



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/03181/2015

THE IMMIGRATION ACTS

Heard at Field House
On 20th June 2018.
Written submissions thereafter.

Decision & Reasons Promulgated
On 29th August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD

Between

EY
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Jesurum of Counsel, instructed by Duncan Lewis
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is a resumed hearing. I previously heard this matter on 7th March 2018 when I had found that there was an error of law and I had set out various directions for the further progress of this case. I refer to my decision for that error of law hearing for the fuller background.

2. In short at paragraph 6 I had said the following:

“I discussed with the parties the appropriate way forward having found material errors of law. The difficulty which arises is that there are adverse credibility findings which were made by the judge against the Appellant. For example, paragraph 21 as to where the Appellant may or may not have been hiding, and paragraph 22 as to whether or not the shooting was witnessed. It is not possible to go against those findings as I have no explanation from the Appellant against those findings. What is submitted on behalf of the Appellant is that perhaps the evidence was provided in the way that it was through immaturity or because of mental health issues or otherwise. It was said that appeared to be a sufficient explanation. It is this submission and this aspect which has caused me to pause. I conclude however that it is not possible for me to go behind the adverse credibility findings without further evidence and the response from the Appellant in relation to what has been said by the judge. The Appellant is not in attendance today. The appropriate way for that evidence to be considered is for the Appellant to provide a witness statement and, if necessary, for there to be cross-examination of the Appellant”.

3. In readiness for this hearing I was provided with a witness statement from the Appellant dated 19th June 2018, i.e. yesterday and the Appellant adopted that witness statement today. It was not in compliance with the directions which I have set out because it was served late. I make it clear that compliance with directions of the Upper Tribunal are not an optional extra. The Tribunal makes directions for a reason. It enables proper preparation to be undertaken by all, importantly, including the judge and indeed by the opposing side.
4. In any event, putting that aside, this is consideration of an asylum claim and more general protection and human rights claim. As the previous decision shows although this is a protection claim and although the Appellant has been granted some form of leave he contends that he is at risk on return to Afghanistan. I am well aware of the burden and standard of proof. It is for the Appellant to prove his case. I have considered the matter to the lower standard of proof in respect of protection. In relation to human rights the claim has to be proved to the civil standard. I have given the case the most anxious scrutiny and I have considered the case in the round with all of the evidence. It goes without saying that I appreciate that giving evidence before a Tribunal can be an unnerving and difficult situation and I have made allowance to the Appellant in that respect.
5. The Appellant gave evidence in chief. He was not cross examined. A summary of the Appellant’s witness statement is as follows. He said he was responding to the decision of the First-tier Tribunal Judge. The Appellant said in respect of paragraph 19 when the First-tier Tribunal Judge had dismissed the appeal which was promulgated on 25th July 2017, it was said that the Appellant had not answered a question asked about whether both his step-uncles were in the same room. The Appellant said he

unfortunately could not remember saying that. He said he could not remember this but he was not saying that the judge did not ask him. The Appellant said regrettably he could not remember the question or the exact context of the question which was asked. The Appellant said he may well have misunderstood the question and that is why the response was, did not answer the question asked. The Appellant referred to his step-uncle's visit to his house after the killing of his father and he said that the question of whether his step-uncles were in the same room was a wrong question in light of the structure of the house. The Appellant said the houses in Afghanistan are different, most houses are the same and that he could describe the house and then he explained that there was a courtyard surrounded by high walls and the whole area is of twenty metres by fifteen metres. There was a sketch of the layout as well. The Appellant said that the step-uncles have talked to the mother outside the main building in the courtyard and during the argument that they had searched the main building as well. There was a distance of from five to eight metres between where he was and where the uncles talked to his mother. The Appellant said he heard some parts of the conversation but he could not follow it. The Appellant said he was only 13 years of age at the time and was in a state of shock. He said he found it difficult to go through these traumatic incidents and remember the exact details after all these years.

6. As for paragraph 20 of the judge's decision the Appellant said he did not give a logical explanation for his account that his mother knew it was the step-uncles who knocked at the door. The Appellant said that it was very hard knocking on the door and the previous incidents were reported, the fact that we reported the killing of my father to the police my mother became scared and told me to hide in the Tanoor and the Appellant said, "I spoke to my mother and she said that the knocking and their shouting following the knocking to open the door made her certain that it was the uncles and therefore she told him to enter the Tanoor".
7. As for paragraph 21 of the judge's decision the Appellant said he could hear the threats of his step-uncles and he said he explained the situation in paragraph 3. The Appellant said, "they came in and looked around and I only heard bits of the conversation as I was hiding in Tanoor and could not hear clearly...I know what the threats were made because of what my mother told me".
8. The Appellant said that he can only clarify he was in the Tanoor and it was clear to him that the step-uncles were threatening but the details of the threats were given to him by his mother after they had left. As for paragraph 22 of the judge's decision the Appellant said in relation to the allegation they had given conflicting accounts of whether he saw the step-uncles running away from the scene or whether they had already gone after the shooting. He said that he explained in his previous witness statement what the situation was and in reality, a confused and difficult one and the Appellant saying this was not inconsistent.
9. The Appellant also dealt with what was recorded in question 80 of the asylum interview. The Appellant said he was 15 years old at the time and was not mentally

stable and that it could have been a mistake or a misinterpretation. He was not really sure. He said as far as he remembered though he saw the men running away after the shooting of his father. The uncle part and that his witness statement was therefore correct. The Appellant said he remembered he screamed and stayed by the body of his father until he was separated from the body by his neighbours.

10. Insofar as the judge finding at paragraph 23 that it was implausible that the police refused to take action against the step-uncles due to a lack of evidence and yet they produced an arrest warrant, the Appellant said again that he did not remember anything about an arrest, talking about an arrest warrant. He said the answer recorded there was he did not recall anything about the arrest warrant. The Appellant said it was unfair to take into account such a clear misunderstanding against him.
11. Insofar as the judge finding that it was implausible his mother did not travel to Lagham to report to the local police, Lagham was actually another province and there was a strong presence of the Taliban and other armed groups which the step-uncles are affiliated with. The crime happened in Kabul and it was logical for the police in Kabul to tackle it. The suggestion that one should move to a more insecure province to report was an indirect way of telling us to run away said the Appellant.
12. Insofar as the judge finding it unclear why the house was sold before he left Afghanistan, the Appellant said he acknowledged that he was not clear on this point but the document of the sale submitted showed that the house was sold on 13th August 2012. The Appellant said he maintained he was in Afghanistan and did not know about the sale of the house and was not sure about the date on the document, that why the date on the document predated his departure. The Appellant said, "nor does his mother because she had only shared the idea of selling the house with his uncle before he left the country and that the house had been sold after he left Afghanistan".
13. As I have said above, during the hearing the Appellant in his oral evidence adopted his witness statement and the other witness statements within the bundle. He said the statements were all true and he relied upon them.
14. Mr Kotas said that he had no questions to ask. Clearly therefore there was no Re-examination and the matter proceeded to closing submissions.
15. Mr Jesurum then said the sale documents were dated 13th August 2012 and there was an issue as to whether that was before or after the Appellant left Afghanistan. It was said that the Appellant accepted that he could not recognise this in relation to Mr Mohammad Younas because he had been dead for two months.
16. Mr Kotas in his submissions said he was not going to address Article 8. The further evidence now presented had not led to cross-examination of the Appellant. Whereas the Appellant had had all the time in the world to think about his discrepancies. The Appellant did not give evidence to the previous judge at the previous hearing. The discrepancies go to the nucleus of the Appellant's claim. Did the Appellant see who

had shot his father or not? He either did or did not. There was no psychiatric evidence. If there was it has not been adduced. The Appellant is only recalling what he saw with his eyes. Either the events did not happen or they did and I had to consider the matter in light of **Tanveer Ahmed**. Alternatively, the father did die. Is there actual evidence to support it and the first issue is Dr Guistozzi and the blood feud. I should look at page 132 of Dr Guistozzi's report at paragraphs 4 and 5. Dr Guistozzi does not deal with the essential tenet of the case and I should look at the Danish Report. Women and children were barred from issues relating to blood feuds. Blood feuds are still common.

17. Mr Kotas said he invited me to prefer the background evidence, the seeking out of revenge and pre-empted strike was not borne out by the background evidence and it lent weight to the Secretary of State's case. The Appellant's case was internally inconsistent with the Secretary of State's background evidence. I should see the Danish Report. It was the Appellant who had run away scared from his perpetrators. Why was he then fearing them? That was an important point. The corroboration of the Appellant's case was from the affidavit. He recalls from the legal side in Afghanistan. Insofar as the witness statement from Duncan Lewis is concerned it was short and there was a statement dated 18th July 2017 in the supplemental bundle.
18. Mr Kotas said he had not seen a formal letter of instruction.
19. The second issue was a document which purported to be an affidavit. Mr Kotas said it was not an affidavit. It needed to be in the first person. This undermined the veracity of the document and/or the amount to be placed upon it and there was a statement.
20. Thereafter it became necessary for the matter to be adjourned and I invited the parties to submit their further written submissions and written documentation.
21. Mr Kotas in compliance with the directions provided a detailed document headed "Written Submissions" dated 25th June 2018. A summary of those submissions is that the reliance on the expert report of Dr Giustozzi by the Appellant for the proposition that the Appellant was in a blood feud was inherently implausible. The SSHD's case, as set out in the Reasons for Refusal Letter, in line with the objective background material disclosed that children were excluded from being targeted in blood feuds. As were women. Dr Giustozzi dealt with plausibility of the Appellant's account in the briefest terms. In essence the expert stated that the uncles of the Appellant will have an interest in eliminating the Appellant as a pre-emptive strike. I was invited to prefer the objective evidence instead. Dr Giustozzi fails in reality to grapple with this and the footnotes do not deal with it sufficiently.
22. Mr Kotas said that the documents purportedly from Afghanistan from Stanikzai Legal Services showed a number of concerns. The Second witness statement of Mr Nasir Ata, a Solicitor at Duncan Lewis Solicitors stated he contacted Stanikzai law firm. Why was there no formal letter of instruction? No such letter or e-mail had been adduced in evidence. Further the proof of posting did not refer to Duncan Lewis at all. Further

there was no corresponding or covering letter sent back to Duncan Lewis enclosing the documents.

23. Mr Kotas said that in terms of the documents themselves the document entitled "Affidavit" was manifestly not an affidavit of the witness. On the contrary it was a statement apparently from an advocate at Stanikzai Legal Services recounting what the witness had told him. This was hearsay and not even the name of the advocate was given.
24. In respect of the documents at paged 62 and 63 this was apparently a request from Stanikazi Legal Services to the police enquiring about the alleged incident and a confirmation from the police of the same. Of note was that one would expect the documents to be separate documents, but it was apparent that there was in fact one document over two pages. Of greater concern was that the top of page 62 referred to "Ministry of Finance, Kabul Revenue Office, Taxation Department". This would appear to refer to an official government department, whereas the document was purportedly from an independent law firm with no alleged link to the Ministry of Finance. This was curious to say the least.
25. There were issues of specifics such as "the bullet hitting the heart" but not clear how the author would have known this.
26. As for Dr Giustozzi's report dated 15th July 2017 which purports to confirm the existence of a police report, it was not in fact the expert who had investigated this. He had relied on an individual called Mr Silab Mangal who is described as a 'journalist and stringer'. This was hearsay and second-hand hearsay, nothing is known of Mr Mangal and there was no CV attached. It was submitted that very little weight should be given to the report.
27. In so far as **PJ Sri Lanka v Secretary of State for the Home Department** [2014] EWCA Civ is convened, that is authority only for the proposition that in certain very limited cases, there may be a duty of verification on behalf of the Respondent. In that case the documents were at the heart of the claim for international protection and had always been with the SSHD from the outset. This contrasted markedly from the extant appeal whereby the documents were only produced for the appeal hearing. I was invited to give very little weigh to the documents purportedly emanating from Afghanistan in line with **Tanveer Ahmed**. Indeed, there was no further medical evidence from the Appellant to explain the serious discrepancies in the Appellant's evidence. The Appellant had a long period of time to come with an explanation for the discrepancies. I was invited to dismiss the appeal.
28. On 28th June 2018 I received an e-mail (with Mr Kotas copied in) from Mr Jesurum informing that he was not going to be able to comply with timetable I had set because he was awaiting confirmation on a number of points that arose for the first time in the written submissions of Mr Kotas. He also suggested viewing of the original of the documents "from" Afghanistan by Mr Kotas.

29. Then on Sunday 1st July 2018 I was sent an e-mail with various documents from Jesurum. Mr Kotas was copied in to that e-mail. The documents included written submissions, a third witness statement of Mr Nasir Ata, an exhibit to that witness statement, a death certificate, an affidavit and a police report. There were also arrangements made for the originals to be seen. Mr Kotas sent an e-mail to me (with Mr Jesurum copied in) on 5th July 2018 informing that had had sight of the originals and that *"I would simply wish to comment as following in relation to the police report which appears at page 62 and 62 of the A/B. Both the request and the reply are one and the same document with the reply appearing on the reverse of the page. I simply re-iterate my submission at paragraph 9 of my written submissions that this seems highly unorthodox"*.
30. Mr Jesurum's written submissions can be summarised as contending that I should allow the appeal and that there was complete chain of custody in respect of the documentation from Afghanistan. I shall refer further to those submissions below.
31. The third witness statement of Mr Nasir Ata, a solicitor at Duncan Lewis Solicitors, states in summary that he did deliberately did not inform the Appellant of the identify and contact details of Stanikzai Legal Services to make sure it could not be said that the Appellant had told the lawyers what to say. Similarly, that firm were not given the Appellant's contact details. Mr Ata said he did not give the firm too much detail about the case so as to see what they could find out without being told. Mr Ata said he had not told the firm who was said to have shot the Appellant's father. An e-mail of the instructions to Stanikzai was attached. As it was the subject of privilege it was not attached to a previous witness statement. Mr Ata said the two different addresses were because he is a consultant at Duncan Lewis but he is also a partner at Ata & Co. Solicitors. He referred to the originals of the envelopes. Finally, Mr Ata states that no contact details were given to the Appellant in respect of Dr Giustozzi or Mr Mangal. Mr Ata said he has commissioned various other verification reports (as well as expert reports) from Dr Giustozzi and he has seen Mr Mangal's name in the verification reports as his researcher. On at least four occasions Mr Mangal has reported that the verification was negative and that the documents were not issued by the authority they claimed to come from.
32. In assessing the evidence, apart from the other self-directions and indeed from the burden and standard of proof, I also remind myself that it is necessary to have in mind the matters set out by the Court of Appeal in **AM (Afghanistan) v Secretary of State (Lord Chancellor Intervening)** [2017] EWCA Civ 1123, [2018] 4 WLR 78. The importance of fairness of procedure is essential. Additionally that the strict rules of evidence do not apply to the Tribunal was made clear at paragraph 24 onwards as follows,

24 The [FTT](#) has a broad power to admit evidence which by [rule 14\(2\)\(a\) of the FTT Rules](#) includes evidence that would not "be admissible in a civil trial in the United Kingdom". Accordingly, strict rules of evidence do not apply: see, by analogy with the [FTT Tax Chamber, *Revenue and Customs Comrs v Atlantic Electronics Ltd* \[2013\] EWCA Civ](#)

[651; \[2013\] STC 1632](#) per Ryder LJ, at paras 30–31 as applied by the UT in [Belgravia Trading Co Ltd v Revenue and Customs Comrs \[2014\] UKFTT 31 \(TC\)](#) at [19].

25 One of the consequences of the absence of a strict rule is that the civil rules about the admission of hearsay including from a party without capacity, do not apply: see [section 5\(1\) of the Civil Evidence Act 1995](#).

26 The overriding objective and the parties' obligation to co-operate with the tribunal are set out at [rule 2 of the FTT Rules](#) in the following terms:

"(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

"(2) Dealing with a case fairly and justly includes – (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal; (b) avoiding unnecessary formality and seeking flexibility in the proceedings; (c) ensuring, so far as is practicable, that the parties are able to participate fully in the proceedings; (d) using any special expertise of the Tribunal effectively; and (e) avoiding delay, so far as is compatible with proper consideration of the issues.

"(3) The Tribunal must seek to give effect to the overriding objective when it – (a) exercises any power under these Rules; or (b) interprets any rule or practice direction.

"(4) Parties must – (a) help the Tribunal to further the overriding objective; and (b) co-operate with the Tribunal generally."

27 It is accordingly beyond argument that the tribunal and the parties are required so far as is practicable to ensure that an appellant is able to participate fully in the proceedings and that there is a flexibility and a wide range of specialist expertise which the tribunal can utilise to deal with a case fairly and justly. Within the Rules themselves this flexibility and lack of formality is made clear. The terms of [rules 4](#) (Case management), 10 (Representation) and 14 (Evidence and submissions) are as follows:

4 – Case management

"(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.

"(2) The Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.

"(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Tribunal may – ... (d) permit or require a party or other person to provide documents, information, evidence or submissions to the Tribunal or a party ... (f) hold a hearing to consider any matter, including a case management issue; (g) decide the form of any hearing ..."

33. Therefore whilst I understand the submissions of Mr Kotas about hearsay and similar matters, those submissions cannot possibly mean that the evidence is to be 'excluded'. It is merely what weight I should add to the hearsay. I am also conscious of the age that the Appellant arrived in this country, but on the other hand that there is no new real medical evidence to speak of. What there is though is that in the past there have been findings not challenged about the Appellant's Post Traumatic Stress Disorder by Professor Katona. This is relevant for participation of the Appellant as a witness and it is appropriate to have that in mind when assessing the Appellant's evidence as to why he may be giving evidence in the way that he has been. I am conscious that Professor

Katona did not attribute the PTSD to the events of the killing of the Appellant's father, but nonetheless the PTSD is there.

34. I therefore turn to consider the evidence in more detail. In view of the series of challenges to the documentary evidence and the way Mr Kotas puts those challenges, including the way he states that the documents appear in an unorthodox fashion, I consider the documents first. I am very familiar with the decision in **Tanveer Ahmed**.
35. In my judgment, Mr Ata, the consultant solicitor at Duncan Lewis Solicitors has explained in clear and appropriate terms how it is that a different correspondence address was used by the expert to correspond with, compared with the Spencer House address for Duncan Lewis Solicitors. That is because Mr Ata works as a solicitor at two addresses. I accept that evidence. I have also seen the instructions sent to Stanikzai Legal Services and I accept that (a) there was a letter of instruction and (b) that it was in a proper form. The letter of instruction can be part of the bundle produced and, in my judgment, would not usually be privileged, but I accept Mr Ata's explanation that the reason he did not exhibit it previously was because he thought it was privileged. Finally, in relation to Mr Ata's evidence, I see no reason why I should not or cannot accept his evidence that Mr Mangal has been used in various other cases for verification reports as a researcher linked to Dr Giusztozzi. It is noteworthy that in some reports Mr Mangal has said that the verification was negative. Namely that the documents produced by Appellants in those cases were not genuine. In short, I am completely satisfied about the letters of instruction and the professionalism of the communications.
36. I am therefore quite satisfied about the veracity of Mr Ata and about the way in which the experts and verifiers of reports came to be instructed. Indeed, I am also satisfied about the line of communication was perfectly professional. I note that for an added layer of verification, Mr Ata did not provide contact details to the Appellant of Stanikzai Legal Services and vice versa. That therefore added to the veracity because it means that it was highly unlikely that there was to be any contamination of the evidence. Similarly, there was no line of communication between the Appellant and Dr Giustozzi. That is a good thing because it means that there was never any possibility of contamination or indeed of being suborned.
37. I turn next to the documents themselves. In so far as the affidavit at page 50 is concerned, whilst it is not an affidavit as we are used to here in England and Wales, the document is in my judgment in a form that can be accepted as being of considerable use and reliability. As has been pointed out, although it is in the first person as the lawyer, it shows that the witness was spoken to by an independent lawyer on oath on 28 January 2017. The lawyer took the witness's account. The lawyer drafted the document in the first person, setting out what he had been told by the witness. The original of this has been produced to me. Just looking at it does not enable me to say it is genuine, but it does add to the overall reliability of the document that there is nothing about it that shows obvious inconsistencies such as copying or tampering or the like. In my judgment, there is simply a different way of referring to and preparing

affidavits. I see no reason to discount the affidavit. I certainly see no basis to say it is not genuine. Hasahmat witnessed an incident involving his neighbour M Younos on 3 June 2012. Hashamat heard gunfire. He saw the dead body of M Younos and saw his brother Sardar wounded. Those responsible were Hameed and Samad. They are close relations of Haji Zahir Qadeer and have close links with the government. He took video footage of some of the incident. The date is 17 April 2011 but mobile phones were not so advanced then but the date was incorrectly recorded and he had not updated his telephone manually as he is not so familiar with technology. In my judgment this evidence to independent lawyers (not the Appellant's lawyers) adds to the weight to be given to the evidence.

38. As for the death certificate, I note the complete chain of custody in respect of it. Again, the original shows nothing to enable me to say it has been tampered with or anything of that sort, albeit I am not an expert and I have merely been inspecting it as a layperson. Mr Kotas was able to inspect the originals of all of the documents. I see therefore that the death certificate shows that the Appellant's father was 'martyred' on 3 June 2012 at Daralaman. This, on the face of it, is strong evidence.
39. The police report or petition was also available as an original. Mr Kotas asks how is it that both the petition and response are part of the same document? I note though that when one looks the original, it is possible to see that the response to the petition is written by various persons with the original on the first page and continuing on the back. That makes sense. There is different writing and different colours. Namely filled in and completed by different people at different times. Then as a result of the enquiries, it is then countersigned by three different officers (a Major General, a Colonel and a Captain). This document says that the Appellant's father was shot on 3 June 2012 and that the Appellant's uncle was injured with bullet injuries to his leg. The reason for the crime was 'personal enemies'. I have to say this appears strong evidence. Especially when noting it is supported by other evidence, such as the evidence provided by the Appellant's mother to Mr Ata the solicitor here in England over the telephone and that the Appellant's mother and siblings applied for assistance (via the UNCHR) for protection from Turkey.
40. In so far as Dr Giustozzi is concerned, he properly refers to his duties as an expert and sets out his CV and background. Mr Kotas submits that the expert there is reference to hearsay and second hearsay. I note **AM (Afghanistan)** again, but in any event, as the chain of custody of the documents and the enquiries in Afghanistan show, third parties were used in Afghanistan to get the necessary confirmation. I see no basis to reject this. The suggestion that Dr Giustozzi's report is not properly sourced or the like or is not a 'report' is not backed up with any real basis.
41. The issue in respect of whether Dr Giustozzi's evidence is to be preferred over the background material provided by the Respondent requires careful assessment. The Respondent says that children are excluded from being targeted in blood feuds (as are women). I note the Reasons for Refusal letter in relation to this aspect which is referred to at the footnote to Mr Kotas's written submissions and the reference to the

Norwegian Country of Information Report that “According to Barfield, it is optimal that revenge is taken against the murderer or the perpetrator of the misdeed...”. Mr Kotas submits that Dr Giustozzi deals with plausibility in the briefest terms. “Will the uncles of the Appellant have an interest in eliminating the Appellant as a pre-emptive strike”, he asks.

42. In my judgment I am able to consider the evidence as a whole. Whilst the background material referred to by the Respondent is in general terms, this specific evidence from the expert is supported by several other pieces of evidence. Not least the police report/petition, the mother’s evidence, the neighbour’s evidence and more. In my judgment therefore, I am persuaded that just because something does not normally happen, is not to be equated with it did not happen in this case. It is indeed also noted that the Appellant is now an adult. He was not a very young child at the time either. There are some curious aspects to the case, such as the sale of the land documents (which was pointed out by the Appellant himself), the date is wrong, but that does not undermine the whole of the case. I accept the expert’s evidence and prefer it over the more general background material.
43. Mr Kotas raises an issue about the Ministry of Finance document. The Appellant’s responds to state that this and many of the other issues have been raised for the first time and could indeed have been put during the cross examination, but the choice of the Respondent was to ask no questions. The Appellant states that the original can be inspected and the Ministry of Finance is a stamp whereby in many jurisdictions a fee is levied for the submissions of legal documents. The stamp then confirms that the requisite fee has been paid. That in my judgment answers that concern.
44. Again reminding myself of **AM (Afghanistan)** and going back to the decision of First-tier Tribunal Judge Cohen alongside the reason for the resumed hearing, I ask myself whether any sufficient reasons have now been provided by the Appellant in respect of his evidence. In my judgment the Appellant is not being evasive or deliberately difficult when stating he either does not recall or does not know when some of his answers were as they were during interview and other formal environments. In my judgment when noting his age, his PTSD and that he was unrepresented are all highly relevant factors. Added to that is the very extensive evidence now available. I am quite satisfied that the Respondent has been able to test the evidence and indeed has done so very well with sufficient time. New issues were also raised by the Respondent. There was no cross examination.
45. I conclude that the Appellant has been able to show to me to a high degree that the events he reports and which are supported by other compelling evidence did occur. The fact that there are some minor discrepancies is to be expected when remembering that the Appellant was just aged 14 when his father was killed. If it was necessary I would conclude that the Appellant has provided his case to a standard even higher than the civil standard.

46. I therefore find that the Appellant's father was shot dead on 3 June 2012 and that the Appellant's uncle was injured during the shooting. The Appellant was present. There is a blood feud and the Appellant is at risk. The discrepancies in the Appellant's evidence are explained to me by the Appellant's further oral and written evidence. He notes the discrepancies himself but is unable to shed much further light on them, other than by reference to his age, the PTSD and such matters. I accept the evidence that the same was sufficient to explain his previous evidence and the discrepancies. Indeed, all of the further and additional evidence is of such veracity that it is clear that the Appellant simply had not explained himself clearly, fully and accurately in his formal evidence previously. I had said in my error of law decision at paragraph 6 that the Appellant needed to deal with the adverse credibility findings made by the FTT Judge. Now that the Appellant has done so with his own direct evidence and with the substantial further expert and other evidence, I am satisfied that the Appellant's account is a genuine and truthful one. That is despite some minor discrepancies remaining. For example, with the date on the land certificate. However, in a case such as this with such a history over very high number of years and with such factual complexity having to be explained by a young person with PTSD, mistakes are to be expected.
47. Therefore having considered the evidence in the round and having carefully considered all of the points made on behalf of the Respondent, even if not specifically mentioned, I conclude that I accept the credibility of the Appellant.
48. I turn to the remedy sought. The grounds of appeal were not limited to an appeal against the decision of the FTT Judge in respect of asylum. The grounds also related to Article 3 suicide risk and Article 8/paragraph 276ADE.
49. In so far as the asylum claim is concerned, in my judgment the Appellant is at real risk on return because of the blood feud. He is a member of a particular social group as a target of that blood feud. The evidence is abundantly clear that there is no sufficient protection available to him. The state is either unable or unwilling to provide that protection. Internal relocation is not a viable alternative when considering the House of Lords decisions in **Januzi** and **AH (Sudan)**. The background material and expert report shows that internal relocation is not reasonable.
50. In so far as necessary, I am asked to consider whether the Appellant will commit suicide on return and if that may render his removal inhuman or degrading and that thereby his appeal be allowed under Article 3 ECHR grounds for that reason. Professor Katona's evidence at page 101 of the bundle (which was uncontested evidence) was that there is a high risk of completed suicide if there was to be a return. I see no reason not to allow the appeal on this basis. It was not disputed by the Respondent.
51. Finally in relation to Article 8 and Paragraph 276 ADE, again despite the findings in respect of asylum and Article 3 ECHR, in so far as is necessary, in view of my findings I ask would the Appellant face very serious obstacles to re-integration in Afghanistan? Would it be disproportionate for him to be removed in respect of his family and private

life? This remained a relevant part of the appeal and there was no real submission to oppose from the Respondent. In view of the serious risks to the Appellant in terms of his physical safety it is difficult to see how he could re-integrate within Afghanistan. I see no basis why the appeal should not be allowed on this basis either.

52. I therefore conclude that the Appellant's appeal is allowed.

Notice of Decision

I re-make the decision which had dismissed those parts of the earlier decision of the FTT.

The Appellant's appeal is allowed on asylum grounds.

The Appellant's appeal is allowed on Article 3 and Article 8 ECHR grounds.

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: A Mahmood

Date: 2nd August 2018