Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/10837/2019

THE IMMIGRATION ACTS

Heard by Skype at Field House	**Decision & Reasons Promulgated**
On 11 January 2021	**On 15 March 2021**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

N F
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Miss Fitzsimons, instructed by Wilson Solicitors
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Kaler, promulgated on 18 March 2020. That decision was set aside for the reasons set out in my decision promulgated on 25 September 2020.

2. The appellant is a citizen of Morocco. She is the youngest of seven children. Her father was a very strict and controlling person and was violent. Although she was allowed to study until she was 22 and then to work, he permitted the latter only because he could use the money. She had to give him half her salary as he had

ceased to work and had to be home by 7 p.m. at latest. She had an affair with a man she met in a restaurant where she had lunch and had sex with him after being pressured to do so. She became pregnant and the man then vanished. Acting on advice of her niece in whom she had confided, she went to a herbalist and who gave her a remedy which led to the termination of the pregnancy.

3. In 2018 she agreed, against her will, to marry her father's cousin; but, worried that it would be discovered she was not a virgin, she considered she would be subject to honour violence. She became depressed and was put on antidepressants. She was, however, able to obtain a visa to visit her brother in Scotland. Although in the past her mother had gone with her, she was not given a visa on this occasion, but the appellant was. Her father agreed to let her travel.

4. The appellant told her brother about the pregnancy and abortion but, instead of being sympathetic, told her he could no longer stay with her. The appellant's brother telephoned the father and told him everything.

5. The Secretary of State did not accept the appellant's case, considering that she was not credible. Further, she considered that even if the appellant's case were true, there was sufficiency of protection for her in Morocco and/or that she would be able to relocate within the country.

6. The judge accepted [31] that the appellant's father was strict and controlling; that she had had an affair and an abortion; that the appellant's father and other members of the family knew about that; that there would be a risk of violence to her from her family should she return to Morocco [34] given that the appellant's actions meant that there would be no marriage with his cousin and that she had dishonoured him.

7. The judge also accepted that the background evidence was supportive of the appellant's assertion that the authorities would not readily intervene to protect her from her father and male relatives, but found that the appellant was educated, has skills and she could use those to get herself a job; and, that she could reasonably be expected to relocate to another part of Morocco where she would be safe from any honour crime. Having had regard to the report of Dr Thorne, a consultant clinical psychologist, [41] the judge was not satisfied that there was a risk of suicidal ideation noting that this would increase but only if "she believed her family would discover her whereabouts, there was thus no reason to suppose that they would be able to do so". The judge considered that whilst the appellant might fear what her family may do to her, the risk of this happening in an area miles away from her home in a large city was negligible [42]. He found there was no reason for the supposition for the appellant having reported her to the authorities as missing and thus no reason why anyone should contact them should she apply for employment or housing. He concluded that she was able to manage for over a year in the past by taking antidepressants, and could be expected to live in another town far from her home area and could access medical treatment for her depression as she had done in the past. [43].

8. The appellant was granted permission to appeal. On 27 July 2020 I issued directions which, so far as is material, provided:

> 1. I have reviewed the file in this case. In the light of the present need to take precautions against the spread of Covid-19, and the overriding objective expressed in the Procedure Rules[1], I have reached the provisional view that it would in this case be appropriate to determine the following questions without a hearing:
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> (a) whether the making of the First-tier Tribunal's decision involved the making of an error of law, and, if so
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> (b) whether that decision should be set aside.
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> 2. It is my preliminary view that the judge did err materially in failing to take into account the report of Dr Panjwani when assessing (a) sufficiency of protection and (b) internal flight and also adopted an incorrect test. It is also my preliminary view that the judge erred in his approach to the psychological evidence in not taking it into account in assessing the ability of the appellant to access protection and/or relocate to an area where she would be safe.
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> 3. In consequence, it is my preliminary view that the decision of the First-tier Tribunal involved the making of an error of law and should be set aside to be remade in the Upper Tribunal, the findings of fact as to what had happened to the appellant in the past, her credibility and as to the threat from her father to be preserved.

9. I then gave a timetable within which responses were to be made. The appellant replied, agreeing to the proposed course of action. There was no response by the respondent and on 23 September 2020, I set aside the decision of the First-tier Tribunal, stating that:

> The appellant has agreed to the proposed action. There has been no timely response by the respondent. Accordingly, I am satisfied that neither party objects to the matter being determined without a hearing and has nothing further to say. I am satisfied that that the determination of the First-tier Tribunal did involve the making of an error of law for the reasons set out above, and must therefore be set aside. In the circumstances, and in line with the directions set out I above, I set aside the decision of the First-tier Tribunal and direct that it be remade in the Upper Tribunal on the issues of whether there would be a sufficiency of protection for the appellant and/or whether it would be reasonable to expect her to relocate within Morocco.

10. As noted in my decision, most of the findings of fact were preserved. There was no application for me to hear further evidence from the appellant and the remaking of the appeal proceeded on the basis of submissions only.

11. Miss Fitzsimons submitted, relying on the expert report of Dr Panjwani that there was a risk to the appellant outside the home area, the expert report at paragraphs 11.5 to 11.6 addressing this issue. She drew my attention to the need for the

[1] The overriding objective is to enable the Upper Tribunal to deal with cases fairly and justly: rule 2(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008; see also rule 2(2) to (4).

appellant to provide identification evidence were she to rent a property and the appellant's belief, as set out in her witness statement, paragraphs [49 to 50] and she believed that they would have reported her.

12. Miss Fitzsimons submitted that given the diagnosis by Dr Thorne for a major depressive order and chronic anxiety, that although there was no current intent to commit suicide, there was a risk that the risk would increase and that the appellant would be vulnerable. She submitted this was consistent with the positive credibility findings as to how she had suffered in the past and that her mental health was relevant to the question as to how she would be able to relocate.

13. I observed at this point that the report did not address the ability of the appellant to function, that is as to how her current state of mental ill health would affect her abilities to for example get a job or accommodation.

14. Miss Fitzsimons submitted that the appellant would face difficulties as a single woman in Morocco, relying on the report of Dr Panjwani, submitting that whilst in theory there was equality that did not occur in practice, that there were significant difficulties with mental healthcare given the stigma attached and that the appellant would face discrimination in the labour market.

15. Miss Fitzsimons also drew my attention to the representations made by the appellant's solicitors corroborating what she said about the difficulties of obtaining housing and employment.

16. Mr Melvin relied on the refusal letter submitting that there was in this case a sufficiency of protection for the appellant, drawing attention to the laws passed as recently as 2018, indicating that protection was available as indeed was legal representation.

17. Mr Melvin submitted further that there was insufficient evidence to show that the appellant would not be able to get accommodation or employment and given she had worked in the past, had been educated and thus there was no basis in which she could not relocate, getting accommodation and provide for herself. He submitted also she would have the voluntary return assistance which could be taken into account.

18. Turning to the applicant's mental ill health, Mr Melvin submitted that there was insufficient evidence to show that she faced stigma on that basis, the material being relied on by the expert at 11.4 related to schizophrenia in India. He submitted there was nothing helpful regarding the situation in Morocco and that the medical report should be viewed with a degree of caution given it had not been prepared by a psychiatrist but by a clinical psychologist and that there was no indication that the recommendations made in that report had been acted upon. There was no indication that she had been referred to obtain the treatment necessary.

19. Mr Melvin submitted that there was in this case a sufficiency of protection and that it was reasonable to expect the appellant to relocate. He submitted that there was little

evidence to support any current suicidal ideation and certainly insufficient to meet the high threshold in respect of an Article 3 claim.

20. In response Miss Fitzsimons submitted that weight could be attached to the psychiatric report and that it was reliable. She accepted it did not deal with any difficulties that there might be in the appellant reintegrating into Morocco on return but that it was sufficiently clear that she would have difficulties in coping. She submitted it was unlikely that the authorities would give the appellant help.

The Law

21. It is for the appellant to prove, on the lower standard, that she is at risk on return to Morocco of serious harm such as would constitute persecution, entitle her to humanitarian protection or engage article 3 of the Human Rights Convention.

22. The appellant's fear in this case is of non-state agents. As was noted in AW (Sufficiency of Protection) Pakistan [2011] UKUT 31, in Bagdanavicius the House of Lords at [2005] UKHL 38 left undisturbed the proposition set out by Auld LJ on real risk and sufficiency of protection in the Court of Appeal [2005] EWCA Civ 1605. These propositions are in the following terms:

> "54. Summary of conclusions on real risk/sufficiency of state protection.
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> *The common threshold of risk*
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> 1) The threshold of risk is the same in both categories of claim; the main reason for introducing section 65 to the 1999 Act was not to provide an alternative, lower threshold of risk and/or a higher level of protection against such risk through the medium of human rights claims, but to widen the reach of protection regardless of the motive giving rise to the persecution.
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> *Asylum claims*
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> 2) An asylum seeker who claims to be in fear of persecution is entitled to asylum if he can show a well-founded fear of persecution for a Refugee Convention reason and that there would be insufficiency of state protection to meet it; Horvath [2001] 1 AC 489].
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> 3) Fear of persecution is well-founded if there is a 'reasonable degree of likelihood' that it will materialise; R v SSHD ex p. Sivakumaran [1988] AC 956, per Lord Goff at 1000F-G.
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> 4) Sufficiency of state protection, whether from state agents or non-state actors, means a willingness and ability on the part of the receiving state to provide through its legal system a reasonable level of protection from ill-treatment of which the claimant for asylum has a well-founded fear; Osman v UK [1999] 1 FLR 193], Horvath, Dhima [2002] EWHC 80 (Admin), [2002] Immigration Judge AR 394].
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> 5) The effectiveness of the system provided is to be judged normally by its systemic ability to deter and/or to prevent the form of persecution of which there is a risk, not

just punishment of it after the event; Horvath; Banomova [2001] EWCA Civ.807. McPherson [2001] EWCA Civ 1955 and Kinuthia [2001] EWCA Civ 2100.

6) Notwithstanding systemic sufficiency of state protection in the receiving state a claimant may still have a well-founded fear of persecution if he can show that its authorities know or ought to know of circumstances particular to his case giving rise to his fear, but are unlikely to provide the additional protection his particular circumstances reasonably require; Osman.

Article 3 claims

7) The same principles apply to claims in removal cases of risk of exposure to Article 3 ill-treatment in the receiving state, and are, in general, unaffected by the approach of the Strasbourg Court in Soering; which, on its facts, was, not only a state-agency case at the highest institutional level, but also an unusual and exceptional case on its facts; Dhima, Krepel [2002] EWCA Civ 1265 and Ullah [2004] UKHL 26.

8) The basis of an article 3 entitlement in a removal case is that the claimant, if sent to the country in question, would be at risk there of Article 3 ill-treatment.

9) In most, if not all, Article 3 cases in this context the concept of risk has the same or closely similar meaning to that in the Refugee Convention of a 'well-founded fear of persecution', save that it is confined to a risk of Article 3 forms of ill-treatment and is not restricted to conduct with any particular motivation or by reference to the conduct of the claimant; Dhima, Krepel, Chahal v UK [1996] 23 EHRR 413.

10) The threshold of risk required to engage Article 3 depends on the circumstances of each case, including the magnitude of the risk, the nature and severity of the ill-treatment risked and whether the risk emanates from a state agency or non-state actor; Horvath.

11) In most, but not necessarily all, cases of ill-treatment which, but for state protection, would engage Article 3, a risk of such ill-treatment will be more readily established in state-agency cases than in non-state actor cases – there is a spectrum of circumstances giving rise to such risk spanning the two categories, ranging from breach of a duty by the state of a negative duty not to inflict Article 3 ill-treatment to a breach of a duty to take positive protective action against such ill-treatment by non-state actors; Svazas.

12) An assessment to the threshold of risk appropriate in the circumstances to engage Article 3 necessarily involves an assessment of the sufficiency of state protection to meet the threat of which there is such a risk – one cannot be considered without the other whether or not the exercise is regarded as 'holistic' or to be conducted in two stages; Dhima, Krepel, Svazas [2002] EWCA Civ 74.

13) Sufficiency of state protection is not a guarantee of protection from Article 3 ill-treatment any more than it is a guarantee of protection from an otherwise well-founded fear of persecution in asylum cases – nor, if and to the extent that there is any difference, is it eradication or removal of risk of exposure to Article 3 ill-treatment'; Dhima, McPherson; Krepel.

> 14) Where the risk falls to be judged by the sufficiency of state protection, that sufficiency is judged, not according to whether it would eradicate the real risk of the relevant harm, but according to whether it is a reasonable provision in the circumstances; Osman.
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> 15) Notwithstanding such systemic sufficiency of state protection in the receiving state, a claimant may still be able to establish an Article 3 claim if he can show that the authorities there know or ought to know of particular circumstances likely to expose him to risk of Article 3 ill-treatment; Osman.
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> 16) The approach is the same whether the receiving country is or is not a party to the ECHR, but, in determining whether it would be contrary to Article 3 to remove a person to that country, our courts should decide the factual issue as to risk as if ECHR standards apply there – and the same applies to the certification process under section 115(1) and/or (2) of the 2002 Act".

23. While it will always be relevant to ask whether or not there is in general a sufficiency of protection in a country, the critical question will nevertheless remain in an asylum case as set out in the sixth proposition by Auld LJ and in an Article 3 case as set out in the fifteenth proposition. Thus I must look, notwithstanding a general sufficiency of protection in a country, to the individual circumstances of the appellant and ask the above questions.

24. The questions to be answered are:

    (a) Does the risk to the appellant which is accepted exists in her home area extend across the whole of Morocco?

    (b) If so, would there be a sufficiency of protection for her?

    (c) If not, would it be unduly harsh to expect her to relocate to an area where she would not be at risk?

    (d) Does any serious harm she faces have a nexus with Refugee Convention reason?

Does the risk to the appellant extend across Morocco?

25. Two questions fall to be answered: would the family be motivated to find her; and, what means to do so would be available?

26. Given what has happened to the appellant in the past, her fear of violence at the hands of her family is understandable. While I note the FtT held that, in the context of the medical report, her fear was not rational, that is to miss the point; the fear is real to her and contributes to her depression and other mental ill-health as is clear from the report of Dr Thorne on whose expertise I find it is safe to rely. For her the fear is very real, even if that fear is not objectively justified. It is evident also from Dr Thorne's report at [38] that she has been left vulnerable to depression which is complicated by what she believes to be a real threat to her safety in Morocco.

27. Whether the appellant's family would seek her out or whether they would be alerted to her return is not easy to discern. The family are aware that she is in the United Kingdom. The appellant says in her witness statement at [50] that "I am convinced my family will have registered me as 'missing' with the police and I believe that once my details are registered, the police in whichever city I am in will inform the police in my home town," she does not explain why she is convinced of that but it is consistent with the evidence from the cousin.

28. In her witness statement, the appellant's cousin does state that whenever the appellant's name comes up in conversation there remains a huge amount of anger about what she did, and that she considers it dangerous for her to even be in contact with her [4]. She also says at [9] that the appellant is still a topic of conversation amongst the family. She says:

> Whenever she comes up in conversation the men talk about the same thing, they talk about how she disobeyed and brought shame on the family and how they will find and kill her. I think they know they cannot do anything to [the appellant] in the United Kingdom but if she is returned to Morocco I am convinced she will be found by them.
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> There is no way she would be able to live by herself without them finding out. It is totally abnormal for a young woman to live by herself and questions will materialise about who [the appellant is], where she has come from, why she is alone. She will have to register with the local authorities and sooner or later my family will be able to track her down.

29. I consider that weight can be attached to this as evidence of the strength of feeling in the family and the extent to which they wish to seek revenge. It is also evidence of a continuing desire to do her harm; it is repeated activity. Equally, it is consistent with the account the appellant gave to Dr Thorne [41] of being beaten frequently, and not just by her father. Accordingly, and given the preserved findings of fact and credibility, I am satisfied that the appellant's family do still have the motivation to find her and to harm her.

30. Would they then have the means to do so? The evidence from the cousin is limited; it does not explain how she could be tracked down, nor why questions about her would come back to the family. But, equally, contacting the police or reporting her missing would be a means to trying to find the appellant. The family know she is in the United Kingdom. It would be consistent with past behaviour to take steps to find her.

31. I accept that in a country with a compulsory registration system and where registering residence is the norm, that it may be easier for someone to be traced by family, if they choose to do so.

32. It is implicit in the expert report, and back by external sources, that there is an ID card system in Morocco but there is no detail of it. I do not for example know how difficult it is to obtain a replacement, whether the appellant had one, whether she has lost it or whether she would be able to obtain a new one easily using her passport.

33. That is not to say that the family would not be able to trace here through a registration system, but there is simply not enough evidence as to how the system operates. Given the evidence of widespread corruption in the police in Morocco (see US State Department Report at section 4), it is likely that the family would be able to find out what information on her is retained.

34. I accept that women are treated as second class citizens in Morocco for many purposes. It is sufficiently clear from the expert evidence that despite the apparent equality granted by the constitution and the recent law from 2018 regarding domestic violence, there is less evidence that this is in fact the case in practice. As is noted in the US State Department Report, at section 6, the police were slow to act in domestic violence cases, that the government generally did not enforce the law, the police generally treating domestic violence as a social rather than a criminal matter. Further, the courts appear rarely to prosecute low level domestic violence. In that context, although new, better laws have been enacted, there is little or no evidence that they will be enforced.

35. Taking all of these factors into account, and applying the factors set out at [22] above, I am satisfied that there would not be a sufficiency of protection for this appellant, given her particular circumstances. It needs to be considered that the appellant could not conceal from the authorities why her family wished to do her harm; it is hard to conceive of any police force not asking the appellant what had caused the problem with the family. Given the evident attitudes to extra-marital affairs, pregnancy and abortion (which is prohibited), there is even less chance of her receiving assistance.

36. Viewing the evidence as a whole, and bearing in mind its consistency, I conclude that the family are motivated to find the appellant. I conclude also, giving the appellant the benefit of the doubt given that the rest of her account is credible, that they will take steps to find her. Given the severity of the risk to her, and the continuing adverse interest, I am satisfied that she is at risk of ill-treatment from them of sufficient severity to constitute persecution and/or a breach of article 3 of the Human Rights Convention.; and, that there would not be a sufficiency of protection for her.

37. Further, and in any event, for the reasons set out below, I consider that it would be unduly harsh to expect her to relocate.

Internal Relocation

38. I accept that in some countries, as COI and Country Guidance on this issue in Pakistan shows, it is very difficult for a woman on her own to obtain a job or accommodation without the support of a male member of the family. There are, I accept, countries where a landlord would simply just not rent a flat to a single woman or where a single woman living on her own might be assumed to have loose morals and/or to be a sex worker, leading to significant problems. But there is little material before me as to whether such issues arise in Morocco. Dr Panjwani's report is lacking in sufficient evidence of any obstacles that a single woman would face and goes little beyond a commentary on readily available sources. There is, for example

no reference to any materials produced by women's associations in Morocco or even if they exist.

39. In assessing further Dr Panjwani's expertise I note he cited a number of book reviews and articles primarily on Islamic teaching and ethics and as regards Islamic law, but nothing specific regarding the position of women in Morocco or on Morocco.

40. Looking at the Dr Panjwani's report in detail it does appear that women are in difficulties in participating in the workforce but the conclusion at [5.9] that because female participation in the labour force is only 23% that she would face difficulties in getting a job is not sufficiently justified. Many of those women are housewives as the report notes in the passage cited at page 19 which also notes that 17.9% of single women are unemployed. What the report does not do is explain properly why the appellant, who has seven years' experience in an office job would not be able to get employment again. No proper evidence is given for the basis that "even if she were able to do so unequal pay and lack of quality jobs would make her economic survival arduous as a single woman who cannot now depend on her family for support", given that there is no indication of what level of income she could deprive, what she had got before and of course that half of her income went to her father which would no longer be the case now. There is no analysis of what the cost of accommodation would be or if it would be available; or, even, whether as a single woman without family support, she simply could not get accommodation.

41. With regard to the possibility of honour killing and how that may be perceived, the report is not properly sourced. At paragraph [7.5] Dr Panjwani relies on the report on Kurdistan in making comments on honour killings. In stating that "reports below suggest that honour killings do occur in Morocco and specifically, the perpetrator of the crime (whether the head of the family, sons or relatives) could face a reduced sentence and possibly exonerated under Moroccan law. Yet the only example stated in detail at [7.8] occurred in Palestine. No specific detail is cited from the delegation of the European Union to Morocco's report.

42. That said, the section on protection by the authorities by the police and the legal system in Morocco is properly referenced by reference to the US State Department and a report on Amnesty International but beyond that adds little. In addition to the reasons set out above, I accept also that there would be difficulty in the appellant persuading the police to take her case seriously. Further, it would be difficult for her not to disclose the circumstances which gave rise to the threats. Were she to admit that she had had sex outside marriage and had had an abortion, it is likely that the police would take considerably less interest in her if not display outright hostility. That is due to the prejudice that would follow from that.

43. With regard to the availability of mental healthcare, Dr Panjwani fails to take into account properly that the appellant was able to get help for her depression in Morocco. She was prescribed antidepressants. There is no indication that she would require hospitalisation and so the references at [10.2] to the availability of psychiatric hospitals is of little relevance. In the context of previous treatment it is unclear why

the report refers [10.4] to the trend in Morocco in society to take people with mental health conditions to traditional healers, herbalists and so on, rather than mental health practitioners. Similarly, the difficulties facing those with schizophrenia are not relevant.

44. With regards internal relocation, although Dr Panjwani refers at [11.1] to "the plethora of issues facing single women in Morocco. [The appellant's] fear of internally relocating within Morocco is plausible because it is likely she will be discriminated against in the labour force, education, political representation, obtaining housing and most importantly, in being able to be located by her family (who intend to carry out the honour killing) because Moroccan police are understaffed and unequipped.

45. Whilst the report cites statistics on average unemployment and the difficulties facing women, particularly those who are illiterate, that does not apply to this appellant. Quite why her lack of political representation is an issue regarding her internal relocation I do not know. There is in reality little or no information regarding the difficulties that a woman might face in renting accommodation although I accept that if she is suffering from a mental illness that may inhibit her ability to function normally. Again, there are references to the consequences of suffering from a mental illness but this is reference to serious mental illnesses, such as schizophrenia. It is not at all clear why that would be applied to the appellant who suffered from depression and suffered from depression in the past in Morocco and was able to function and hold down a job.

46. The only issues regarding ID cards are mentioned at paragraph 11.6. The reference that failed asylum seekers are likely to be given a residence permit. Paragraph 11.6 is speculative and this comes from the position of no apparent knowledge of the system. There is no proper basis for the assertion that it was possible that a woman in the appellant's position could be identified through her family background and the sentence "giving out an ID card to her landlord will necessitate some kind of formal registration that the police could track if her family has indeed deemed her to be a missing person" is speculative. The passage cited at the end of the paragraph relates to the position of refugees in a host country, not returning residents and again is of limited relevance to the facts of this case. The passage cited referring to the refusal of residence permits is in the context of this material refusal of a residence permit in the Netherlands, not a residence permit in Morocco. That would make no sense as a citizen would not need a residence permit but a Moroccan citizen would need one in the Netherlands and is not likely to get it because it is considered a safe country.

47. There is also little before me regarding the identity card system in Morocco. While I accept that there is one, there is simply insufficient evidence before me as to how a new card could be obtained or what difficulties there would be for this appellant given that she arrived in the United Kingdom with a valid passport. There is no evidence that she would not get one because she claimed asylum as the passage cited is not evidence for that.

48. I accept that the appellant could not go to live in her home area given the risk of violence and given the lack of protection for her. I accept that her family maintain an adverse interest in her and that she could not therefore get support from them; indeed, for the reasons set out above, she is at risk from them.

49. In assessing, in the alternative, whether it is reasonable for the appellant to relocate within Morocco, I bear in mind that she does suffer from mental ill health. I have no doubt either that she truly believes that she is at risk from her family and that this is likely to cause greater mental health problems as noted in a psychological report. It is not surprising that returning to somewhere where she faces fear would almost certainly exacerbate the appellant's anxiety and depression. I accept that she will be returning with a voluntary grant from the Home Office and this will go some way to allowing her to obtain accommodation at least initially on return to Morocco. I accept that she may be able to get some treatment for her mental ill health as she did in the past.

50. That said, I bear in mind that she has chronic anxiety about what would happen to her in the future. I note Dr Thorne's conclusion [70], which I accept, that the appellant's mental health is likely seriously to deteriorate on return to Morocco and at [73] that here depression is likely to deepen with her being anxious to protect herself.

51. Taking into account her well expressed and accepted fears of violence at the hand of her family, while she might if she no longer had any mental ill health problems, be able to rationalise her fear and to live with it, I conclude that at present should not be able to do so. I have no doubt that she genuinely believes that her family may be after her and that is understandable in the circumstances. She also genuinely fears, , having to hand over her identity card to obtain employment or get a job. I consider it a reasonable inference of a country in which there is clearly an identity card system that she would be expected to prove her identity somehow to a landlord or to an employer.

52. Given the probable severity of the appellant's anxiety and depression, as well as her genuinely held fear of discovery, I conclude that it would be very difficult for her to obtain housing or a job, or carry on a normal life as a result of the fear she has, to such an extent that it would be unduly harsh to expect her to live under conditions of such fear.

53. Taking these factors into account, I find that on the particular facts of this case it would given the effect on the appellant's mental health and ability to cope elsewhere in Morocco be unduly harsh to expect her to relocate.

54. Accordingly, for these reasons, I conclude that the appellant has a well-founded fear of ill-treatment in Morocco of sufficient severity to amount to persecution and/or a breach of Article 3.

55. I consider also that there is a connection in the lack of protection on account of her gender. There is sufficient material before me to show that there is a lack of

protection afforded to women by the authorities in Morocco on account of gender. More particularly, in this case, it is women who have transcended the accepted mores of society. In her case she has had an affair outside of marriage and she has also had an abortion. Both of these are immutable characteristics and accordingly, I am satisfied that she is a member of a particular social group.

56. Accordingly, I conclude that the decision of the First-tier Tribunal involved the making of an error of law and I set it aside. I remake the appeal by allowing the appeal on asylum and human rights grounds.

57. I formally dismiss the appeal on humanitarian protection grounds solely on the basis that the appellant's fear of ill-treatment has a connection with a Convention reason. If it were not so, then I would have been satisfied she was entitled to humanitarian protection but the two statuses are mutually incompatible.

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 him or any member of their 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 5 March 2021

Jeremy K H Rintoul
Upper Tribunal Judge Rintoul