



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: AA/10218/2010
AA/10219/2010

THE IMMIGRATION ACTS

Heard at Birmingham
On 29th July 2013

Determination Promulgated
On 10th September 2013
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Before

UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

C P (FIRST APPELLANT)
A R O M P (SECOND APPELLANT)
(ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr A Pipe, Counsel instructed by J M Wilson Solicitors
For the Respondent: Mr N Smart, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction and Background

1. As the second Appellant is a minor and these appeals are concerned with family and private life, it is appropriate that the Appellants are granted anonymity throughout

these proceedings unless and until directed otherwise. No report of these proceedings shall directly or indirectly identify the Appellants or any members of their family. Failure to comply with this direction could lead to a contempt of court. This direction is made pursuant to rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008.

2. The Appellants appeal against a determination of Judge of the First-tier Tribunal Somal promulgated following a hearing on 9th November 2010.
3. The Appellants born 2nd June 1975 and 8th February 2010 respectively are citizens of Nigeria. The first Appellant is the mother of the second Appellant.
4. The first Appellant claimed asylum on 6th January 2010 which application was refused on 1st July 2010. On 7th July 2010 a decision was made to remove the Appellants from the United Kingdom, and an appeal was lodged with the First-tier Tribunal, contending that the Appellants were entitled to asylum, or in the alternative humanitarian protection, and that to remove them from the United Kingdom would breach Articles 2, 3 and 8 of the 1950 European Convention on Human Rights (the 1950 Convention).
5. The appeals were heard by Judge Somal (the judge) on 9th November 2010. The appeals were dismissed on all grounds.
6. The Appellants applied for permission to appeal to the Upper Tribunal contending that the judge erred in her consideration of Article 8 of the 1950 Convention.
7. Permission to appeal was granted by Upper Tribunal Judge Storey in the following terms;

“I do not consider that there was any error in para 43 when the IJ sought to assess the strength of the Appellants’ private life ties by reference by analogy to case law on family life ties between adult relatives. It is sufficiently clear that what the IJ meant to convey was that the Appellants’ private life relationships with others in the UK were not particularly strong. Nevertheless, I consider that it is arguable that the IJ failed to attach sufficient weight, when conducting the Article 8 balancing exercise, to the fact that the Appellant, as someone who had been trafficked, could not be regarded as a person who had engineered her own illegal entry. I do not see that since on return she and her daughter would return together that either LD or now the SC ZH particularly helps the Appellants in this case, but that is best left for further submissions.

In view of the fact that the IJ placed reliance on the country guidance case of **PO (Nigeria)** which in certain particulars has now been found by the Court of Appeal to be wrong in law, I have also considered whether there is any legal error in the IJ’s treatment of the asylum related grounds. However, I can discern none and I note that no such grounds have been raised in the context of the applications for permission to appeal to the Upper Tribunal.”

8. The appeals were considered by Upper Tribunal Judge Perkins on 1st August 2012 who in finding an error of law and setting aside the decision of the First-tier Tribunal recorded, inter alia;

- “13. I cannot agree that there is any proper basis to criticise the finding that the Appellant would no longer risk serious harm at the hands of her former traffickers. I accept that references to gangs are emotive and imprecise. It is not clear that this Appellant was trafficked by a gang who required her to achieve a certain target of earning. However, the evidence that was accepted by the First-tier Tribunal is that, having arrived in the United Kingdom, effectively treated as a prisoner, she was abandoned when she became pregnant. There is no evidence to support a finding that this is the kind of case where the Appellant would be of continuing interest in the event of her return. Rather than being anxious to make more money from the Appellant by their shameful acts, the clear inference is that the Appellant had been abandoned by those who brought her to the United Kingdom and left to look after herself. There is nothing that would support a finding that she would be at risk from the gang in the event of her return.
14. Mr Smart submits that that ends the case. The Appellant is not a refugee so it does not matter that the shelters may not be available in the way found by the First-tier judge.
15. I do not agree with that. It was an essential part of the Tribunal’s reasoning, which had regard for the welfare of the Appellant’s child, that proper care and protection would be available for the Appellant in Nigeria. That may not be right because it was a finding based in part on country guidance that has been criticised.
16. It is for this reason and this reason only that I find that the decision to dismiss the appeal on human rights grounds to be unsatisfactory.”

9. Directions were subsequently issued to both parties that written submissions should be submitted by the Appellants explaining why removal of the Appellants would breach their rights under Article 8, and submissions should be submitted by the Respondent explaining why, if such be the case, it was contended that removing the Appellants would not breach their Article 8 rights.

Re-making the Decision

Documents

10. We have taken into account the following documents;
- (i) Respondent’s bundle with Annexes A-D.
 - (ii) Appellants’ bundle comprising 40 pages.
 - (iii) Appellants’ supplementary bundle comprising 62 pages.
 - (iv) Appellants’ skeleton argument dated 8th November 2010.
 - (v) Appellants’ written submissions dated 18th October 2012.
 - (vi) Respondent’s written submissions received 13th November 2012.
 - (vii) Extract of COI Report on trafficking in Nigeria dated 6th January 2012.

(viii) COI response regarding shelters for trafficked women and children dated 21st September 2012.

(ix) Extract from COI Report on trafficking in Nigeria dated 14th June 2013.

The Appellants' Case

11. The first Appellant's case is that her parents died when she was very young. She thereafter lived with her brother in Nigeria until he died in 2003. She then moved to live with a woman to whom she referred as "mummy" and worked for her by selling water for approximately two years.
12. In 2004 she was introduced by "mummy" to two men who she referred to as "uncles" who she was told would take her abroad to find work. She received 2,500 naira from "mummy" which she gave to the men who provided her with a passport.
13. She travelled to the United Kingdom with the two men on 21st December 2005 and on arrival she was taken by them to a house where she was kept and told that she must have sex with male visitors. She was beaten and threatened and therefore complied. She remained at the address for three years until in September 2008 she was taken shopping, and abandoned.
14. She attended a church and met a Nigerian national living in the United Kingdom and entered into a relationship with him. She became pregnant in May 2009 and her partner wanted her to abort the child as he then disclosed that he had a wife and children in Nigeria. She ran away and has had no further contact with him. She found employment as a cleaner and rented a flat. In December 2009 the landlord of the property pushed her down the stairs. In January 2010 the landlord assaulted her and the police were called. The first Appellant did not press charges but was admitted to hospital and informed social services about the events that had happened to her since she left Nigeria. She claimed asylum on 6th January 2010. The first Appellant has no family in Nigeria, and has had no contact with anybody in Nigeria since she left, and has no home or property there.

The Respondent's Case

15. The Respondent's case is set out in a letter dated 1st July 2010 which may be summarised as follows. The Respondent accepted that the first Appellant is a national of Nigeria and that she was trafficked to the United Kingdom and her account of events between 2003 and 2010 was accepted. However the Respondent considered that the first Appellant would not be at risk if returned to Nigeria, and that substantial assistance would be available for her from the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), the Woman's Trafficking and Child Labour Extradition Foundation (WOTCLEF), the Anti-Human Trafficking Unit of the Nigeria police, and the Nigerian state which has a legal framework to combat and assist victims of trafficking.

The Upper Tribunal Hearing- 29th July 2013

Preliminary Issues

16. The Appellant attended the hearing. It was established that there was no need for an interpreter, and proceedings could be conducted in English.
17. We ascertained that we had received all documentation upon which the parties intended to rely, and each party had served the other with any documentation upon which reliance was to be placed. Mr Smart submitted an extract of the COI on Nigeria dated 14th June 2013, which related to trafficking, and both representatives indicated that they were ready to proceed and there was no application for an adjournment.

The first Appellant's Evidence

18. The first Appellant adopted her witness statement dated 17th October 2012. She now has two children. Her youngest child was born on 9th June 2012. Neither he nor the first Appellant have any contact with his father.
19. In summary the first Appellant's witness statement confirms that she enrolled in NVQ courses in children's and young people's workforce and NVQ in supporting teaching and learning in schools, functional skills and literacy, and she began these courses in September 2012.
20. The first Appellant did not choose to come to the United Kingdom but was trafficked here and wishes to remain in the United Kingdom. The second Appellant is attending a crèche and has made friends with other children. The first Appellant is visited every fortnight by her community nurse and the psychiatric treatment she has received has benefited her. The first Appellant has support in the United Kingdom that she would not have in Nigeria, and fears that if returned she would be targeted again, and also fears that her children would be sold on the streets or pushed into forced labour, and she is fearful for their safety. The first Appellant still attends regular church activities.
21. In answering some questions put by Mr Pipe the first Appellant confirmed that she is still studying and she hopes to eventually find employment. She does not keep in touch with anybody in Nigeria. She now sees her community psychiatric nurse every three weeks. She takes medication for depression and sleeping tablets.
22. The first Appellant confirmed that she has no family in Nigeria and has concerns about the lack of education for her children in Nigeria, and concerns regarding their security. She confirmed that neither of her children have any contact with their fathers.
23. The first Appellant was cross-examined and explained that the 2,500 naira that she had paid the two men was money that she believed that she had earned. She was told that she would be taken to the United Kingdom to have a better life. At that

time she was 31 years of age. She confirmed that the education she is currently undergoing does involve learning to look after children, and advising parents how to look after children.

The Respondent's Submissions

24. Mr Smart in requesting that the appeals be dismissed, relied upon his written submissions and submitted that the first Appellant was, to a degree, complicit in engineering her illegal entry into the United Kingdom. Both children are very young and their best interests would be served by being with their mother, and the evidence indicated that the first Appellant is a good mother and hardworking.
25. Mr Smart submitted that the background evidence indicated that there would be shelters available in Nigeria for trafficked women and children, and that information from the Danish Immigration Service indicated that some victims may stay for more than six months in the shelters, depending upon their individual needs. The educational qualifications obtained by the first Appellant would enhance her ability to obtain employment upon her return. The background evidence indicated that NAPTIP had 410 bed spaces available for victims of trafficking.
26. In summary, Mr Smart submitted that the best interests of the two children would be to remain with their mother, and it would be reasonable and proportionate for the family as a whole to return to Nigeria, where they would receive assistance and accommodation, and the first Appellant would be able to gain employment to support the family.

The Appellants' Submissions

27. Mr Pipe relied upon his written submissions dated 18th October 2012 and we were asked to note that the first Appellant had been in the United Kingdom since 21st December 2005, and that both children were born in the United Kingdom.
28. Mr Pipe confirmed that the only issue before us related to Article 8. We were reminded that the Respondent accepted that the first Appellant had been trafficked into the United Kingdom, and that the first Appellant's account of what had happened to her between 2003 and 2010 was accepted.
29. The fact that the first Appellant had entered the United Kingdom illegally should not be held against her, as she had been trafficked, and Mr Pipe submitted that there was very little to weigh against the Appellants in the Article 8 balancing exercise. We were asked to accept that there is a public interest in protecting victims of trafficking, and the Respondent does in fact have a policy where discretionary leave can be granted to victims of trafficking, although discretion had not been exercised in favour of the first Appellant in this case.
30. Mr Pipe submitted that the first Appellant had no family support in Nigeria and that she had previously been exploited and that she was vulnerable, and the first Appellant was responsible for two young children.

31. In the absence of an up-to-date country guidance case, we were asked to place weight upon the expert report prepared by Modupe Debbie Ariyo dated 8th November 2010 and in the light of that report, we were asked to consider what the situation would be if the first Appellant and her two children were returned to Nigeria. Mr Pipe submitted that the first Appellant might not even qualify for accommodation in the shelters, but even if a shelter was available, the background evidence indicated that this was only a short term measure and thereafter the first Appellant would be fending for herself and her children, and we should take into account that she has mental health issues, and she would not have the support that she has in the United Kingdom. We were asked to conclude that the background evidence indicated that it would not be in the best interests of the children to return to Nigeria and therefore removal of the Appellants would be a disproportionate breach of their Article 8 rights.
32. At the conclusion of oral submissions we reserved our decision.

Our Conclusions and Reasons

33. The only issue before us relates to Article 8 of the 1950 Convention. It is not contended on behalf of the Appellants, that they are entitled to asylum or humanitarian protection, nor is it contended that their removal from the United Kingdom would breach Articles 2 or 3 of the 1950 Convention. It is accepted that the Immigration Rules introduced as from 9th July 2012 by HC 194 which deal with family and private lives, do not apply to these appeals, as the Respondent's decision to remove was made in July 2010, two years prior to the introduction of those rules.
34. We find that the first Appellant's account was accepted as credible both by the Respondent, and the First-tier Tribunal. It is therefore accepted as a fact, that the first Appellant does not have any family in Nigeria. Her parents died when she was young, and her brother died in 2003. The first Appellant was trafficked into the United Kingdom for sexual purposes, and was effectively kept as a prisoner between her arrival in December 2005, and her abandonment in September 2008.
35. Article 8 of the 1950 Convention states;
 - “(1) Everyone has the right to respect for his private and family life, his home and his correspondence.
 - (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”
36. In considering Article 8 it is appropriate that we follow the guidance given in **Razgar [2004] UKHL 27** which indicates that the following questions should be considered;
 - “(1) Will the proposed removal be an interference by a public authority with the exercise of the applicant's right to respect for his private or (as the case may be) family life?

- (2) If so, will such interference have consequences of such gravity as potentially to engage the operation of Article 8?
 - (3) If so, is such interference in accordance with the law?
 - (4) If so, is such interference necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others?
 - (5) If so, is such interference proportionate to the legitimate public end sought to be achieved?"
37. The decision in **Beoku-Betts [2008] UKHL 39** means that if we find that family life exists which engages Article 8, then we must consider the family lives of all members of the family, not only the Appellants. In this case, there are three in the family unit, those being the two Appellants, and the first Appellant's youngest child born 9th June 2012.
38. It is for the Appellants to prove that they have established family or private life which engages Article 8, and if that is proved, the burden switches to the Respondent to prove that the decision is lawful, necessary, and proportionate.
39. We are satisfied that the Appellants have established a family life together, but as it is proposed to remove the family as a unit, we do not find that the Respondent's decision would interfere with that family life. We are satisfied that no family life which would engage Article 8 has been established with the fathers of the first Appellant's two children.
40. We conclude that Article 8 is engaged on the basis of the private lives of the family as a whole, and the Respondent's decision to remove would be an interference with this private life.
41. We are satisfied that the proposed interference is in accordance with the law, leaving aside the question of Article 8, as it is accepted on behalf of the Appellants, that the requirements of the Immigration Rules cannot be satisfied, and the Appellants are not entitled to asylum.
42. We are satisfied that it is necessary for the state to maintain effective immigration control for the reasons set out in Article 8(2), and in this case it is necessary to consider the economic well-being of the country, and whether the Respondent can prove that the decision to remove the Appellants, is proportionate in the interests of maintaining effective immigration control.
43. The first Appellant has two children, and when considering proportionality it was confirmed in **ZH (Tanzania) [2011] UKSC 4** that the best interests of a child must be a primary consideration. The best interests of a child broadly means the well-being of a child, and the best interests must be considered first, although those interests could be outweighed by the cumulative effect of other considerations.
44. In **MK India [2011] UKUT 475 (IAC)** the Tribunal explained that the best interests of a child is a broad notion, and its assessment requires the taking into account and

weighing up of diverse factors. There should be an objective assessment, although an important part of ascertaining what are the best interests of a child is to seek to discover the child's own wishes and views, which should be given due weight in accordance with the age and maturity of the child. Consideration of the best interests of a child is an integral part of the Article 8 balancing exercise and not something apart from it, and is a matter which has to be addressed first as a distinct inquiry. Factors relating to the public interest in the maintenance of effective immigration control must not form part of the best interests of the child consideration.

45. In **E-A Nigeria [2011] UKUT 315 (IAC)** the Tribunal confirmed that the correct starting point in considering the welfare and best interests of a young child would be that it is in the best interests of a child to live with and be brought up by his or her parents, subject to any very strong contra-indication.
46. In this case the children are too young to be consulted about their own wishes and views, but we feel able to state unequivocally that their best interests would be served by remaining with their mother. This is accepted by the Respondent. The issue is whether it would be in the best interests of the children to remain with their mother in the United Kingdom, or to travel with her to Nigeria. The children are very young and although born in the United Kingdom, we find that they could adapt to life in Nigeria. There are no relevant medical issues relating to the children.
47. The children would be supported by their mother, and we therefore have to consider, when considering the best interests of the children, the position of their mother. We accept that she has some mental health issues in that she has been suffering from depression and is receiving medication, and is receiving a visit from a nurse every three weeks. There is little in the way of independent medical evidence as to the first Appellant's mental health problems, save for a letter dated 6th July 2012 from a community psychiatric nurse, confirming that the first Appellant has been referred to the community psychiatric team.
48. The first Appellant has no family members in Nigeria, and has no home, assets or employment. Before leaving Nigeria, the first Appellant, who had only received a basic education, had worked selling water. She became involved with a woman who was complicit in her being trafficked to the United Kingdom for sexual purposes.
49. The first Appellant has undergone some education in the United Kingdom but the evidence indicates that the only qualification she has achieved is a City and Guilds Level 1 Certificate in Adult Numeracy. This was awarded on 19th June 2012. There is evidence within the supplementary bundle, from Palfrey Community Association that the first Appellant commenced the courses that she referred to in her oral evidence, in September 2012. There is no evidence to confirm that the first Appellant has achieved any qualifications in relation to those courses. We conclude therefore that it is not clear that the education undertaken to date by the first Appellant in the United Kingdom, would assist her in finding employment in Nigeria.

50. The background information contained within the Country of Origin Information Report on Nigeria dated 14th June 2013 confirms that government shelters for the victims of trafficking are available. At paragraph 25.27 of the report, there is evidence that there are eight NAPTIP shelters in Nigeria able to accommodate 410 people.
51. There is also some NGO assistance as confirmed by the Danish Immigration Service fact-finding mission report published in April 2008 and referred to in paragraphs 25.29 and 25.30 of the COI Report.
52. The COI response dated 21st September 2012 has been compiled in relation to a question about shelters for trafficked women and children in Nigeria. In summary it is explained that little specific information on this issue could be located but reference is made to the US State Department (USSD) Trafficking in Persons Report 2011 which noted that NAPTIP had eight shelters with a total capacity for 210 victims, which constituted a 50% decrease in capacity from 2010. NAPTIP was reported to have difficulty in adequately staffing and caring for victims in shelters. The USSD Report confirmed that the NAPTIP shelters offered counselling, legal services and basic medical treatment and victims who required specialised care received treatment from hospitals and clinics through existing agreements with those institutions. Some shelter staff were described as lacking previous training or professional experience in treating the trauma of trafficking victims, and victims were allowed to stay in NAPTIP shelters for up to six weeks, a limit which was extended by up to four additional weeks in extenuating circumstances. During this time they received informal education or vocational training and after this, those who needed long term care were referred to a network of NGOs that could provide additional services, though few long terms options were available for adult victims.
53. The April 2008 Danish Immigration Service Report noted that the normal time spent in such a shelter is about two weeks although if a victim is in need of an extended period of time, this would be granted. The same report referred to WOTCLEF allowing victims to stay in a shelter for six weeks, and some may stay for up to six months or more depending on their individual needs.
54. The expert report prepared by Ms Ariyo dated 8th November 2010 considered the support available in Nigeria for trafficked women and their children. We are satisfied, taking into account the qualifications and expertise of the report author, that weight can be attached to this report. Unfortunately the paragraphs in the report are not numbered but in the last paragraph on page 5 the following is stated;

“The above analysis of NAPTIP and its inability to meet the needs of majority of victims of trafficking contradicts the assertion by the Home Office that NAPTIP will be able to provide returned victims like the Appellant with adequate support on arrival in Nigeria. The Appellant and her baby will be able to access the shelter for six weeks maximum and then will be referred to an NGO, for a limited period. After the limited period expires, the Appellant and her baby will have to join the mainstream life in a harsh country like Nigeria. The Appellant and her baby will become homeless and destitute since they have no family support and Nigeria does not provide a social

welfare programme. In short, there is no safety net for young women like the Appellant. She will become prone to further exploitation as a sex worker or in other ways. Her child will be very vulnerable to baby and toddler trafficking which is a growing phenomenon in Nigeria (Reuters; Nigeria police crack illicit baby trafficking ring, 12th June 2008)".

The report considers WOTCLEF at page 6, and confirms that this is a nongovernmental organisation based in Abuja, which has not been able to increase the number of available spaces in its shelter for victims since it was established in 1999. The WOTCLEF website as at 20th September 2010 stated that the waiting list for access to the rehabilitation centre is always long due to limited capacity. Ms Ariyo is of the opinion that it would be impossible for the Appellant and her baby to be rehabilitated by WOTCLEF. We should mention at this stage that when the report was prepared by Ms Ariyo, the first Appellant's youngest child had not been born.

55. In the penultimate paragraph on page 6 Ms Ariyo states;

"Thus to conclude this question in regard to services provided for victims of trafficking, NAPTIP and NGOs in Nigeria are making good progress. However, they are all facing serious funding challenges and capacity issues that make it impossible for them to offer the Appellant and her child long-term and sustainable help and assistance which is needed to enable successful reintegration in Nigeria."

56. We set out below Ms Ariyo's conclusions;

- NAPTIP and other NGOs will be able to provide only minimal care for the Appellant and her baby. The idea that Nigerian agencies are able to provide them with a long-term rehabilitation programme and meet their health and other needs is a mirage. NAPTIP, the key agency in Nigeria is hampered by lack of adequate funds, and cannot meet the needs of many victims in Nigeria as well as those being returned.
- Due to the socio-economic and political state of Nigeria, and the level of skills and education of the Appellant, she will find it very difficult to secure employment that will help to provide for her and the baby thus jeopardising a successful return and re-integration of a victim of trafficking.
- Returning the Appellant and her baby to survive on their own in Nigeria is a life sentence. This is because they will become very vulnerable to all sorts of negative forces seeking to harm or exploit them as indigent, homeless single mum and her baby. The Appellant may well be forced into prostitution or other exploitative labour in order to survive."

57. Having considered the background evidence we conclude that there are limited facilities in Nigeria, to cater for the needs of victims of trafficking. It is possible that the first Appellant and her two children would be accommodated in a shelter but we can put it no higher than that. Background evidence indicates that the number of victims far exceeds the limited number of places available in shelters.

58. Even if the family were able to obtain a place in a shelter, it is our opinion that this would only be available for a very limited period of time, and the evidence indicates that it is only in the WOTCLEF shelter in Abuja, that victims may stay for up to six months or more. This is the shelter which according to the background evidence, has a long waiting list.
59. After the limited stay in a shelter, the family would be in a position whereby they would have to find accommodation. The first Appellant has no familial support and we do not find that she has qualifications that would enable her to obtain employment other than in an unskilled position. The first Appellant would have to provide for herself and two very young children. The Respondent has the burden of proving that it would be proportionate, and in the best interests of the children to be returned with their mother to Nigeria. We conclude that the Respondent has not discharged that burden in relation to the best interests of the children, as on the evidence presented to us, we do not believe that it would be in the best interests of the two young children to return with their mother to Nigeria.
60. Having found that the best interests of the children would be to remain with their mother in the United Kingdom, we have to decide whether those interests are outweighed by the cumulative effect of other considerations.
61. We do place significant weight upon the right, and the need of the state to maintain effective immigration control. Although effective immigration control is not of itself referred to in Article 8(2) it is relevant to the considerations set out therein. We take into account that the Appellants cannot satisfy the Immigration Rules in order to remain in the United Kingdom, and at present the first Appellant is not able to support herself and her children without recourse to public funds. We also take into account that the first Appellant did not enter the United Kingdom legally, although we make the point that although an illegal entrant, we do not make an adverse finding against her, as we accept that she was the innocent victim of traffickers, and we find that there was no deliberate attempt on her part to enter the United Kingdom illegally and subsequently fabricate an asylum claim.
62. Overall, our conclusion is that the best interests of the children outweigh the public interest in maintaining effective immigration control, on the facts of this particular case, and to remove the Appellants would be disproportionate, and therefore a breach of Article 8 of the 1950 Convention.

Decision

The decision of the First-tier Tribunal involved the making of an error on a point of law and was set aside. We substitute a fresh decision as follows.

We dismiss the appeal on asylum grounds.

The Appellants are not entitled to humanitarian protection.

We allow the appeal on human rights grounds in relation to Article 8 of the 1950 Convention.

Anonymity

We remind the parties that an anonymity direction has been made.

Signed

Date 6th September 2013

Deputy Upper Tribunal Judge M A Hall

TO THE RESPONDENT
FEE AWARD

No fee was paid or is payable. There is no fee award.

Signed

Date 6th September 2013

Deputy Upper Tribunal Judge M A Hall