



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/06731/2012

THE IMMIGRATION ACTS

Heard at Field House  
On 22 August 2013

Determination Promulgated

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Before

UPPER TRIBUNAL JUDGE CONWAY

Between

MS T G  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Knorr  
For the Respondent: Ms Martin

DETERMINATION AND REASONS

1. The Appellant is a citizen of Nigeria born in 1988. She appealed against a decision of the Respondent made on 5 July 2012 to remove by way of directions. She was refused asylum.

2. The basis of her claim is contained in the following lines from the refusal letter:

9. *You were in your first year at secondary school when you were taken to Lagos by a man who picked you up from school in Ibadan where you lived with your grandmother. You were taken to your mother's house for a couple of days. Your mother told you that you would be going abroad on a plane. (Paragraphs 11-13, WS).*
10. *Your mother took you to N. O.'s family house in Lagos, where you met N.O. for the first time. Your mother told you that you would be going with her. A few days later, you travelled with N.O. and her baby to the UK from Lagos (Paragraphs 14-18, WS).*
11. *N.O. told you that if you were asked anything at the airport, you were to say that your name was T.O. and gave you an address to say you lived at. You were not asked anything at the airport (Paragraph 19, WS). You later realised that you were brought to the UK using N.O.'s daughter's passport (Paragraph 20, WS).*
12. *You arrived in the UK on 5<sup>th</sup> May 2000.*
13. *On arrival in the UK with N.O. and her baby, you were taken to her house, where you started living with her, her husband and her children. You shared a bedroom with her daughters (Q37-Q40, AIR).*
14. *You did not know prior to coming to the UK what you would be doing here (Q33-Q36 AIR).*
15. *Each day, you had to take the children to school, cook clean, do the laundry and look after the baby (Paragraph 30, WS & Q44-Q47 AIR). You were not allowed to leave the house, other than taking the children to school and picking them up (Q48-Q49 AIR). You were not given any money (Q53 AIR).*
16. *If you did not do your chores on time, you would be punished by N.O. She would punch and slap you (Q53 AIR). As you became older, you would be sent on errands e.g. to the shops (Q57 AIR).*
17. *When you were 18 years old, you were allowed to go to college (Q58 AIR). N.O. registered you at Newham College. You studied literacy and numeracy at college (Paragraphs 62-64, WS). You would go to college twice a week, and N'.s husband would give you £10 a week to pay your bus fare (Paragraph 67, WS).*
18. *In September 2008, after you finished at Newham College, you went to register at Barking College, where you studied Health and Social Care. You had to drop out of this course in February 2009, as you had no documents with which to obtain a CRB check, which was required (Paragraphs 68-69, WS).*
19. *You asked N.O. at this time if you could get a job, to which she agreed. You began working at a hair salon in Brixton. You later got a job in Upton Park, N.O gave you a curfew of 10pm at this time (Paragraph 79-72, WS).*

20. *Around that time, in June 2009, N.O. went to Nigeria with one of her daughters. Her other daughter and husband were already living in Nigeria by this time. You were left in London to look after the two younger girls whilst you were working. They stayed with a childminder during the week, but you took them to work with you at the weekend. You called N.O. in Nigeria to tell her that this was not convenient for you, but she told you that there was nothing that she could do (Paragraphs 73-75, WS).*
  21. *N.O. was away from June 2009 until September 2009. When she returned from Nigeria, she told you that the family were thinking of relocating there. She told you that there was little point in you living in the house anymore as the children were getting older and you were not cleaning the house. On 5<sup>th</sup> September 2009, she told you that she wanted you to leave her house by 5<sup>th</sup> October 2009. Later, after you called N's sister-in-law to help you, and she came to talk to N., you were allowed to stay (Paragraph 78, WS).*
  22. *One day whilst you were at work in September or October 2009, immigration officials came to your place of work and took everyone's personal details, you gave them the alias you had been using in the UK, T.O., 7<sup>th</sup> August 1986. You then walked out and called N. to tell her what had happened. She told you that as you had given her address, you would have to leave now. You went to live with a friend in Croydon following this in October 2009.*
  23. *You had been living with N.O. from the age of 11 until you were 21 (Q20 & Q42 AIR).*
  24. *At this point, you started using your own name and date of birth. You lived in Croydon temporarily, after which, you moved to Aveley with a friend. Whilst living there, you went to a solicitor in February 2010, and made an application for leave to the Home Office. This application was refused in September 2010.*
  25. *You moved from Aveley in September 2011, and you are now living with another friend (Paragraph 85, WS). You were informed that your mother passed away in Nigeria in 2005 (Paragraph 86, WS).*
  26. *You fear that on return to Nigeria, you will be targeted as a single woman, and you may be killed (Q73, AIR).'*
3. The Respondent refused the claim. In summary, her claim that she was trafficked was not believed because of its timing and circumstances and because of claimed inconsistencies in her account. Little weight was attached to expert reports submitted because it was considered that these were based on the Appellant's account of events which was not considered credible. Even if true it was noted that she left N.O.'s house in 2009 and has become self-sufficient. It was considered that she could integrate into Nigerian society and support herself. She was not at real risk of being re-trafficked and the Nigerian authorities are able to offer protection against this. It was considered that her medical conditions did not reach the threshold to breach Article 3 of ECHR. She could obtain medical treatment in Nigeria. Any interference with her private life was proportionate.

4. She appealed. Following a hearing on 26 September 2012 at Taylor House Judge of the First-tier Tribunal Roopnarine-Davies dismissed the appeal on asylum, and humanitarian protection grounds. She allowed the appeal on human rights grounds (Article 8). Her findings are at paragraph [16]ff. The judge was not satisfied that the Appellant came to the UK in 2000 but was brought at a later date. Nonetheless at [para.21] she was satisfied that the *'core of the Appellant's claim is as claimed, that she has worked as a childminder for the N.O. family for several years and has been badly treated, exploited and abused'*. Her evidence of this, the judge found, was detailed and largely internally consistent and consistent with the evidence of the medical and country experts.
5. Turning to the medical evidence, she noted that it was *'agreed that the Appellant is suffering from PTSD and a severe depressive episode'*.
6. The judge concluded (at [para.29]) *'The Appellant's claim is coherent and credible when looked at in the round. It was accepted at the hearing that it engages the 1951 Convention on the grounds of membership of a particular social group'*. She was satisfied that the Appellant was *'trafficked in Nigeria as a person under 18 years old for domestic servitude'* and that she *'suffered inhumane and degrading treatment in the UK'*.
7. However, the judge was not satisfied that the Appellant would be at risk of such treatment if she was returned to Nigeria. The finding that the Nigerian authorities provide a sufficiency of protection against trafficking and re-trafficking (**PO (Trafficked Women) (Nigeria) CG [2009] UKAIT 00046**) was preserved by the Court of Appeal in **PO (Nigeria) v SSHD [2011] Civ 132**.
8. The judge continued by finding that the Appellant was not trafficked by gangs but through family networks and that she saw no reason why she should fear the N.O. family in Nigeria or the UK. There were no grounds for believing that the N.O. family have returned to Nigeria from the UK and by her own evidence they no longer had need for her.
9. Having concluded that the Appellant was not at real risk of persecution and that there is a sufficiency of protection against trafficking and re-trafficking, the judge went on to decide that she was also not at risk of ill-treatment amounting to a breach of Article 3. In that regard she was not at real risk of committing suicide not least because one of the doctors had said she was not suicidal.
10. As for Article 8, it was clear that she had established a private life here. Advancing to proportionality, noting that she was only 24 years old and was in the middle of receiving treatment from the Bamber Foundation and support to recover from her ordeal so that she can adjust to a life of independence and is making progress, the judge concluded that removal would be disproportionate to the legitimate aim. She allowed the appeal on human rights grounds.
11. She sought permission to appeal against the refusal of asylum and the dismissal under Article 3 which was granted on 19 October 2012.

12. Following the error of law hearing I issued the following decision (the earlier paragraphs are omitted to avoid repetition):
6. *Permission to appeal was granted on the basis that it was arguable that the judge had given no reasons for rejecting expert evidence with regard to risk on return. It was also arguable that the judge failed to deal properly with the medical evidence in assessing her Article 3 human rights claim.*
  7. *At the error of law hearing before, Ms Knorr made essentially two points. Firstly, that the judge failed to have regard to expert evidence given in a (second) report by Victoria Nwogu in which it was indicated, inter alia, that the Appellant was likely if returned to Nigeria to be at risk of reprisals from those who had trafficked her and that the authorities would be unlikely to help. Also she would be at risk of being re trafficked.*
  8. *Secondly, the judge, who accepted that the Appellant was suffering from PTSD and depression as a result of her experiences, had not dealt adequately with the evidence that indicated that if returned the Appellant would be at a heightened risk of suicide.*
  9. *In reply Mr Jarvis agreed that the judge had erred in failing to have regard to the second report by Ms Nwogu and that as a result she had not given adequate consideration to the risk of re trafficking and whether there would be a sufficiency of protection.*
  10. *Ms Jarvis, however, disagreed that the judge had not given proper consideration to the medical evidence. She had dealt with the material in the round and reached conclusions she was entitled to reach. Even if there were deficiencies they were not material because of the very high threshold that needed to be met to satisfy Article 3 on mental health grounds.*
  11. *As indicated, in this case the judge accepted the Appellant's historical account namely, that she had been trafficked into years of domestic servitude in the UK. She found, however, that the Appellant would not face a risk of harm if returned. She relied on the interim guidance from PO (Nigeria) (2011) EWCA Civ 132 in finding that there is a sufficiency of protection against trafficking and re trafficking.*
  12. *The judge, however, failed to give consideration to evidence in a second report (14 September 2012) by Ms Nwogu, whose expertise she accepted, that looking at the Appellant's particular circumstances there was no sufficiency of protection and that there was a risk of reprisal and re trafficking. Indeed the judge failed to make any findings at all on the second report. I agreed with both parties that it was a material error of law not to have regard to relevant evidence.*
  13. *As for her consideration of the medical evidence the judge accepted that as a result of her experiences the Appellant is suffering from PTSD and depression. She is also self harming. The judge considered nonetheless, noting a comment by Dr Majid that she is not currently suicidal, that there would be no such risk were she*

*to be returned to Nigeria. The judge failed to comment on observations by several of the health professionals, including Dr Majid and Dr Murray, that the Appellant's mental health would significantly decline if she was returned and indeed that she presented a heightened risk of suicide and self harm.*

14. *It is clear that the threshold needed to satisfy Article 3 on mental health grounds is very high. Nonetheless, I find merit in Ms Knorr's submission that in failing to have regard to material evidence the judge's findings on the Appellant's mental state were flawed such that she did not give proper consideration to the possible consequences were the Appellant to be returned.*
  15. *The judge having materially erred in the making of the decision, that decision dismissing the appeal on asylum, humanitarian protection and Article 3 grounds is set aside. The case will need to be reheard to decide the general risk on return in respect of reprisals, re-trafficking and sufficiency of protection. Also any risk in light of her mental health state. It was agreed that the historical findings of fact be preserved.'*
13. At the resumed hearing on 10 May 2013 the Respondent's representative sought to challenge the First-tier Judge's finding that the Appellant had been trafficked. It was asserted that the judge had no jurisdiction to consider trafficking on the basis that the Competent Authority was the only body that could find that a person has been trafficked and here there was a negative 'reasonable grounds' decision. On behalf of the Appellant it was argued that it was too late for the Respondent to challenge the finding that the Appellant was trafficked and secondly that the argument was wrong in law in any event. The hearing was adjourned to allow both parties the opportunity to make written submissions on these issues.
  14. The full rehearing took place on 22 August 2013. I heard submissions on whether the Respondent was entitled to raise a point of law at the resumed hearing stage such not having been raised in grounds or at the error of law hearing. I can deal with that matter shortly. I concluded that the issue of a material error of law could be raised even at a late stage on the basis that it cannot be correct that an Appellant could succeed in a case when a material error of law which could affect that result had not been raised at an early stage.
  15. Whether I am right or wrong in that conclusion is not of consequence as I find no merit in the submission raised that the judge, not being a Competent Authority had no jurisdiction. I indicated at the time that under Section 86(2) of the Nationality, Immigration and Asylum Act 2002 the Tribunal '*must determine any matter raised as a ground of appeal*'. Were the Respondent correct the Tribunal's role as judicial fact finder would be irrelevant. I note, in addition, that the judge found that a point taken against the Appellant's credibility in the refusal letter (and also taken in the 'reasonable grounds' letter), namely, that she delayed raising trafficking as an issue until December 2011 was simply wrong. It had been raised in a solicitor's letter in February 2010. The Competent Authority also did not have before it the large volume of medical and expert evidence which was before the Tribunal. I concluded that while there was no appeal against the decision of the Competent Authority as set out

in the 'reasonable grounds' letter, that procedure and the consideration of the asylum claim were separate paths.

16. Such a view appears to be confirmed by the Court of Appeal in **AS (Afghanistan) v SSHD [2013] EWCA Civ 1469** where it was explained that *'The question in this appeal is the extent to which (if at all) judges of the Immigration & Asylum Chamber should regard as conclusive decisions of the "Competent Authority" determining that an Appellant before them has or has not been a victim of trafficking' [1].*
17. The Court of Appeal held that the Tribunal has jurisdiction to decide whether an Appellant is a victim of trafficking and may depart from the findings of the Competent Authority when appropriate. In so finding Longmore LJ said:
 

*'... The mere fact that the Competent Authority has made a decision which on analysis is perverse cannot prevent the First-tier Tribunal Judge from considering the evidence about trafficking which is placed before him; nor can it in my judgment be relevant that no judicial review proceedings have been taken by the Appellant in respect of the Competent Authority decision. The First-tier Tribunal Judge should consider the matter for himself [para.14]'*
18. In submissions on the merits Ms Martin accepted that trafficking is rife in Nigeria but maintained that the Appellant was not a victim of trafficking. Further, she is not a lone woman. She has family in Nigeria. She could live with her grandmother. She did not need to return to Lagos or Ibadan. She would not be at risk of being re-trafficked. Her problems had come from a family not from gangs. There was no reason why the N.O. family would know she had returned. She could also get help from the Assisted Voluntary Return for Irregular Migrants Scheme (AVRIM). Such could help her financially and educationally.
19. As for any mental health issues, she could get help for these in Nigeria. Dr Majid had noted that she has insight. She would be aware and alert to getting help. There was no evidence that her anti-depressant medication is not available in Nigeria. Her problems did not reach the threshold of severity necessary to satisfy Article 3.
20. In her submissions Ms Knorr referred to her skeleton argument. She said it was clear that the Appellant has significant medical issues for which she receives specialist treatment. The loss of her UK support network would greatly increase her risk on return of deterioration including depression and suicide. As would her being returned as a lone woman with mental health issues and her history of long term abuse. She would be vulnerable and at risk of reprisals. It would be likely that the N.O. family would know that she had gone to the authorities. Such would be known because of the community and family ties to the Appellant's family. It was her mother, who it was found was still alive, who had sold her into trafficking. She would also be at risk of re-trafficking as a young, single, vulnerable woman with no support.
21. In considering this matter, as indicated, the Appellant's historical account of being taken at a young age from Nigeria to the UK where she was forced into a life of

domestic servitude from which she was only effectively released when a young woman and that as a consequence of her experience over those many years she has significant mental health issues, was believed by the First tier judge.

22. The Respondent's submission is, in essence, that even if the Appellant was a victim of trafficking she has moved on with her life having left her trafficking situation several years ago and thereafter attended college and work which suggests she is self-sufficient and resourceful and could therefore support herself; that there is a sufficiency of protection in that she can access support for victims of trafficking in Nigeria; that she is not at risk of re-trafficking because she was not trafficked by a gang and not for prostitution and there is no general risk of trafficking to women and girls.
23. The UNHCR Guidelines on the application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked (April 2006) made clear that victims of trafficking may qualify as refugees where it can be demonstrated that they fear persecution for reasons of their membership of a particular social group. The Courts in the UK have adopted the same approach (see **AM & BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC)**). The guidance states as follows:

*'38. Women are an example of a social subset of individuals who are defined by innate and immutable characteristics and are frequently treated differently to men. As such, they may constitute a particular social group. Factors which may distinguish women as targets for traffickers are generally connected to their vulnerability in certain social settings; therefore certain social subsets of women may also constitute particular social groups. Men or children or certain social subsets of these groups may also be considered as particular social groups. Examples of social subsets of women or children could, depending on the context, be single women, widows, divorced women, illiterate women, separated or unaccompanied children, orphans or street children. The fact of belonging to such a particular social group may be one of the factors contributing to an individual's fear of being subjected to persecution, for example, to sexual exploitation, as a result of being, or feared being, trafficked.*

*39. Former victims of trafficking may also be considered as constituting a social group based on the unchangeable, common and historic characteristic of having been trafficked. A society may also, depending on the context, view persons who have been trafficked as a cognizable group within that society. Particular social groups can nevertheless not be defined exclusively by the persecution that members of the group suffer or by a common fear of persecution. It should therefore be noted that it is the past trafficking experience that would constitute one of the elements defining the group in such cases, rather than the future persecution now feared in the form of ostracism, punishment, reprisals or re-trafficking. In such situations, the group would therefore not be defined solely by its fear of future persecution.'*



24. In this case it was accepted at the hearing before the First tier Tribunal that the Convention was engaged on the grounds of membership of a particular social group [para.3 of determination].
25. Looking first at the Appellant's medical situation, I note, again, **AM & BM** in which the Tribunal considered the position of victims of trafficking with mental health problems and said:

*'Particular weight must therefore be given to the mental state of a victim of trafficking not only when considering whether or not a victim of trafficking might face persecution in her home area but also when considering issues such as internal relocation or her Article 8 rights' [para.150].*

The Tribunal also confirmed that victims of trafficking who have been subjected to physical and sexual violence are likely to have a profound psychological impact and there is a significant risk that the individual will suffer from PTSD [para.218].

26. The conclusions of the medical witnesses were accepted by the First-tier Tribunal and I see no reason to take a different view. She has been diagnosed with PTSD, severe depression and eating disorders which are linked to her status as a victim of trafficking. Dr Majid, Consultant Psychiatrist, states (13/8/12) regarding the impact of return:

*'106. I am concerned that Ms G. would be unable to cope, self care and support herself in Nigeria due to her symptoms of depression and PTSD, in particular her helplessness, poor energy and motivation, difficulty conceptualising a future, and intrusive thoughts and experience that cause distress, reduce her capacity for attention and concentration and lead to dissociative lapses [sic] and forgetfulness. I observed some of these in the room, particularly in the cognitive state examination. Ms G. currently manages in the UK with the support and encouragement of therapeutic services and friends. I note that when she is not at college or visiting church friends she spends most of the day in her room feeling low and upset, demonstrating little motivation or initiative when left to herself. I am concerned that she will become increasingly isolated and unable to cope in Nigeria, and be unable to find accommodation or employment for herself.*

*107. I also note that Ms G. required prompting to seek help with her psychological difficulties and with her asylum status in the UK. And that even after a discussion about medication for depression with her GP she did not follow through due in part to her tendency to avoidance, stigma and shame. This indicates that without prompting and encouragement Ms G. is unlikely to seek and secure the help she will need socially, practically and in relation to her mental health. This will lead to an escalating deterioration of her mental state, fears, helplessness, low self worth, guilt and shame. This will exacerbate her depression and increase her risk of self harm and suicide. I am concerned that even if she does not kill herself actively she may withdraw into a dissociated*

*state in which she would be at high risk of neglect and stop eating altogether, with eventual death through this.'*

27. Dr Murray (22/6/12) explains that the Appellant's psychological profile leaves her particularly vulnerable to further exploitation. She says as follows:

*'10.03 In my opinion, Ms G. may be psychologically vulnerable to further exploitation. As her time in domestic servitude began at an early age and was extensive, she has had little opportunity to acquire age-appropriate skills which would protect her from further harm, such as knowing how or when to contact authorities such as the Police. She has had very little education and very little interaction with peers or opportunities to live independently. She has few protective factors such as social support. Living in an abusive situation over a long period can lead to a distortion in "normal" psychological skills such as the ability to judge risk in a situation or threats or potential harm. Victims of repeated traumatic experiences are more likely to experience further traumatic experiences than other people, as their ability to effectively judge and make decisions regarding their safety is impaired.'*

28. Dr Murray makes clear that in her opinion the Appellant's expected decline in mental health upon return to Nigeria *'will reduce her ability to engage in tasks of living, such as finding and securing housing, employment or education and keeping herself safe'* [para.10.07].
29. I note also the comment that even in the UK the Appellant experiences distressing and intrusive thoughts relating to past abuse when she sees Nigerian people and she is highly anxious about meeting Mrs N.O. [Dr Majid's report para. 68].
30. The Appellant has very limited education having lost the opportunity to attend school during the years during which she was exploited and has only worked for a short period. The Respondent accepts that she is presently destitute having been given her NASS accommodation (witness statement 9 August 2012 para. 25). She would therefore be returning to Nigeria with no resources, few skills and little, if any, family support. On that last matter I note that the First-tier Tribunal Judge concluded that the Appellant's mother was still alive. However, it was she who had connived in the trafficking of her daughter.
31. The Appellant's submission is that were she to return to Nigeria she faces risks as a young woman and a former victim of trafficking. These risks include a risk of re-trafficking, stigmatisation and further abuse.
32. Ms Nwogu's opinion is that as a victim of trafficking the Appellant faces a risk of reprisals and re-trafficking from the people who organised her trafficking to the UK (report 2 - para. 67-72 and 135). She would also be at risk from the traffickers as a result of putting Mrs N.O. at risk from the police in the UK (report 2 - para. 139). The fact that she had reported the matter to the authorities in the UK is likely to be known by Mrs N.O. due to the links between her and A H. and Y. In Ms Nwogu's view the Appellant will not be protected by the police (report 2 - para. 137-139).

33. In PO (Trafficked women) Nigeria CG [2009] UKAIT 00046 the Tribunal found that the government in Nigeria is able and willing to discharge its duties to protect people against trafficking. That case was removed from the Country Guidance list in February 2011 although PO (Nigeria) v SSHD [2011] EWCA Civ 132 states that paragraphs 191-192 remain as interim guidance pending further country guidance from the Tribunal.
34. Such includes the comment (para. 191) that whilst Nigeria is not complying with minimum standards, it is *'making significant efforts'* to do so and has *'demonstrated a solid commitment to eradicating trafficking'*. However, at the time PO was heard Nigeria was graded as Tier 1 meaning that it was compliant with minimum standards for elimination of trafficking according to a US State Department assessment to which paragraph 191 refers. A subsequent USSD report in 2012 has downgraded Nigeria to Tier 2. The report found that there has been a 50% decrease in the capacity of shelters for victims of trafficking since 2010 and there are difficulties staffing the shelters and caring for victims. This is consistent with Ms Nwogu's view that the availability of shelters is severely limited (report 2 - para. 72-78).
35. I find the comments made by Ms Nwogu in her careful and detailed and sourced report to be persuasive.
36. ATLeP carried out a fact-finding mission to Nigeria in February 2011 which concurs with the US report (2012). Their view is that while there are laws in place to prevent trafficking these laws are not effectively implemented. They found evidence of a real risk of re-trafficking which is exacerbated when there are economic, social, or psychological difficulties.
37. In this case, in my judgment, in light of the particular vulnerability of the Appellant she would be vulnerable to re-trafficking. PO did not rule out a risk of re-trafficking in an individual case and I do not read paragraph 192 as indicating that a real risk of re-trafficking arises only when there is a debt. Whilst this may be the highest risk category it is not the only risk category.
38. Considering, further, Ms Nwogu's second report, I note her comment that it is highly unlikely that the Appellant's traffickers would face prosecution in Nigeria and that without this occurring she would remain in fear of them (para. 70-71).
39. As well as the lack of protection for victims of trafficking there is also a serious risk of discrimination as a result of being a victim of trafficking because the assumption is that the person has been a prostitute ( para. 55-56, VF v France, AIRE Centre and ATLeP Intervention).
40. Even if the Appellant was able to access a NAPTIP shelter, they only provide shelter for up to six weeks, there is no trauma focussed counselling available and very limited training opportunities (report 2 - para. 79). There are unlikely to be any longer term care options, particularly given that she is now an adult. Also if she does

access a shelter they are likely to try and convince her to return to her home area which would put her at risk of re-trafficking (report 2 – para. 79-82).

41. I conclude that in the particular circumstances of this case were the Appellant to be returned to Lagos or Ibadan there is a reasonable likelihood of re-trafficking, discrimination as a result of her status as a lone woman who has been trafficked, violence and destitution.
42. In considering the issue of internal relocation I note the following. Ms Nwogu’s opinion is that the Appellant could not successfully relocate (report 2 – para 140-146). She is unlikely to be able to access effective support services even if she can access a shelter for a limited time (report 2 – para. 83-97). She would be at high risk of exploitation and violence in other areas of Nigeria (report 2 – para. 116-121). In light of her poor mental health, vulnerability, lack of family support, discrimination she is likely to suffer on return and inability to access treatment, I conclude that it would not be reasonable for the Appellant to relocate.
43. The appeal succeeds on Refugee Convention grounds.
44. As indicated the appeal was allowed by the First tier Tribunal on Article 8 grounds (ECHR) and such was not challenged by the Respondent. It seems to me that it is not necessary to specifically consider the medical evidence in this case and to reach a view on whether it on its own is sufficient to satisfy Article 3. It follows from my findings and conclusions on the evidence more widely, referred to above, in respect of the Refugee Convention analysis, that removal would subject the Appellant to real risk of inhuman or degrading treatment of sufficient severity to engage Article 3.

### **Decision**

45. The appeal is allowed on asylum grounds.

The appeal is allowed on human rights grounds (Article 3).

### **Anonymity Direction**

Under rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005, 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. 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

Upper Tribunal Judge Conway