



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/02032/2018

THE IMMIGRATION ACTS

Heard at Field House
On 6th September 2019

Decision & Reasons Promulgated
On 19th September 2019

Before

UPPER TRIBUNAL JUDGE JACKSON

Between

ROO
(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Nizami of Counsel, instructed by Elder Rahimi Solicitors
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Grant promulgated on 14 June 2019, in which the Appellant's appeal against the decision to refuse her protection and human rights claims dated 30 January 2018 was dismissed.

2. The Appellant is a national of Nigeria, who has been assigned a date of birth of 1 January 1990. She has two children, both born in the United Kingdom, in 2017 and 2018, both of whom are dependents on her claim. The Appellant was trafficked to the United Kingdom from Nigeria in 2011, as found in a conclusive grounds decision from the NRM dated 1 February 2017, in which it was accepted that the Appellant was a victim of modern slavery. On 1 February 2017, the Appellant was granted discretionary leave to remain based on her personal circumstances and need for counselling and emotional support. It was confirmed to the Appellant on 21 January 2018 that the Respondent would not grant any further period of discretionary leave to remain and the formal decision refusing her protection and human rights claims was made by the Respondent on 30 January 2018.
3. The Respondent refused the application on the basis that although the Appellant, as a trafficked woman, was accepted as part of a particular social group, it was not considered that she had any objective risk on return from either her trafficker or members of their family and there would be no risk of persecution on return to Nigeria. In any event, the Respondent considered that there was a sufficiency of protection available to the Appellant and that she would have the option of internal relocation, with support available to her through shelters and charities. For essentially the same reasons her claim for humanitarian protection and under Articles 2 and 3 of the European Convention on Human Rights were refused.
4. In relation to her family and private life under Article 8 of the European Convention on Human Rights, the Respondent found that she did not meet any of the requirements for a grant of leave to remain either under Appendix FM of the Immigration Rules or under paragraph 276ADE of the same. Specifically, the Appellant's son was not a qualifying child (at the time of decision the Appellants second child had not yet been born), her relationship with a partner had broken down and there would be no very significant obstacles to her reintegration into Nigeria. The best interests of the Appellant's child were taken into account, with a decision that the best interests were to return with the Appellant to Nigeria, where education and healthcare was available and given the child's young age, reintegration was likely. The Respondent did not consider that there were any exceptional or compassionate circumstances to justify the grant of leave to remain.
5. The Appellant's appeal against refusal of her claim was initially allowed by First-tier Tribunal Judge Martin in a decision promulgated on 11 July 2018. An error of law was found in that decision by Upper Tribunal Judge Freeman on 18 September 2018 and ultimately the matter came back before First-tier Tribunal Judge Grant for a de novo hearing on 13 December 2018 and 30 April 2019.
6. Judge Grant dismissed the appeal in a decision promulgated on 14 June 2019 on all grounds. Although the Appellant's history and current circumstances appear to have, in the main, been accepted by the First-tier Tribunal, it was nonetheless considered that she would not be at risk on return of being re-trafficked and that prior to return the Respondent would first make arrangements with NAPITIP (the National Agency for the Prevention of Trafficking in Persons, a national body which

in part supports victims of trafficking, including provision of counselling and rehabilitation services) to ensure the Appellant has direct access to the specialist support available. It was not accepted that the circumstances which led to the Appellant being trafficked previously continue to remain, because she was now an older woman with two children who would be sufficiently supported on return, by the support network she relied upon as she grew up as well as through charitable organisations. In any event, the Appellant could internally relocate and there was a sufficiency of protection available to her. Separately, the Appellant's mental health did not reach the very high threshold for breach of Article 3 of the European Convention on Human Rights and the removal of the Appellant together with her children would not be a breach of Article 8 of the European Convention on Human Rights.

The appeal

7. The Appellant appeals on five grounds. First, that contrary to the express acceptance by the Respondent that the Appellant has no family or support in Nigeria and would be returning as a lone female, the First-tier Tribunal proceeded on the opposite basis, in the absence of any supporting evidence, that she had an old support network with whom she could reengage, on the basis that she had been looked after from early childhood following the death of her parents.
8. Secondly, that in relation to support from NAPTIP, there was no evidence before the First-tier Tribunal as to how long that organisation would or could assist the Appellant and her children and the conclusions reached were contrary to the findings of the Upper Tribunal in the country guidance case of HD (Trafficked Women) Nigeria CG [20160] UKUT 454 (IAC) which showed only short-term temporary support would be available. Further, the First-tier Tribunal discounted the expert evidence on the basis that no contact was made with NAPTIP, however, the expert made contact with all of the organisations expressly referred to by the Respondent in the reasons for refusal letter.
9. Thirdly, that the First-tier Tribunal failed to apply the country guidance in HD, ignoring both the Appellant's accepted vulnerability and the relevant risk factors.
10. Fourthly, that the First-tier Tribunal erred in law in parts of the evidence before it, but not properly engaging with the evidence itself, nor giving proper reasons for the weight attached to the evidence.
11. Finally, that the First-tier Tribunal reached conclusions which were perverse in relation to trafficking, with the suggestion that the Appellant had been taken advantage of for the purposes of domestic servitude but that was not of itself trafficking.
12. Permission to appeal was granted by Judge Grant-Hutchinson on 5 August 2019.
13. In her rule 24 response, the Respondent, save for one point, does not oppose the appeal for the reasons set out in the grounds above. Specifically, the Respondent

accepted that it was not properly open to the First-tier Tribunal to conclude that the Appellant had family and/or a support network to return to in Nigeria, it having already been accepted that she would be returning as a lone woman. The only point which was not agreed was in relation to the second ground of appeal and the weight to be attached to the expert report. The Respondent further indicated that a fresh continuance hearing would be required to remake the decision under appeal and at that time would make an application under Rule 15(2A) to adduce the latest CPIN on Trafficking Victims from Nigeria dated 5 July 2019.

14. At the hearing in the Upper Tribunal, Mr Kotas confirmed the Respondent's position as set out in the Rule 24 response, that the First-tier Tribunal's decision contains material errors of law such that the decision should be set aside and remade.
15. As to the remaking of the decision, both parties agreed that this could be done within the Upper Tribunal in reliance on the evidence that was before the First-tier Tribunal subject to one further point. Mr Kotas drew to my attention the latest Country Policy and Information Note "Nigeria: Trafficking of women" dated July 2019 (the "CPIN"), which post-dated the previous appeal before the First-tier Tribunal. It was submitted that this contained information of some improvement in conditions in Nigeria for women who had been trafficked, although it was not suggested that there was any material difference relevant to the issues raised in the present appeal and no submission that the information contained in this latest report would provide any sufficient basis for departure from existing country guidance in HD. Ms Nazimi was concerned that in part the latest CPIN could be read as suggesting a departure from the country guidance case and offered to make further written or oral submissions on it if needed, otherwise reliance was placed on the existing country guidance to be applied to the facts in evidence before the First-tier Tribunal.

Findings and reasons

Error of law

16. As properly conceded by the Respondent in this case, the First-tier Tribunal's decision contained material errors of law which require the decision to be set aside. On the basis of that acceptance I deal relatively briefly with the errors of law in the decision of the First-tier Tribunal. In summary, the decision of Judge Grant is perverse on the basis of the objective and country guidance evidence before her and on the accepted facts in relation to this Appellant.
17. First, the Respondent accepted that the Appellant would be returning to Nigeria as a lone woman with two children and without any family or prior support network with whom she could reengage. Contrary to that accepted position, Judge Grant found in paragraph 128 that the Appellant does have a support network available to her in Nigeria as demonstrated by her history in having been looked after from earliest childhood after the alleged death of both parents. There has been no dispute in this case that the Appellant's parents are both deceased and what is described by Judge as a support network in her early years, has in fact been accepted by the Respondent as a situation of domestic slavery, the circumstances of which were that

the Appellant was moved from household to household to undertake domestic tasks and street hawking, for no pay and poor treatment, sometimes being homeless and unable to attend school on a regular basis. The Appellant did not know the people within these households beforehand and there is nothing to suggest this was organised by or living with any family members or other support network.

18. Further, the Judge found that the Appellant supported herself by working as a domestic worker in Lagos and was only then taken advantage of by being trafficked to the United Kingdom. In paragraph 126 of the decision, the Judge commented that the “Appellant was not trafficked in the usually accepted sense, rather she was taken advantage of by family who wanted a domestic servant to care for the home and a baby.”
19. The Appellant’s history and circumstances, which have been accepted by the Respondent, cannot on any view be considered as a support network or as genuine employment and wholly misunderstands the nature of domestic slavery and trafficking, in the Appellant’s early years within Nigeria before being trafficked transnationally to the United Kingdom. The Appellant’s history cannot on any view be considered to be one in which she had successfully found employment previously in domestic settings in Nigeria, nor of a situation in which she had supported herself. The Appellant’s accepted history is one of being internally trafficked for domestic servitude and then traffic to the United Kingdom for the same purpose. This fundamental misunderstanding in the absence of any evidence supporting the findings, and contrary to the conclusive grounds decision that the Appellant had been trafficked, has a material impact on the outcome of the decision given the relevance to risk on return of whether a person has support on return to Nigeria.
20. Secondly, in relation to alternative support from charities or otherwise, in paragraph 97 of the decision, Judge Grant was satisfied that if the Respondent returns the Appellant and her children to Nigeria, he will first make arrangements with NAPTIP in order to ensure the Appellant is met at the airport and taken to the specialist support available for women in her position. It was further found that whilst in the care of NAPTIP, the Appellant was not at risk of re-trafficking by anyone, including her previous traffickers and it was not accepted that the Nigerian authorities would discard the Appellant from specialist care 16 weeks have elapsed after return. Reference is made to the evidence before the Court of Appeal in PO (Nigeria) [2011] EWCA Civ 132 which did not suggest that any support from NAPTIP was time-limited.
21. However, this completely ignores the evidence before the Upper Tribunal in HD that support provided by NAPTIP was on average for a period of two weeks and only in exceptional circumstances could this be extended beyond six weeks, usually by provision of assistance through another charitable organisation. The other options of charitable organisations relied upon by the Respondent in the reasons for refusal letter were the subject of detailed evidence from Adaobi Nkeolkelonye; to the effect that there was no such appropriate support available to the Appellant with two young children; but this was essentially rejected in its entirety by the First-tier

Tribunal because there was no direct approach to NAPTIP for further evidence beyond that which was available to the Upper Tribunal in HD. That is not a sufficient or sustainable reason for rejecting wholesale the evidence contained in the report.

22. There is nothing to suggest that the Respondent's position before the First-tier Tribunal was that they would specifically ensure the Appellant's support by NAPTIP from the moment of her return to Nigeria; nor that any such support that was provided by NAPTIP would be anything other than short-term or temporary. The findings of the First-tier Tribunal to the contrary are without any evidential basis and ignored the likely long-term position for the Appellant in Nigeria which was specifically evidenced and largely unchallenged before the First-tier Tribunal.
23. In these circumstances it is an error of law to find the Appellant would have appropriate and sufficient support on return to Nigeria, which clearly has a material impact on the outcome of the decision as to whether the Appellant would be at risk on return to Nigeria in accordance with the factors set out in the country guidance of HD.
24. Further errors of law can be identified the decision of the First-tier Tribunal, but are not necessary to set out here as those already identified are sufficient and material to the outcome of the appeal such as to require the decision of the First-tier Tribunal to be set aside and remade. As above, subject to the points in relation to the CPIN, the parties were agreed that the appeal could be remade on the papers of the evidence that was already available before the First-tier Tribunal.

Re-making the decision

25. The starting point in this appeal is to identify the applicable country guidance, as set out by the Upper Tribunal in HD, which states as follows:
 4. *Whether a woman returning to Nigeria having previously been trafficked to the United Kingdom faces on return to real risk of being trafficked afresh will require a detailed assessment of her particular and individual characteristics. Factors that will indicate an enhanced risk of being trafficked include, but are not limited to:*
 - a. *Of the absence of a supportive family willing to take back into the family unit;*
 - b. *Visible or discernible characteristics of vulnerability, such as having no social support network to assist her, there were little educational vocational skills, mental health conditions, which may well have been caused by experiences of abuse when originally trafficked, material and financial deprivation such as to mean that she will be living in poverty or in conditions of destitution;*
 - c. *The fact that a woman was previously trafficked is likely to mean that she was then identified by the traffickers as someone disclosing characteristics of vulnerability such as to give rise to a real risk of being trafficked. On*

returning to Nigeria, it is probable that those characteristics of vulnerability will be enhanced further in the absence of factors that suggest otherwise.

5. *Factors that indicate a lower risk of being trafficked include, but are not limited to:*
 - a. *The availability of a supportive family willing to take the woman back into the family unit;*
 - b. *The fact that the woman has acquired skills and experiences since leaving Nigeria the better equipped to have access to a livelihood on return to Nigeria, thus enabling her to provide for herself.*
6. *There will be little risk of being trafficked if received into a NAPTIP shelter or a shelter provided by an NGO for the time that she is there, but that support is likely to be temporary, possibly just for just a few weeks, and there will need to be a careful assessment of the position of the woman when she leaves the shelter.*
7. *For a woman who does face a real risk of being trafficked if she returns were home area, the question of whether internal relocation will be available as a safe and reasonable alternative will not be unduly harsh require a detailed assessment of her particular circumstances. The woman who discloses the characteristics of vulnerability described above their indicative of a real risk of being trafficked, internal relocation is unlikely to be a viable alternative.*

26. Further, at paragraph 141, the Upper Tribunal held:

"The mode of trafficking in Nigeria is not predicated upon abduction; those targeted are targeted because of their particular vulnerability on such vulnerability is not, on the basis of the evidence before us, reduce following a six weeks stay in a NAPTIP shelter. The Nigerian government has not made any discernible efforts to decrease the demand for commercial sex. Whilst this demand remains, combined with continued prolific provision of trafficking in human beings in Nigeria, there exists a real risk of internal transnational trafficking of those identified as vulnerable."

27. In relation to the sufficiency of protection, the Upper Tribunal held at paragraph 174 and following:

"174. We have referred above to the particular characteristics that may render an individual at risk of being trafficked. That vulnerability presents on not being able to access the services provided by NAPTIP and NGOs. If a woman presents as vulnerable to abuse, away from NAPTIP or a supporting NGO, the Nigerian authorities, including NAPTIP and the instruments of State are unable to provide sufficiency of protection. The lack of adequate monitoring of those who leave NAPTIP or an NGO shelter, the short period of time where an individual is in a shelter unless there are exceptional reasons (which in itself implies that such a young woman is vulnerable and open to abuse) renders the protection available to an individual vulnerable to abuse insufficient.

175. *In making an assessment whether an individual is vulnerable to abuse a careful analysis of all her personal characteristics is required to assess whether the indicators of risk, including any mistreatment in her previous exploitative situation and the consequences of that for her personally.*

176. *This vulnerability combined with the inability of the state to provide the protection as set out in particular in paragraph 174 above will render a returned victim of trafficking at real risk of being trafficked again."*

28. In relation to internal relocation, the Upper Tribunal held at paragraph 186:

"It is not possible to state, on the evidence before us, that internal relocation is never a viable option. An individual factual analysis will always be required of a victim of trafficking's vulnerability and its impact on the possibility of internal relocation if she is at real risk of being persecuted in her home area. However the evidence before us indicates that where an individual has been identified as being at real risk of being trafficked, the possibility of internal relocation will be severely limited; particularly where she is vulnerable to abuse because of lack of skills, mental and psychological problems and isolation."

29. Mr Kotas drew to the Upper Tribunal's attention the Home Office 'Country Policy and Information Note, Nigeria: Trafficking of Women' dated July 2019 as containing the most recent information available which suggested some improvement in the position. However, Mr Kotas did not suggest that anything contained within this report provided a sufficient basis for departure from the country guidance contained in HD and accepted that that remained the applicable guidance to be applied in this appeal. At its highest, the CPIN states that NAPTIP have increased the number of shelters available to victims of trafficking which provide short-term shelter and access to other support. There is nothing in this report to suggest any longer term support available to victims, with shelter being described as temporary or transitory, in the same way as it was in the evidence before the Upper Tribunal in HD. I therefore continue to apply the country guidance when determining this appeal.

30. The Appellant's circumstances and history is largely not disputed by the Respondent, it being accepted that she is a victim of trafficking who would be returning to Nigeria as a lone woman with two small children; who is vulnerable because of her poor mental health and past experiences and whose credibility has not been substantively challenged at all. On this basis, I summarise the evidence in relation to the Appellant, so far as is relevant to the issues of risk on return to Nigeria and as to a right to respect for private and family life, rather than setting it out in full.

31. The Appellant thinks that she was born in Lagos but does not know her date of birth or who her parents are. She was told that her mother had passed away when she was born and that her father died sometime later. The Appellant does not know of any other family members. When she was young, she moved to Ilesa in Osun state and lived with different people for varying lengths of time for whom she did domestic work, went hawking and attended school on and off. The Appellant would

not always have a place to stay, sometimes sleeping on the streets and begging and even when staying with a family, she was not treated well and was beaten.

32. About two years before the Appellant came to the United Kingdom she moved to Lagos with a family who had relatives in the United Kingdom that she was told could send her to school there, pay her, help her obtain permanent residence and in return the Appellant would look after the children while the parents were at work. The Appellant worked for the family in Lagos for around two years before being brought to the United Kingdom; during which time she was required to do domestic work seven days a week, was only rarely able to leave the house on specified errands and was beaten regularly and deprived of food. The Appellant was not paid and was only able to use items in the house or clothes that were being discarded. During the time with this family, the Appellant was also sexually assaulted by the husband.
33. On arrival in the United Kingdom, the Appellant was subjected to forced labour and treatment even worse than she had experienced in Nigeria, not being allowed out alone, not being able to interact with others, not being paid and being regularly beaten. When this family travelled to the US, the Appellant was sent to stay with a cousin for whom she was not required to work and ultimately with initial help from this person, the Appellant was able to escape the situation, report matters to the police, be referred to the NRM as a potential victim of trafficking and claim asylum.
34. The Appellant was in a relationship for some time with the father of her two children, but they never cohabitated and it was an abusive relationship which ended for that reason. There is little or no ongoing contact between the Appellant and this man and he does not provide any material or financial support for the two children.
35. In 2016, the Appellant was raped in the United Kingdom.
36. In the United Kingdom, the Appellant has engaged with and been supported over time by the Helen Bamber Foundation, the NHS mental health service, including the psychological service, Connect and Change (an organisation providing counselling), Home Start, health visitors, a family support worker and the pastor as well as members of the church she attends. The Appellant in the past has received financial support from Hestia and social services, as well as welfare and housing benefits. There is nothing to suggest the Appellant has been able to undertake any paid employment in the United Kingdom.

Psychological report, Dr Christina Curry, Helen Bamber Foundation, 29 April 2019

37. The Appellant was assessed at the Helen Bamber Foundation on 4 February 2019, 11 April 2019 and at the Mother & Baby Parenting Community group on 4 March 2019; who had access to her medical and home office records. The Appellant was found to meet the criteria for a diagnosis of post-traumatic stress disorder, experiencing many symptoms in excess of those required for a diagnosis and resulting in a marked impairment in functioning across most areas of life. Further, the Appellant fulfilled the criteria for major depressive disorder, with symptoms lasting for some years, causing significant distress and impairment in social functioning. The Appellant is

currently prescribed anti-depressant medication. At the time of the report, the Appellant was on the waiting list for stabilisation therapy and behavioural activation, followed by trauma therapy, which will not commence until a later date as she is unable to access this therapy until her children are older as she does not suitable childcare.

38. The assessment of the Appellant's current functioning concluded as follows:

"54. [the Appellant] stated that she finds her daily functioning challenging. Following her recent asylum hearing in December 2018 she was referred by HBF to Brent Early Help as she did not feel that she could safely care for her children. She has now obtained support at home for her children from both Brent Early Help and Home Start, a parental support charity. Professional support workers continue to be concerned about her recent appearance; she looks thin and tired; she is frequently in poor physical health; she has not been eating sufficiently and is having difficulty coping with her children.

55. The psychological impact of her unresolved immigration status has contributed to daily feelings of depression and helplessness. She has felt unable to do anything about her situation and describes self-critical beliefs of being "worthless". She has been actively worrying about the possibility of return to Nigeria, and experiences frequent intrusive thoughts about the past, dissociative symptoms, low energy and poor sleep."

39. Dr Curry concludes that the Appellant's mental health is likely to deteriorate if returned to Nigeria, with worsening symptoms of PTSD and depression as well as an increased risk of suicide due to the removal from her support network and at least subjective fear of risk from traffickers and generally in Nigeria. The Appellant's mental state would also deteriorate without access to specialist support, which would also affect her children and the ability of the Appellant to support herself and her children as well as putting her at high risk of re-exploitation.
40. The Appellant's bundle before the Tribunal also contains numerous letters from the Helen Bamber Foundation about their specialist support for the Appellant since 2017 and their concerns for her welfare and that of her children; as well as letters from other organisations who have or are involved in supporting the Appellant and her children.

Expert report, Adaobi Nkeokelonye, 12 March 2018

41. The report from Ms Nkeokelonye sets out detailed information about the socio-economic position in Nigeria generally and more specifically about the issues facing women and trafficked women in particular. In relation to the vulnerability of this Appellant to trafficking or other exploitation, Ms Nkeokelonye concludes:

"131. The above relate directly to [the Appellant] who if returned to Nigeria as a young unmarried woman with a child and pregnant with another, a former victim of multiple episodes of human trafficking with long history of domestic servitude, weak economic status, extremely low potentials for formal employment, witnessed threat from her employer [...], suffering from mental health issues as a result of her past history and

lacking family support, is in my view vulnerable to be re-trafficked and/or exploited and/or subject to other forms of gender-based violence in the future.

132. It is my opinion that the interplay of the factors of [the Appellant's] particular characteristics coupled with the socio-economic situation in Nigeria as detailed in the country profile section of this report makes it more likely that the risk will occur upon her return to Nigeria. With reference to the country section profile and the documents available to be me in relation to [the Appellant] it is my view that she will likely be a prime target for exploitation and trafficking. In the event that she is returned to Nigeria, in my opinion, the only viable way to make a living for her will in the informal sector exposing her to further risks of exploitation."

42. Ms Nkeokelonye sets out the potential government and charitable sources for protection and support to trafficked women in the circumstances of this Appellant and concludes that the only organisation providing shelter services and programmes specifically designed for trafficked women is NAPTIP, but their capacity is unclear and the maximum period of stay in a shelter there is six weeks. Ms Nkeokelonye questions the adequacy of six weeks to facilitate rehabilitation or reintegration of a returning traumatised victim of trafficking, particularly for those such as the Appellant with young children, high support needs and no family to return to. She concludes as follows:

"215. Bearing in mind that [the Appellant] is a mother and is also expecting, it is worth noting that organizations that confirm that they offer shelter services have also shown an aversion against women with children, as they do not have the facility or capacity to accommodate them. Both the Government Agencies and the NGOs who offer shelters alike are unlikely to have facilities for childcare. Nigerian shelters in their designs are not known to have facilities such as creche or spaces for women with children.

216. In view of the findings established from review of the services and programmes focused on trafficking women victims (both by organizations listed in the refusal letter and additional ones reviewed), it is my opinion that by virtue of [the Appellant's] characteristics, none of the existing services have a sufficiently comprehensive programme for her to be adequately rehabilitated and reintegrated. Whilst admission into a shelter in Nigeria might seem like a success, it is worth noting that mere admission into a temporary and institutional-style shelter without the essential facilities necessary for rehabilitation and reintegration, will not provide adequate care, assistance or protection to her as a returning victim of trafficking."

43. The report also covers the availability and cost of specialist care and treatment, the cost of urban living, employment opportunities, minimum wage, and the availability and cost of housing.
44. In relation to internal relocation, Ms Nkeokelonye concludes in paragraph 245 as follows:

"It is my view that [the Appellant] cannot achieve safety and secure a livelihood through relocating internally with her characteristics. Being a lone women who has never relocated anywhere in Nigeria of her own volition, but rather was trafficked

internally, means she will encounter significant barriers in respect of achieving safety and a secure livelihood. This is further made difficult by the fact that she will be with child(ren) and has support and recovery needs due to her history of exploitation since childhood. In this case, [the Appellant] will not just be another internal migrant moving from one area of the same country to another; she and her child(ren) should be seen as international migrants relocating back to a country she barely knows and have been away from for seven years. For [the Appellant], relocation to any part of the country outside the ones she is family with will certainly require a lot of linguistic and socio-cultural adjustment, as well as financial resources. Although Nigerians are known to speak English as an official language, and more do communicate with hybrid English language (pidgin) across regions, relocation to any new state or region will require that you speak a little of the dominant local language to aid interaction with the residences. Also, bearing in mind the inherent cultural diversity in the country, relocation to anywhere especially away from the major cities will entail a lot of adjustment which will require a lot of financial resources, time and emotions. There will however always be consequences on her overall well-being."

45. At the hearing before me, in addition to the Respondent's acceptance of the primary factual basis of the Appellant's claim, the Respondent did not substantively challenge any of the further evidence set out above and I find no reason not to attach significant weight to it. I find the Appellant's circumstances are as set out above.
46. In these circumstances, I find that the Appellant has a well-founded fear on return to Nigeria in accordance with the guidance given in HD and is at risk of being trafficked afresh for the following reasons. First, the Appellant does not have any family members in Nigeria, nor any kind of social or support network to assist her on return. Secondly, the Appellant has only very limited education or vocational skills and has never been in paid employment in Nigeria or in the United Kingdom. Thirdly, the Appellant has significant mental health conditions for which some treatment has been available but further treatment is recommended and planned for when the Appellant is practically able to access it. Fourthly, apart from the possibility of an assisted voluntary return package, the Appellant has no financial resources in the United Kingdom or in Nigeria to assist in re-establishing herself. Fifthly, the Appellant's vulnerability which led to her initial trafficking, including the lack of any family or support in Nigeria, will continue to exist on return now. Finally, there are no factors to indicate any lower risk of being trafficked for this Appellant.
47. Further, in addition to the risk factors identified, I find that the Appellant's vulnerability is also increased by her return with two very young children to a country which she has been absent from for over seven years and where she has no experience of normal life at all, as a child or as an adult, her only real experience being of situations of domestic servitude. Those are significant further factors which are themselves only made more serious by the Appellant's poor mental health.
48. For these reasons, the Appellant's appeal is allowed on asylum grounds and for essentially the same reasons, on Article 3 grounds. It is not necessary to further go on to consider the Appellant's claim under Article 8 of the European Convention on

Human Rights, but for the avoidance of doubt, the appeal is also allowed on human rights grounds for this reason. For the same reasons as set out above, the Appellant would face very significant obstacles to reintegration on her return to Nigeria, thus satisfying the substantive requirements for a grant of leave to remain under paragraph 276ADE(1)(vi) of the Immigration Rules such that there would be no public interest in her removal from the United Kingdom, even taking into account the factors in section 117B of the Nationality, Immigration and Asylum Act 2002. The Appellant's removal would therefore be a disproportionate interference with her right to respect for private and family life.

Notice of Decision

The making of the decision of the First-tier Tribunal did involve the making of a material error of law. As such it is necessary to set aside the decision.

I set aside the decision of the First-tier Tribunal and remake it as follows.

The appeal is allowed on asylum grounds.

The appeal is allowed on human rights 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



Date

16th September 2019

Upper Tribunal Judge Jackson