Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/07639/2017**

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 19 March 2018	**On 1 May 2018**

Before

UPPER TRIBUNAL JUDGE McWILLIAM

Between

M R
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Z McCallum, Counsel, instructed by Londonium Solicitors
For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Bangladesh and his date of birth is [ ] 1994. He made an application for asylum and this was refused by the Secretary of State on 2 August 2017. He appealed against this decision. His appeal was dismissed by First-tier Tribunal Judge J K Swaney in a decision that was promulgated on 27 September 2017 following a hearing at Hatton Cross on 8 September 2017. Upper Tribunal Judge Rimington granted permission to the Appellant on 2 January 2018 and thus the matter came before me.

2. The Appellant came to the UK on 23 February 2012 as a student. He made an application before the expiry of his visa on 14 October 2013 to remain as a student. He was granted valid leave until 29 November 2017.

On 3 June 2014 his leave was curtailed to expire on 8 August 2014 on the basis that the educational establishment's Sponsor licence had been revoked. The Appellant made another application to remain as a student on 5 August 2014 which was refused. He appealed and the appeal was allowed on 29 September 2015. He was granted leave to remain outside the Immigration Rules until 11 June 2016. He made an application on 9 June 2016 for a residence card as an extended family member. This application was refused on 18 December 2017. He claimed asylum on 6 February 2017.

3. The Appellant's case is that he fears the authorities in Bangladesh. He was involved with Islami Chhatra Shabi (ICS) which is the student branch of Jamaat-e-Islami from 2008. His grandfather was a local union chairman and member of Jamaat-e-Islami. The Appellant's activities included encouraging other students to join the organisation by inviting them to attend events, to discuss issues and hand out party literature. He progressed from being a worker to a "Shathi". In order to achieve this he had to sit an exam and make an application. As a Shathi he was responsible for supervising a group of members. The Appellant's group would look after guests on special occasions.

4. In June 2011 he took part in a demonstration against party leaders being arrested or made to disappear. He shouted slogans and supported the leadership policy at the demonstration. He became aware two weeks after the demonstration that a false claim had been filed against him in June 2011 about what he allegedly did at the demonstration. On the day of the demonstration he went into hiding because of his prominence. He knew that the police were looking for him. He hid in Sylhet with his aunt. The Chhatra League (CL) found the Appellant at his aunt's home in November 2011. They attacked him and as a result of this he was hospitalised. His father reported the attack to the police and they took a statement. They did not do anything further. The police visited the Appellant in hospital. They did not arrest him despite the fact that a false claim had been filed against him in 2011. A second case was filed against him in January 2012 and the police came looking for the Appellant at his aunt's house. An arrest warrant was issued in August 2012. The Appellant does not know whether there was a finding against him made by a court.

The Decision of the First-tier Tribunal

5. The judge found that the Appellant was an active member of ICS but recorded that the Appellant's own evidence was that he did not hold a responsible position within the party. The Appellant, as recorded by the judge, referred to his position as one above an ordinary member. He had worked with ordinary members in order to carry out instructions of the leadership. The judge found that he did not have a high profile. The judge found that the authorities did not have an interest in the Appellant and this was supported by his evidence that he was able to leave Bangladesh through the airport using his own passport. The judge accepted that the Appellant was attacked by members of the CL as claimed. The judge

considered this to be consistent with the country guidance. However, it was not accepted by the judge that he had gone into hiding.

6. The judge took into account the Appellant's evidence that he went to his English tutor three or four times a week which was found not to be consistent with his evidence that he was during this period in hiding. The judge accepted that the Appellant had been involved in political activities and that he was trying to encourage others to join and participate. He found that he had attended the demonstration in June 2011. It was not accepted that he had been identified at the demonstration by the police. He accepted the medical evidence that the Appellant was assaulted in November 2011 and that he had received treatment as a result of this. He accepted that his father had lodged a complaint and that the police visited the Appellant whilst he was in hospital. The judge did not accept that the police failed to follow up the matter.

7. The Appellant submitted documents in support of his case including documents relating to the cases which he stated had been filed against him. The judge placed little weight on these for the reasons that he explained at paragraphs 37 and 38. The judge did not accept that a warrant had been issued for his arrest. He did not accept that complaints had been filed against him. He took into account that the police visited him in hospital at a time when the Appellant claimed that he was wanted however the police had not shown any interest in him. The judge took into account that the Appellant is no longer a student and that he left Bangladesh some years ago. Given the passage of time those who attacked him, according to the judge, would have moved on. He found that the chances of him being recognised on return by members of the CL are low. In any event he could seek the protection of the authorities.

8. Alternatively the judge found that he could relocate, concluding that the Appellant has family in Bangladesh. The judge found that there was nothing to suggest that the Appellant would not be supported by his family should he relocate to another part of Bangladesh. He concluded that relocation would not be unreasonable or unduly harsh.

9. The salient paragraphs of the determination are as follows:

> "36. I place weight on the medical evidence contained in the appellant's bundle. It appears to suggest the appellant was taken to hospital suffering injuries near his left eye, on the back of his hand and between his fingers. This is consistent with his evidence that he suffered injuries on his face and hands. The evidence states that his injuries were the result of a physical assault and that they were stitched. He was discharged on 26 November 2011. This is consistent with his claim to have been attacked in November 2011. I accept the appellant's father lodged a complaint with the police. This is consistent with the appellant's evidence. I accept that the police visited the appellant in hospital.

37. I place little weight on the documents relating to the two cases against the appellant. He has given no clear explanation of how he obtained these documents. He stated that they were brought to the United Kingdom by a friend of his uncle. This may well be true, however what is more important is an explanation of how those documents came into the possession of his uncle's friend. There is no evidence as to how the documents were obtained from the police/court. I note also that it is unclear when some of the documents were created. The first information report relating to the first case appears to have been created on 12 June 2011. At the top of the document however there are a number of what appear to be dates in March 2017. There is no information as to the significance of these dates.

38. The appellant claims that despite knowing his name and there being a warrant for his arrest outstanding at the time, the police did not arrest him or take any action against him when they visited him in hospital. This further casts doubt on the genuineness of the documents. His explanation for why the police did not arrest him is speculative and implausible. Taken together with the fact that the appellant was able to leave Bangladesh using his own passport without coming to anyone's adverse attention, I find that there was no arrest warrant issued against the appellant.

39. I find to the lower standard that the appellant was involved in student politics for IslamiChhatraShibir. I accept that he was active in trying to encourage others to join and participate. I find the appellant attended a demonstration in June 2011. His evidence of the demonstration was relatively detailed and credible. I do not accept that the police identified him at the demonstration among a crowd of 20,000 even if he was close to the front as claimed. The appellant's claim to have been at the front holding a banner was only expressed after he was challenged on how the police would have identified him in such a large crowd. When he was asked why he did not mention the fact that he had been at the front holding a banner earlier, he stated that he had forgotten. If this was what prompted him to go into hiding then I consider it is not plausible that he would forget about it until reminded.

40. Although I accept the appellant was an active member of IslamiChhatraShibir, his own evidence was that he did not have a responsible position within the organisation. He referred to his position as one above an ordinary member, but he also said that he and ordinary members worked together to carry out the instructions of the leadership. This is not indicative of him having a high profile role. This, taken together with the fact that he was able to leave Bangladesh without difficulty travelling on his own passport lead me to conclude that the Bangladeshi authorities do not have any interest in the appellant.

41. I find it is plausible that the appellant was attacked as he claims by members of the Chhatra League. Although the appellant states that he was in hiding, in reality he was simply living at a different address. His evidence is that he went to his English tutor three to four times a week and also that he went to his father's. It is plausible that they would have known him from student political activities and that they would have attacked him as claimed. This is consistent with the Country Information and Guidance note Bangladesh: Opposition to the government dated February 2015 which reports that when their parties are in government the student wings become unchallenged perpetrators of human rights abuses (paragraph 2.52). It goes on to state that throughout 2014 the Chhatra League took part in taking part in abductions, mugging, extortion, tender manipulation, admission trade, assaulting teachers and attacking journalists.

42. As stated above, I accept the appellant received medical treatment in hospital as claimed and that his father reported the attack to the police. The appellant stated that the police did nothing to follow the matter up; however there is no evidence to support his claim. For example there is no statement from the appellant's father to confirm either the steps he took to pursue a response from the police or the response he received. There were further steps the appellant and his father on his behalf could have taken to purse this matter to attempt to obtain protection from the Bangladeshi authorities however they did not take them.

43. The appellant was a member of a student political organisation and he was attacked by members of another student political organisation. He is no longer a student and left Bangladesh some years ago. Given the passage of time I consider it is reasonably likely that the people who attacked him have now moved on. I find that the chances of him being recognised on return to his home area by members of the Chhatra League are low but even if I am wrong, the appellant has options available to him. He can approach the authorities for protection. As I have said, I do not accept the authorities are aware of his political activity. Alternatively, he could relocate elsewhere within Bangladesh."

The Grounds of Appeal

10. It is asserted that the judge accepted, at paragraph 36, that the Appellant had been persecuted in the past leading to hospitalisation and he did not take this as a serious indication as to his future threat in accordance with paragraph 339K of the Immigration Rules. The judge failed to take into account the country information and guidance relating to Bangladesh of February 2015 which reads as follows:

"2.4.6 According to information gathered by Odhikar:

'A reported total of 108 persons were extra judicially killed, between January and June 2014. This means that on average, 18 persons were killed extra judicially every month. … Of the 108 persons who were killed extra judicially, twelve were leaders-activists of BNP, three were activists of Awami League, 21 were activists of Jamaat Shibir.'

2.5.5 … On December 12, 2013 at around 7.30pm an activist of the student wing of Jamaat-e-Islami Anwar (20) was shot dead when the police attacked a procession which was brought out after the execution of Jamaat-e-Islami Assistant Secretary General Abdul QuaderMollaat Manoharganj, Comilla. The clash continued for about half an hour leaving 30 [student wing of Jamaat-e-Islami] activists injured with bullets. Of the injured Anwar was pronounced dead after he had been taken to Dhaka Medical College Hospital.

2.5.6 Odkikar reported that 'On February 10, 2014, Chhatra League leaders drove out 97 newly admitted students of Dhaka University from SM Hall. Chhatra League leaders told the students that they would not be allowed in the residential hall if they were not Chhatra League activists'.50 It further notes that on May 5, 2014 Chhatra League activists beat a student named Rassel with bamboo rods on the assumption that he was a Shibir activist, at the Proctor's Office of the Jagannath University."

11. The grounds assert that the country information shows that a person does not need to be a leader or hold any specific position within the party in order to be at risk of persecution.

Ms McCallum's Speaking Note

12. The speaking note prepared by Ms McCallum raised a number of issues many of which were not raised in the grounds. She argued that the starting point for the First-tier Tribunal was the positive finding that the Appellant was a political activist for Jamaat-e-Islami and that he had been attacked by activists of the rival CL as a result of his political activities and that this resulted in injuries to his face, hands and hospitalisation. The judge at [26] recorded the submissions that were made on behalf of the Appellant including that the background evidence demonstrated that it was not only political leaders who were at risk of persecution but that student activists were also at risk. The judge having accepted that the Appellant had been attacked by members of the CL drew upon the Appellant's consistency with paragraph 2.5.2 of the 2015 CIG report. However, then the judge failed to take into account the report in respect of the assessment of risk of persecution, sufficiency of protection and the validity of internal relocation. The judge made a wrong assumption that

only those with a high profile face persecution which was contrary to what is said in the 2015 CIG report specifically at paragraph 2.5. The clear implication of the country information and guidance is that student activists and not just those with a high profile face persecution and that the student wing of the CL which has been the ruling party since the 2008 election functions at the very least in connivance with and even at the direction of state machinery including the police rather than independently of it. The relevant extracts of the report were before the judge.

13. The judge assumed that state protection would be available to the Appellant without assessing the evidence that was relevant to answering that question namely that at paragraphs 1.3.10to 1.3.12 of the CIG report which point to the opposite conclusion to that reached by the judge. In addition it carefully directs the judge to take account of past persecution which is an indicator of future risk. The judge's assessment of internal relocation was flawed with reference to paragraphs 1.3.14 and 1.3.15 of the CIG report. The clear conclusion of the passages is that if as other parts of the CIG suggest the CL function in connivance with the state authorities, internal relocation would not be an option for the Appellant.

14. In the speaking note it is argued by Ms McCallum that the judge's assessment of the documentary evidence was flawed. The judge erred when concluding that the Appellant's father had failed to pursue the police complaint. It is argued that the judge appears to have attached weight to this as evidence of the absence of continued risk of persecution as at the date of the hearing and the grounds rely on at [42]. However, it is argued that paragraph 1.3.10 of the 2015 CIG report makes it clear that an Appellant is unlikely to obtain sufficiency of protection from the police in the circumstances where his assailants are from the ruling party. It was, having taken into account the country information and guidance, coherent and plausible that the police did nothing to follow up on the claim and it was an error of law to reach the conclusion on objective persecution risk without considering the evidence and stating the reasons for rejecting it. The rejection of the Appellant's claim that the police had failed to follow up on his case amounts to an adverse credibility finding purely for failing to supply corroborative evidence which requires too much in the light of the standard of proof in asylum cases.

15. According to Ms McCallum's speaking note and the oral submissions each of the reasons given by the judge for rejecting the documentary evidence was flawed such as collectively the decision not to place weight on the documents amounted to an error. When the first warrant was issued against the Appellant in January 2011 he was aged 17 and a minor. He had no direct evidence of how they were obtained and it is not implausible that he would fail to ask. The issue of discrepancy as to the dates on the face of the document was not put to the Appellant in cross-examination. The judge's determination records that the Respondent relied only on country background information and did not point to any particular features of the documents that suggested they were not genuine. It was a violation of basic common-law procedural fairness that this aspect of the case against the Appellant was not put to him. There may well have been

an easy way to explain the discrepancy which the Appellant could have advanced. It was perverse to reach an adverse credibility finding on the basis that the Appellant's explanation why the police did not arrest him in hospital was "speculative". The Appellant was incapable of giving direct evidence on that point because he is not a policeman himself and the answer was therefore necessarily speculative.

16. In relation to the Appellant being able to depart the country on his passport when a warrant was outstanding for his arrest, it was not properly considered in the round in the light of the background country information which established that in many underdeveloped countries there is an absence of coordination and that at 1.3.10 of the CIG report "the effectiveness of the police is undermined by a lack of basic resources, including a lack of infrastructure, training and proper investigative equipment, inefficiency and endemic corruption."

17. Ms McCallum relied on the CIG report with specific reference to the following extracts;

> "1.3.10 Whilst the there is a functioning criminal justice system, the effectiveness of the police is undermined by a lack of basic resources, including a lack of infrastructure, personnel, training and proper investigative equipment, inefficiency and endemic corruption. Despite measures to improve the police force and its service, through the Police Reform Programme, low wages, lack of education and poor working conditions contributed to a culture of corruption, and security forces commit serious abuses including torture to obtain confessions, enforced disappearances and extra-judicial killings with impunity. There have also been reports that the police often failed to prevent societal violence or protect members of religious minorities, political opponents, and women. The judiciary is highly bureaucratic, overburdened with a huge backlog of pending cases, has a limited number of trained judges and lawyers, is costly, and is subject to bribery, interference and political pressure, particularly at lower levels. (see Rule of law and the judiciary in the Country Information and Guidance. Bangladesh: Background information including actors of protection and internal relocation.
>
> 1.3.11 Perceived political opponents whose fear is of serious harm at the hands of the state on account of their political opinion or activities and who have come to the attention of the authorities would be unable to avail themselves of protection from the authorities.
>
> 1.3.12 In cases based on fear of ill-treatment by members of opposing political parties or in fear of opposing factions within their own party, it is unlikely that effective protection would be available from the governing authorities. However an assessment of whether a person would be able to access assistance and

protection must be carefully considered on the facts of the case. Decision makers must take particular account of past persecution (if any) and consider whether there are good reasons to consider that such persecution (and past lack of effective protection) is likely to be repeated. In each case, decision makers must identify whether attempts were made to seek protection and what the response of the authorities was. If the person did not seek the protection of the authorities, decision makers must assess why. (See relevant section(s) of the Asylum Instruction on Assessing credibility and refugee status).

1.3.13 Bangladesh's total land area is 130,168 sq km with an estimated population of166,280,712. The law provides for freedom of movement within the country, except for the Chittagong Hills Tracts (CHT) and Cox's Bazar, and these rights are generally respected in practice (see Geography and demography in the Country Information and Guidance. Bangladesh: Background information including actors of protection and internal relocation).

1.3.14 Actual or perceived opposition political activists whose fear is of ill treatment/persecution at the hands of the state and who have come to the attention of the authorities would be unable to relocate to another area of Bangladesh to escape that threat.

1.3.15 In cases based on fear of ill-treatment by members of opposing political parties or in fear of opposing factions within their own party, the threat is likely to be localised and relocation to another area of Bangladesh may be viable depending on the nature of the threat from non state agents and the individual circumstances of the person, as long as it would not be unduly harsh to expect them to do so. Women, especially single women with no support network, are likely to be vulnerable and may be subjected to destitution.

2.5.1 Jane's reported:

> 'Almost every major political party has a student wing... The Bangladesh Chattra Dhal(BCD) is affiliated with the Bangladesh Nationalist Party (BNP), the Bangladesh ChattraLeague (BCL) is connected to the ruling Awami League (AL), and the ICS [IslamiChhatraShibir] is associated with JI. These groups function in connivance with their affiliated parties and when their parties are in government, armed "student" groups become unchallenged perpetrators of human rights abuses, reportedly under the patronage of their party's politicians. The involvement of these armed groups in the political process is one of the major causes of political violence in

> Bangladesh. Political parties have routinely pledged, but failed, to disarm them. Fighting between rival student wings featured heavily during the political impasse in 2013 between the AL and BNP. Future disputes between the two major parties are very likely to include fighting between student wings.'"

Submissions on behalf of the Respondent

18. Mr Avery submitted that the conclusions are sustainable. The judge accepted that the Appellant was involved in local issues between students but given the circumstances and the lapse of time it was unlikely that he would come to their attention on return. Essentially the judge said that the Appellant would not come to the attention of the authorities and dealt with risk on that basis. The judge found that the Appellant would not be at risk on return and was of no interest to the authorities. The judge properly assessed the documentary evidence that was produced late in the day and made findings open to him.

Country Information and Guidance Bangladesh: Opposition to the Government February 2015 ("the CIG")

19. The thrust of the CIG is that there are human rights abuse perpetrated by the police and political parties, including the ruling party against dissenters. There were measures introduced by the government in 2014 aimed at cracking down on critics. There are instances of abuse of the law to shut down the voice of opposition and an inappropriate use of force. The authorities sometimes try to prevent rallies by arresting party activists and protesters who are frequently injured and occasionally killed during clashes with the police use excessive force.

20. In 2014 political violence was relatively high and it increased leading up to the election that year. The headquarters of JI were raided by the police in 2013 in Dhaka following violent protests. In 2013 the High Court ruled the JI were required to amend its charter. The build up to the 2014 elections were marked by deplorable violence. One source reported that 500 were killed in political violence and may others seriously injured, including 215 shot dead by law enforcers. Opposition violence and government abuses were reported in 2014. Amnesty International reported more than 100 deaths during street violence around election time in 2014. Many were killed in clashes between police and the opposition groups or opposition groups and government sources. Members of the opposition groups were also responsible for violence. There were 108 extra judicial killings between January and June 2014, including 21 activists of JS. There was violence between political parties youth wings and groups often resulting in death or injury. In January 2015 Human Rights Office expressed concern at the rising levels of political violence and urged all political parties to show restraint. In January 2015 Human Rights Watch cited the authority's indiscriminate use of force and arbitrary arrests and media censorship and deaths following from clashes between government and opposition groups including shootings by the security forces.

21. The CIG (at 2.5) specifically engages with student political groups and violence. Various student groups including ICS function in connivance with their affiliated parties and when their parties are in government armed student groups become the perpetrators of human rights abuses, reportedly under the patronage of their party's politicians. The ruling Awami League (AL) student front is CL and made headlines in 2014 with activities including abductions, muggings and extortion. There were violent clashes in 2013 and attacks on student opposition (on leaders and activists). In some cases the authorities appeared to target the victims because of suspected involvement in specific crimes in other cases security forces appeared to seek out influential opposition district and sub district leaders who might have been able to mobilise people. Members and activists of ICS have fallen victim to attacks from CL and the police in 2013 and 2014.

Conclusions

22. The judge accepted the Appellant's evidence about the attack in 2011, having considered that it was consistent with the CIG. The challenge to this is that having found that the Appellant was the victim of persecution the judge failed to have regard to paragraph 339K of the Rules which states that the fact that a person has already been subject to persecution or serious harm will be regarded as a serious indication of the persons well-founded fear of persecution or real risk of suffering serious harm, in the absence of good reasons to consider that it will not be repeated.

23. The judge did not mention paragraph 339K of the rules. He concluded that the Appellant would not be at risk on return for a number of reasons. The context of the attack in 2011 must be considered because this is relevant to the issue of future risk. The judge found it plausible that the members of CL would have known the Appellant from student political activists. He was attacked shortly after (three months) the demonstration he attended. However, the judge did not find that there was any continuing interest in him, having rejected his evidence that he went into hiding (paragraph 41). The judge found that the attack on the Appellant by CL was a one off attack on a political opponent. The judge did not find that the Appellant had been specifically targeted by CL as a result of specific activities within ICS or as a result of his role within that organisation. He was attacked because he was recognised from his political activities. The judge rejected the Appellant's evidence that he was identified by the police or that he would have been identified at the demonstration amongst the large crowd. The judge was entitled to take into account that the Appellant did not have a high profile role. Whilst activists at all levels are general targets during demonstrations or street fights, his role within the organisation is material to whether the Appellant was specifically targeted by CL and whether there is continuing interest in him by CL and the police.

24. The judge properly focused his mind on whether the Appellant would now be at risk on return. The circumstances of the attack were material to this consideration. It was a material consideration that the attack was historic

and that the Appellant is no longer a student. His ultimate conclusion, that the chances of him being recognised on return (and at further risk of attack) by the perpetrators is not reasonably likely, was open to the judge on the evidence.

25. Material to the consideration of risk was the evidence of the Appellant concerning the documents which he produced to support his evidence that cases had been filed against him in Bangladesh. The grounds at [6] make an incoherent challenge to the findings of the judge. Ms McCallum's 13 page speaking note articulately expands on the issue and raises unfairness, perversity and other issues not raised in the grounds. In any event, the judge's findings relating to the documents were open to him on the evidence. The judge made findings grounded in the evidence at [37] about these documents. The Appellant produced the evidence at the eleventh hour. It was a matter for him and those representing him to explain the contents of these documents and to recognise any potential internal discrepancies. It was not incumbent on the judge to question him about internal discrepancies in his own evidence. The judge rejected the Appellant's evidence that an arrest warrant had been issued and this was a finding that was open to him on the evidence. The judge concluded that it was not credible that a warrant had been issued, taking into account that the police visited the Appellant in hospital after this and did not arrest him. This was a finding that was open to him. The issues raised in the grounds and in the speaking note are a disagreement with the findings.

26. Ms McCallum submitted that the evidence was credible in the light of the ineffectiveness of the police force and reference was made to the CIG (at 1.3.10 and 1.3.11). It is not clear whether such an argument was presented to the judge; however, the judge was entitled to reject the Appellant's account notwithstanding the shortcomings in the police force. Whilst the judge uses the word "speculative," a proper reading of the decision indicates that he found that the evidence that the police would visit the Appellant in hospital in relation to a police matter and not act upon an outstanding arrest warrant for his arrest undermined the Appellant's account generally. It is a reasonable inference to draw that the police when visiting the hospital would recognise the Appellant if there was an outstanding warrant for his arrest. The CIG indicates that there is a functioning criminal justice system. The judge was entitled to attach weight to the evidence that the Appellant left Bangladesh via the airport whilst on his account there was a warrant outstanding for his arrest. The weight to attach to the evidence was a matter for the judge. His findings are grounded in the evidence and adequately reasoned.

27. The judge may have erred when assessing police protection in the context of the 2011 attack on him, in so far as he stated that he could have taken steps to pursue the matter with the police to obtain protection. This is arguably at odds with the CIG. However, this must be considered in the light of the Appellant's evidence that his father reported the attack to the police. Ms McCallum's speaking note was very much concerned with relocation and sufficiency of protection. I accept that the CIG may corroborate the Appellant's case that if he was at risk on return of further

attack by CL, whether or not there is a warrant out for his arrest, there may not be sufficiency of protection available to him, but that was not a material issue because the judge found that he was not at risk on return. There was no need for the judge to make findings about relocation and sufficiency of protection. The findings he made are not material to the outcome in this case.

28. In the light of the nature of the attack in 2011 and the lawful and sustainable findings of the judge in respect of it, I am satisfied that there is no error of law on the basis that the judge did not make reference to paragraph 339K in his decision. I am not satisfied that he failed to have regard to it. In any event, if such an error was made, it would not be material, in the light of the circumstances of this case. I am satisfied that the judge took into account the CIG. The decision is not at odds with the background evidence. There is no error of law. The decision of the judge to dismiss the appeal is maintained.

Notice of Decision

The appeal is dismissed.

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 Joanna McWilliam Date 29 April 2017

Upper Tribunal Judge McWilliam