Moroccan authorities possess inadequate capability to protect her by means of the present legal regime, both criminal and civil, and further there is a lack of willingness on the part of the Moroccan authorities to protect her until there is an imminent risk of serious harm and when that time is reached there are inadequate resources to provide the required protection. I therefore find in relation to this appellant that she does not enjoy a sufficiency of protection in Morocco with regard to the serious threats to kill made by members of her family.

48. Having accepted the appellant to be credible as to the present hostility of male members of her close family to her, I accept that she cannot return to her family home. I further accept Dr. Zvan-Elliott's opinion, at [32] that by extension Morocco's Commercial Code, article 3, is applied by banks and employers as the basis for demands that an unmarried woman provide her father's consent when opening bank accounts, seeking employment etc.

49. She further details at [42] that as a single woman seeking to rent a property on her own, landlords will strongly suspect that the appellant is a prostitute, which will give rise to harassment from the police. She will not be able to secure the signature from her father that landlords would expect.

50. At [43] Dr. Zvan-Elliott notes that whilst new residents to an area are not required to officially register, the system is 'set-up' for officials to know of any newcomers as Morocco is a police state and operates a system of local Interior Ministry officials, called *muqaddam*, that reside in and act as the eyes of individual communities: '*[the appellant] moving to a different locality in Morocco without a male or her family accompanying her, would raise a red flag. In order for the muqaddam to get to know the background of the newcomer, he either has to know the person (visit your house, talk to your family, neighbours, employer, landlord, etc.) and/or does his research on the person's family situation. That would include notifying the muqaddam of the community where [the appellant's] own family lives and through him the extended families of [the appellant] herself. This could lead to not only her family finding out where she lives but also accruing additional anger of the family for continuing to undermine their honour.*'

51. I observe Dr. Zvan-Elliott's conclusion, at [46] - [47]:

> '*Without family protection and without skills, [the appellant's] prospects for a secure and dignified future look extremely grim. Even with limited legal protections, law*

enforcement institutions in Morocco continue to be extremely patriarchal and masculine – they are reluctant or even refuse to help women who come to report family or other types of violence. As women continue to be blamed for abuse and violence done to them by family members and intimate partners and without legal and police protections, [the appellant's] fears of being harassed or assaulted were she to return to Morocco are therefore quite plausible and justified.'

'[The appellant] could face significant harm and/or physical violence by the community and police for being a single woman without the protection of her family were she to return to Morocco. It is furthermore quite possible that she would be exploited by the informal economy sector, a sector that is not impacted by the Labour Law protections.'

52. In all of the circumstances, I find to the requisite standard that there exists no reasonable internal flight alternative available to the appellant. It follows that the asylum appeal must be allowed as must the human rights appeal on article 3 grounds.

Notice of decision

53. The Judge materially erred in law for the reasons identified. I set aside the Judge's decision promulgated on 22 July 2019 pursuant to section 12(2)(a) of the Tribunal, Courts and Enforcement Act 2007.

54. The decision in the appeal is remade. The appeal is allowed on asylum and human rights (article 3) grounds.

55. There is an order for anonymity.

56. No fee was paid and so I make no fee award.

Signed: D O'Callaghan
Upper Tribunal Judge O'Callaghan

Date: 18 September 2019