



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12936/2018

THE IMMIGRATION ACTS

Heard at Field House
On 28 February 2019

Decision & Reasons Promulgated
On 05 April 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE I A LEWIS

Between

F.E.T.
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Khan of Counsel instructed by Thompson & Co Solicitors

For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decisions of First-tier Tribunal Judge G. Jones Q.C. promulgated on 19 December 2018 dismissing the appeal against a decision of the Respondent dated 26 October 2018 refusing protection in the U.K.
2. The Appellant is a citizen of Morocco born on 15 July 1995. She entered the UK in July 2013 pursuant to a valid visit visa; after approximately 6 weeks she returned to Morocco. She re-entered the UK on 17 December 2013. On 18 January 2014 the Appellant made an appointment with the Asylum Immigration Unit, and on 20

January 2014 she attended her appointment and claimed asylum. A screening interview was conducted on the same day (Respondent's bundle Annex C), and a full asylum interview was conducted on 3 February 2014 (Annex E). The contents of the interview were supplemented by a witness statement signed on 6 February 2014 (Annex G).

3. In support of her application the Appellant also relied on supporting medical evidence from the Helen Bamber Foundation (Annexes H and I). The medical evidence opined that the Appellant exhibited physical and psychological signs of having been the victim of serious assault. Specifically, she claimed that her father had thrown acid at her, burning her upper thighs and pubic area because he had seen her talking to a boy. (In context this was not the exclusive basis of her claim for asylum, but was illustrative of her father's attitude and behaviour.) The medical evidence offered the opinion that the Appellant exhibited scars in her groin that were highly consistent with damage by a substance such as acid.
4. The Respondent refused the Appellant's application for protection for reasons set out in a 'reasons for refusal' letter ('RFRL') dated 26 October 2018. It was accepted that the Appellant had experienced physical violence from her father (RFRL at paragraph 37). It was also accepted that she had a genuine subjective fear of returning to her home area (paragraph 42). However, it was considered that the Appellant was not entitled to protection because she could reasonably be expected to avail herself of an internal relocation option (paragraphs 43-58).
5. The Appellant appealed to the IAC.
6. The appeal was dismissed for reasons set out in the Decision of Judge Jones Q.C.
7. The Appellant applied for permission to appeal to the Upper Tribunal, which was granted on 21 January 2019 by First-tier Tribunal Judge Gibb.
8. Before me, on behalf of the Respondent, Mr Avery conceded that the decision of the First-tier Tribunal contained an error of law, and did not otherwise seek to defend it. I accept that concession. After further discussion, and notwithstanding that significant aspects of the Appellant's history were not in dispute, it was common ground between the parties that the decision in the appeal should be remade after a further hearing before the First-tier Tribunal. I am grateful to both representatives for the constructive discussion it was possible to have in respect of these matters.
9. In the circumstances it is not necessary herein for me to rehearse in further detail the facts and circumstances of this case - which in any event are a matter of record and known to the parties. I make reference to them only so far as is pertinent in explaining the basis of the decision on error of law.
10. Mr Avery acknowledged that there was not as much detail in the First Tier Tribunal's decision as one might reasonably expect to see in the overall context of a case such as this. For my own part, I was particularly struck by the fact that the nature and extent of the Appellant's ill-treatment by her father was not apparent

from a reading of the decision. Mr Avery also acknowledged that the apparent absence of context undermined the Judge's effective marginalisation of the supporting medical evidence with regard to the Appellant's capacity to live an independent life in Morocco away from her father. Moreover, the Judge had seemingly failed to engage with the Appellant's assertion that her fear was not simply limited to her father, but also extended to other male extended family members. Yet further, it was accepted that there was substance in the criticisms in the grounds of challenge that the Judge's consideration of country information had been slight and unduly selective.

11. In isolation, there is some substance to the Judge's reasoning in respect of the value of the medical letter dated 23 November 2018 (paragraph 13). However, it seems to me that necessarily this does not undermine the previous medical evidence. The Judge marginalises the previous medical evidence because of its date, and because "*events have moved on*" (paragraph 13). However, the Judge refers to matters having moved on "*in what is now almost a period of five years*" in circumstances where the report is dated February 2016. The Judge also marginalises the medical evidence on the basis that the Appellant has been able to attend courses in the UK. In my judgement the ability to attend English and art classes in the UK is not in itself reliably indicative of an ability to "*compete in the local labour market*" in Morocco (paragraph 19), and is thereby not in itself reliably indicative of a level of recovery from PTSD symptoms commensurate with an ability to establish herself independently. In order to reach such a conclusion something more detailed and nuanced by way of reasoning would be required, which would in part necessitate expressly addressing and taking into account the Appellant's experiences at the hand of her father, and her reaction to having been sexually 'pawed' by a suggested fiancé - and setting such matters in the context of societal attitudes to women in Morocco. Such reasoning is absent from the decision of the First-tier Tribunal.
12. In all such circumstances I accept the substance of Mr Avery's concession.
13. Of course, the Appellant will now have an opportunity to update the evidence upon which she wishes to rely - including in respect of any treatment or therapy, or otherwise in respect of her current state of health, be that physical or mental. However, I do not propose to issue any specific Directions in the appeal. Standard Directions will suffice.

Notice of Decision

14. The decision of the First-tier Tribunal contained a material error of law and is set aside.
15. The decision in the appeal is to be remade before the First-tier Tribunal by any judge other than Judge G. Jones Q.C. with all issues at large.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed:

Date: **3 April 2019**

Deputy Upper Tribunal Judge I A Lewis