



**Upper Tribunal
(Immigration and Asylum Chamber)**
AA/08293/2014

Appeal Number:

THE IMMIGRATION ACTS

Heard at: Field House

Determination

Promulgated

On: 11th May 2015

On: 27th May 2015

Before

**DEPUTY UPPER TRIBUNAL JUDGE BRUCE
DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN**

Between

PC
(anonymity direction made)

Appellant

and

Secretary of State for the Home Department

Respondent

For the Appellant: Mr Khan, Counsel instructed by David Wyld & Co
For the Respondent: Ms Isherwood, Senior Home Office Presenting
Officer

DETERMINATION AND REASONS

1. The Appellant is a national of Nigeria date of birth 10th April 1976. She appeals with permission the decision of First-tier Tribunal Judge Youngerwood to dismiss her appeal against a decision to remove her from the United Kingdom pursuant to s10 of the Immigration and Asylum Act 1999. That decision followed from the Respondent's rejection of the Appellant's asylum claim.
2. The basis of the Appellant's claim had been that she feared that her young daughter would face a real risk of being subjected to Female

Genital Mutilation (FGM) if they were returned together to Nigeria. The Respondent had accepted that the family were from a part of Nigeria where FGM is widely practised, and indeed that the Appellant herself had been cut by a paternal aunt when she was younger. The Respondent was however satisfied that the Nigerian authorities were able to offer a sufficient level of protection and that the Appellant could avoid her family by going and living somewhere else in Nigeria. It was noted that the Appellant would be removed to Nigeria with her daughter and partner, a failed asylum seeker of Nigerian nationality.

3. The First-tier Tribunal accepted the concession made by the Respondent and went further. It was accepted that the Appellant's daughter would currently be at risk in their home village and that in such a rural location there would be no protective presence of the Nigerian state. The key issues remained whether there was a sufficiency of protection outside of the home area, and whether the family could be reasonably expected to avail themselves of an internal flight alternative.
4. In respect of protection the determination notes that the Nigerian government have taken substantial measures to combat FGM; this chimed with the Appellant's own evidence that in her experience people in Lagos who wanted their daughters cut were afraid of the police so would take the children into the countryside to have the procedure done. It was found that the Nigerian authorities are willing to act. If there was a low rate of reported cases being prosecuted the reason for that is unclear, but taking all of the evidence in the round the Tribunal was satisfied that there is a sufficiency of protection in the major cities of Nigeria.
5. In addressing internal flight the determination notes that Nigeria has a large population and that there is freedom of movement with the country. The size of the country meant that it would be difficult for, for instance, family members to track the Appellant and her child down. The Appellant had relied on her subjective fear of sorcery as a reason why internal relocation would be unduly harsh, but the Tribunal did not accept this as an objectively well- founded risk. Taking into account the presence of the Appellant's partner the Tribunal could find no basis for concluding that internal flight would be unduly harsh.
6. The appeal was therefore dismissed. The grounds of appeal are that the Tribunal erred in the following material respects:
 - i) The question of the "willingness" of the Nigerian authorities to act against FGM "irrelevant". The question is whether there is or is not a sufficiency of protection;
 - ii) In assessing internal flight the Tribunal has failed to take into account relevant background material including the US State Department evaluation of the risk posed by Boko Haram, and the evidence in COIR relating to lone women.

No Error of Law

7. These grounds are based on two fundamental misapprehensions about the accepted evidence in this case.
8. The first is that the Appellant is a lone woman who would, without family support, be facing severe socio-economic deprivation and stigma if she were forced to try and raise a child alone in a strange Nigerian city. Were those the facts of the case we might well have found the reasoning in the decision to be inadequate. Those are not however the facts. The Respondent proposes to remove this family – including the Appellant’s partner – to Nigeria together. She will not therefore be alone. We were not shown any evidence to support the proposition that internal flight would be unduly harsh in those circumstances.
9. Second the complaint made in respect of the analysis of “sufficiency of protection” completely overlooks the fact that there has been no positive finding of fact that the Appellant requires any protection in, for instance, Lagos. She is not at risk in any part of Nigeria other than her home area. The evidence was that it would not be possible for her family to find her. It is therefore hard to see where any critique of the Tribunal’s analysis could lead. As for the contention that willingness is “irrelevant” we reject that interpretation of the test. Protection must be effective, but part of the analysis must be whether the authorities are willing, for instance, to implement their own laws. As Judge Youngerwood observes, it was the Appellant’s own evidence that people in Lagos are aware that the police will act to prevent FGM and for that reason take their children into the countryside when the time comes. The Tribunal found that evidence to be consistent with the background material before it.

Decisions

10. The determination contains no error of law and it is upheld.
11. In view of the subject matter of this appeal and that the protection claim concerned a minor, we are satisfied, having had regard to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: *Anonymity Orders* that it would be appropriate to make a direction for anonymity and do so in the following terms:

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

Deputy Upper Tribunal Judge Bruce
20th May 2015