Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/01786/2020 (V)

THE IMMIGRATION ACTS

Heard at Cardiff Civil Justice Centre	**Decision & Reasons Promulgated**
Remotely by Microsoft Teams	
On 8 July 2021	**On 28 July 2021**

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT
Appellant

and

MMU
(ANONYMITY DIRECTION MADE)
Respondent

Representation:
For the Appellant: Ms H Aboni, Senior Home Office Presenting Officer
For the Respondent: Ms E Sanders instructed by Turpin & Miller LLP (Oxford)

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) I make an anonymity order. Unless the Upper Tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the respondent (MMU). This direction applies to both the appellant and to the respondent and a failure to comply with this direction could lead to Contempt of Court proceedings.

© CROWN COPYRIGHT 2021

2. Although this is an appeal by the Secretary of State, for convenience I will refer to the parties as they appeared before the First-tier Tribunal: MMU (the appellant) and the Secretary of State (the respondent).

Background

3. The appellant is a citizen of Bangladesh who was born on 29 January 1986. He arrived in the United Kingdom on a student visa on 2 March 2010. On 7 October 2015 he claimed asylum on the basis that he would be at risk on return to Bangladesh as a Muslim who had converted to Christianity. That application was refused on 3 October 2016 and his subsequent appeal was dismissed by the First-tier Tribunal (Judge Hall) on 24 November 2017. It was not accepted that the appellant was a genuine Christian convert.

4. On 5 November 2019, the appellant made further submissions in relation to his asylum claim based upon being a Christian convert. The Secretary of State again refused the appellant's claim for asylum, humanitarian protection and under the ECHR on 12 February 2020. In that decision, the Secretary of State now accepted that the appellant was a genuine Christian convert but did not accept that there was a real risk to him on that basis on return to Bangladesh.

The Appeal to the First-tier Tribunal

5. The appellant appealed to the First-tier Tribunal. It was accepted before the judge that the appellant was a genuine Christian convert. The appellant relied upon background evidence and an expert report from Dr Ashraf Ul Hoque to establish that as a result of his conversion he would be at real risk on return particularly from extremist groups such as Hefazat-ul-Islam ("HI") and that the Bangladesh authorities would be unable to provide him with a sufficiency of protection. The appellant also relied on the fact that he was a party to an interfaith marriage and that his wife was a practising Muslim. He also relied on the fact that he wished to be ordained as a priest and that as an Anglican Christian, on return to Bangladesh, he would openly speak and practise his religion which would draw him to the attention of non-state actors such as HI.

6. Having set out extracts from Dr Hoque's expert report and background evidence such as the *CPIN*, "Bangladesh: Religious Minorities" (2018), the judge reached his conclusions at paras 55–64.

7. At para 55, the judge accepted, as had the respondent, that the appellant was a genuine Christian convert. The judge accepted that the appellant would wear a cross, would not wear a beard and would openly talk about his Christianity.

8. At paras 56–57, the judge described the appellant's circumstances on return to Bangladesh as follows:

> "56. The circumstances of this case are that the appellant has converted from Islam to Christianity, he will practise his religion openly in

Bangladesh and will be returned to an interfaith marriage where his wife is a practising Muslim. This would result in [her] wearing traditional Islamic dress for females, yet her husband named [] would not be wearing a beard, instead wearing a cross. This combination, I find on the lower burden of proof would attract the curiosity of the community as the appellant stated in his oral evidence and alluded to in Mr Hoque's report. Generally, conversion, interfaith marriages are not an issue however the issue for this appellant is the fact that he is a convert from Islam, in an interfaith marriage and will openly talk about his religion (CPIN: Bangladesh: Religious minorities section 2).

57. Returning to his home where his family want to force him to return to Islam, not wearing a beard but a cross will attract negative attention as an apostate. This would be further aggravated by his interfaith marriage. Couple this with speaking openly about his religion the appellant will on the lower standard of probabilities that the appellant will breach the Penal Code in relation to blasphemy. In light of the overwhelming objective evidence, I am satisfied on the lower burden of proof that the appellant's conversion, interfaith marriage and the fact he would openly practise his religion would attract such negative attention that would amount to persecution from non-state actors (see paragraph 40 above)".

9. At para 58, the judge referred back to the objective evidence which he had set out at length in paras 32–53:

"58. The objective evidence tells me that generally Bangladesh is tolerant of different faiths insofar as such individuals remain silent, as speaking openly about one's faith is perceived as upsetting the public order of the country. Muslims who have converted from Islam into another faith face a higher risk of attacks and being socially ostracised. The appellant has stated that [his] family are no longer in communication with him and will force him to accept Islam if returned home. I do find him to be credible on this point on the lower standard of proof due to the objective evidence. Further, both the objective material and Mr Hoque's report support the view that whilst Bangladesh government has structures in place to protect its subjects prima facie, the reality is that due to corruption and insufficient resourcing in reality the minimum protections cannot be provided. [The appellant] is an Anglican Christian, an inescapable characteristic and fact. If internally relocated within Bangladesh given his circumstances, I do not find that he will be safe from non-state actors or that he will be adequately protected by the state".

10. At para 59, the judge referred to the appellant's various posts on his Facebook page sharing his religious beliefs and views with the world. The judge, however, did not accept that the appellant's wife had received threats as a result of his posts.

11. At para 60, the judge did not accept the appellant's claimed affiliation with the Jamaat-e-Islami Party which Judge Hall had also previously not accepted.

12. Then at paras 61–63, the judge returned to the appellant's circumstances and the practise of his Christianity in Bangladesh as follows:

"61. The appellant has stated that he wishes to be ordained as a priest. The appellant has completed the Lichfield Diocese Pathways to Ministry course. Given the content of paragraph 49 above I am not satisfied that the appellant will be given the opportunity [to] become a leader of a church in Bangladesh due to the negative attention he would draw to himself. It is accepted that there are Anglican Churches in Bangladesh. Would this appellant [be] allowed to join as an ex-Muslim married to a Muslim? His circumstances (see paragraphs 49 and 51 above) are such that I find on the lower burden of proof he would not be an 'attractive' member of the congregation. The risks that he would attract are heightened as he would want to share and discuss his religion openly with the community and the individuals.

62. As an Anglican Christian openly speaking and practising his religion, I do find that the appellant would attract adverse attention from non-state actors. This adverse attention is further exacerbated by the fact that he will have an Islamic name, not adhere to the social norms i.e. wear a beard, instead wear a cross and live with his wife who will be in traditional Islamic dress. I do not find that the appellant can be returned to his home address to live with his Islamic wife due to his conversion. Similarly, due to the circumstances of his case the appellant cannot be internally relocated due to the state being unable to protect him adequately from non-state actors given his openness about his religion.

63. In applying the ***<u>Supreme Court decision of HJ (Iran)</u> to the*** appellant's circumstances. I accept that he is an Anglican Christian who would preach and 'wear' his religion openly. If returned to Bangladesh, he would not be able to be open about his religion and as an ex-Muslim he would be perceived as an apostate and blasphemous. ... He is entitled to live openly as a Christian. The appellant would be at risk from non-state actors and I do not find there would be adequate protection from the state".

13. At para 64, the judge concluded that the appellant was a refugee and entitled to protection under the Refugee Convention on grounds of religion. As a consequence, the judge allowed the appeal on asylum grounds.

<u>**The Appeal to the Upper Tribunal**</u>

14. The Secretary of State sought permission to appeal to the Upper Tribunal on a number of grounds: that the judge erred in law (1) in finding that the appellant would be at risk on return to Bangladesh as a Christian convert; (2) in finding that the appellant could not become a priest in Bangladesh; and (3) in finding that the appellant could not safely internally relocate within Bangladesh.

15. Permission to appeal was initially refused by the First-tier Tribunal (Judge J M Holmes) on 25 November 2020. On renewed application to the Upper Tribunal, UTJ Kebede granted the Secretary of State permission to appeal on 25 January 2021.

16. The appeal was listed for a remote hearing at the Cardiff Civil Justice Centre on 8 July 2021. I was based in court and Ms Sanders, who

represented the appellant, and Ms Aboni, who represented the Secretary of State, joined the hearing remotely by Microsoft Teams.

17. I heard oral submissions from both representatives.

The Submissions

18. On behalf of the Secretary of State, Ms Aboni relied upon the grounds of appeal which, she submitted, established that the judge's decision contained material errors of law.

19. First, Ms Aboni submitted that the judge had made a mistake of fact in relying upon the expert report of Dr Hoque as support for his finding that the appellant would be at real risk of persecution on return. She submitted that the expert report only supported a real risk on return to those who were involved in 'anti-Islamic activity' and that did not arise simply because the appellant was a Christian convert. She relied on the fact that the background evidence, in particular the *CPIN* (June 2018), demonstrated that there were a large number of Christian converts living in Bangladesh. The evidence did not support the judge's finding that the appellant, as a Christian convert, was at real risk of persecution on return.

20. Secondly, Ms Aboni submitted that the judge had failed to give adequate consideration to the issue of internal relocation. Relying upon sections 9 and 12 of the *CPIN*, she submitted that the background evidence demonstrated that there were areas predominantly of Christians and it was not suggested that Christians were at risk in those areas.

21. Finally, Ms Aboni challenged the judge's finding in para 61 that the appellant would not be able to become a priest as there was no evidence to support that.

22. Ms Aboni invited me to set aside the judge's decision.

23. Ms Sanders relied upon her skeleton argument dated 8 July 2021which she expanded upon in her oral submissions.

24. First, Ms Sanders submitted that the respondent's ground of appeal was misconceived that the judge had made "a mistake as to a material fact" by relying upon Dr Hoque's report which only supported the targeting of "anti-Islamic" individuals in Bangladesh rather than those who were the Christian converts who promoted their new faith. She submitted that the judge was clearly well aware of the appellant's claim which she set out in paras 5–12 of her decision. She submitted that the judge, where she had set out the expert's report at paras 41–45, had given as examples targeting of "anti-Islamic bloggers and those [who] deliberately attempting to defame the Prophet Muhammad". She submitted that the expert specifically identified that it was the appellant's conversion and open expression and promotion of his views which will be "perceived to be anti-Islamic" and give rise to a risk of "violent and/or fatal reprisals" (para 46 of the report). Ms Sanders submitted that the expert's report, read as a

whole, made it clear that the appellant's circumstances as a former Muslim, who had converted to Christianity and who would openly express his new faith, would be perceived as anti-Islamic by extremists and be at risk as a consequence.

25. Secondly, Ms Sanders submitted that the judge had not failed to consider properly relocation to another area in Bangladesh. The respondent's submission that there were other areas in Bangladesh which were "predominantly Christian" or "a major city where inter-faith marriage and religious conversion is accepted" was not supported by any of the background material. The respondent did not refer to any in the grounds although the reference was presumably to the *CPIN* (October 2018). However, Ms Sanders submitted that the *CPIN*, at sections 9 and 12, gave no examples of "areas" in Bangladesh which were "predominantly Christian" and certainly not predominantly Christian converts. The background material did not establish that Christian converts could safely live in other areas in Bangladesh including in major cities. She submitted that the judge had been entitled to find, on the basis of the background evidence and Dr Hoque's report, that the appellant could not safely internally relocate within Bangladesh given his specific profile.

26. As regards the respondent's submission that the *CPIN* demonstrated that "thousands of Muslims have converted in recent years" that was not borne out by the document, although it did refer to there being 91,000 Muslim-to-Christian conversions in the last six years and 20,000 in the past twelve months (section 12.1.4), but it did not deal with the risk of persecution to converts which was supported by the *CPIN* and expert report.

27. Finally, Ms Sanders submitted that the judge had been entitled to find in para 61 that the appellant would face difficulties in joining a church, in particular being ordained as a Christian priest, in Bangladesh. In particular, there was evidence that house churches preferred not to display any Christian symbols to avoid being recognised which would be relevant given the appellant's conversion and circumstances. In any event, Ms Sanders submitted that this finding was not central to the judge's conclusion that the appellant had established a real risk of persecution from non-state actors.

Discussion

28. The appellant's claim relied, in large measure, upon the expert report of Dr Hoque. That is a detailed report at pages 7–25 of the appellant's bundle.

29. Dr Hoque accepted that the appellant if he returned to Bangladesh would be perceived as an apostate but that he would not be prosecuted by the state authorities: "so long as he does not probably incite communal tensions through the public propagation of inflammatory ideas and beliefs" (see para 30).

30. Dr Hoque's view was, however, different in relation to risk to the appellant's life from extremist groups such as HI. So, at para 32, Dr Hoque said this:

> "32. ... It is my opinion that [the appellant's] life will be in serious risk should he return to Bangladesh as a perceived apostate and convert to Christianity. Islamic organisations, inspired by Salafi interpretations of Islamic apostacy laws, pose the highest threat to [the appellant's] life. Even though the life and likelihood of religious minorities, Humanists and atheists are protected by some laws, the historical attitude and activities of Islamic organisations towards those they consider 'un-Islamic', in combination with the ubiquitous cultural taboo that the act of apostacy invokes (which I will discuss in more detail below), suggests that [the appellant's] residency in Bangladesh will become untenable, should he return".

31. The judge specifically referred to this paragraph in Dr Hoque's report at para 38 of her decision.

32. At para 35 of his report, Dr Hoque referred to the position of the appellant and his circumstances on return:

> "35. The promotion of Christianity and, by implication, apostacy in Bangladesh by someone who was born into a Muslim household, therefore, is a serious anti-social activity. Censorship of 'anti-religious' views is supported by the central government as a measure to maintain public order. If [the appellant] openly expresses his views and preaches Christianity, he will undoubtedly encounter problems from both the wider public as well as with law enforcement agencies. This is consistent with wider trends in the country".

33. The judge referred to that passage at para 40 of her decision.

34. At para 36, Dr Hoque identified examples of people who had been targeted and killed because of their 'un-Islamic' views and practices. He said this:

> "36. Since 2013, 25 people have been directly targeted and brutally killed in Bangladesh by militant Islamicists, for espousing so-called 'un-Islamic' views and practices. These individuals include outspoken secularists, members of religious minorities, academics, journalists, gay rights' activists, and critics of political Islam. The number of people being targeted and killed has significantly accelerated in 2016".

35. As Ms Sanders submitted, the examples given here are no more than that, they are individuals who are *included* within the grouping that are perceived as espousing "so-called un-Islamic views and practices". Dr Hoque then discussed, inter alia, extremist Islamic organisations such as HI who had been particularly "active against atheist bloggers" (see para 44 of his report). That chimes with the evidence related by Dr Hoque in para 36 of his report. At para 46 of his report, Dr Hoque draws an analogy between HI's response to those it perceives as anti-Islamic and the appellant as follows:

> "46. Although HI is not a terrorist organisation *per se*, its members are sympathetic to the idea that those opposing Islam in their actions and speech should be forcibly reprimanded, and that the 'honour' (*izzat*) of the Prophet must be protected from gratuitous attacks on all costs. Members of HI, therefore, will not take kindly to [the appellant's] conversion. Moreover, it is important to note that members of HI are dispersed all over Bangladesh, in both rural and urban areas. If [the appellant] were to express or promote his views anywhere in the country, they are highly likely to be encountered by HI affiliates. In such circumstances, he is likely to face violence and/or fatal reprisals (of the kind meted out [to] bloggers and activists mentioned in this report). If he expresses any views that may be perceived to be anti-Islamic and, therefore, inflammatory".

36. The judge referred to these passages in paras 41–43 of her decision.

37. At para 49, Dr Hoque expressed the following view concerning risk to the appellant on return:

> "49. Given these recent developments and communal tensions pertaining to the current political climate, [the appellant's] professed fear of persecution on the basis of conversion to Christianity is plausible and consistent with the evidence that the authorities are unable to provide protection to those who are perceived as speaking or acting against Islam from Islamicist militants currently operating within the country".

38. The judge referred to this passage in para 45 of her decision.

39. At paras 50–56 Dr Hoque expressed the view, first, that there had been an increase since 2017 in "Islamic attacks specifically on Christian converts" (see para 55) and secondly, that in practice the Bangladeshi law enforcement agencies would be unable, due to a lack of sufficient resources, to provide the appellant with protection against attacks.

40. At paras 57–60, Dr Hoque dealt with the general "religious tolerance and pluralism" in Bangladesh society and, at para 60, noted that:

> "60. There is a significant proportion of the population who describe themselves as agnostic, Humanist and atheist, particularly certain prominent intellectuals and politicians who are well-known to the general public. These individuals continue to live and work in Bangladesh without any problems as they have not publicly defamed or disrespected Islam or the character and reputation of Prophet Muhammad".

41. Then at para 61 Dr Hoque went on to distinguish that situation and the impact of religious tolerance and pluralism specifically in relation to the appellant:

> "61. On the other hand, concealing his true beliefs may pose a threat to [the appellant's] life in the long-term if the curiosity of locals pushes him to probe him on his religious beliefs. If [the appellant] engaged in any form of candid discussion with any practising Muslim regarding his beliefs, this may indeed provoke heated and violent reactions not just by those involved in the conversion, but also members of the wider community. Moreover, dissemination of his beliefs would be an inevitable outcome of

any conversations of this type, given the gravity and highly controversial nature of them. The only way [the appellant] can prevent this scenario is if he lives a conventional life conforming to overarching social parameters, which, in Bangladesh, are inherently Islamic in essence".

42. At para 62, Dr Hoque dealt with the appellant's ability to relocate within Bangladesh as follows:

"62. Furthermore, it is not difficult to locate people in Bangladesh, particularly if individuals act in suspicious or unorthodox ways. Bangladesh is a communitarian society where social participation in the local community is mandatory. Even if he is not initially recognised, [the appellant's] distinctive Sylheti regional accent will be immediately identified, and [he] will inevitably be asked questions regarding [his] ancestral home (*Desher Bari*). Reluctance or refusal to answer questions of this nature will arouse suspicion. In such circumstances, it will be extremely difficult for [the appellant] to maintain his anonymity".

43. Then at paras 63–65, Dr Hoque reached the following conclusions:

"63. It is my opinion that [the appellant's] account of his fears that he may be targeted by Islamic groups in Bangladesh due to his conversion to Christianity, and the general population's attitude on apostacy is plausible and consistent with wider country norms.

64. [The appellant] faces the biggest risk from Islamic extremists in Bangladesh on return, due to his apostacy and public conversion to Christianity. If his beliefs are kept discreet, he will not be persecuted based on his new faith. However, if his conversion becomes locally known (anywhere in the country), it may attract local Islamist groups, who will seek to kill him. It is my opinion, therefore, that [the appellant] will face intolerable persecution, possibly death, should he return to Bangladesh as a known apostate/ex-Muslim and convert to Christianity.

65. It is my opinion that law enforcement agencies in Bangladesh do not possess the resources to be able to provide sufficient protection to [the appellant]. Islamicist organisations operate with relative impunity due to widespread institutional corruption with an atmosphere of extra-judicial executions. Moreover, organisations such as ICS are known to resort to fatal violence against those they perceive to be 'enemies of Islam', particularly those who through their actions or words express criticism of Islam".

44. Reading Dr Hoque's report as a whole, and it was referred to in considerable detail and cited by the judge, I do not accept Ms Aboni's submission that the judge made a mistake in understanding Dr Hoque's opinion. Although in para 36 of his report Dr Hoque gave examples of particular individuals who had been directly targeted and brutally killed by militant Islamicists because they were perceived as un-Islamic, they were no more than example categories. Clearly, Dr Hoque took the view that the appellant given his particular circumstances, including his conversion to Christianity having been a Muslim and his open espousal of his Christian faith would both bring him to the attention of Islamicists and create a risk to him of persecution or even death. That was a risk against which the Bangladeshi authorities were unable to provide protection wherever the appellant was in Bangladesh.

45. There is no doubt, in my judgment, that Dr Hoque's report provided a sustainable basis for the judge's conclusion that the appellant had established a real risk of persecution based upon his particular circumstances which, for the judge, included his interfaith marriage and that he would necessarily draw attention to his conversion because he would not wear a beard, but would instead wear a cross whilst his wife would continue wearing traditional Islamic dress for a woman. The evidence before the judge, which she was entitled to accept, was that the appellant would openly speak and practise his religion, indeed he wished to be ordained as a priest and work as such in Bangladesh. The appellant's profile, therefore, went further than simply being a Christian convert.

46. Ms Aboni's submission was that, in addition, the judge had failed to take into account the evidence of the large number of Christians in Bangladesh. There is no doubt that in section 9 of the *CPIN*, estimates are made that there are "600,000 Christians in total reside in Bangladesh". Further, at para 12.1.4 the *CPIN* cites evidence that there are "as many as 91,000 Muslims across Bangladesh [who] have converted to Christianity in the last six years". By contrast to that, at para 12.1.3 the Special Rapporteur is quoted as stating that: "Religious conversions are generally rare and, when they do occur, mostly take place in the context of interreligious marriages".

47. Even if the larger figure is correct and the judge does refer to evidence concerning the size of the Christian population in Bangladesh at para 49 of her decision, the appellant is (as Dr Hoque recognised) more than merely a Christian convert. He lives in an interfaith marriage where his religious conversion (and perceived apostacy) will be all too readily apparent. Likewise, the judge found that both his appearance and wish to openly discuss and, in effect, openly practise his religion if at all possible as a priest, were relevant factors in assessing his profile and, therefore, how he would be perceived by extremist Islamic groups such as HI. Dr Hoque's report was undoubtedly supportive of those circumstances giving rise to a well-founded claim for asylum on the basis of a real risk of persecution.

48. The *CPIN* itself does not exclude the possibility of an individual who is more than a mere Christian convert being at risk. At para 2.4.24, the *CPIN* states this:

> "2.4.24 The level of societal discrimination faced by a person who does not actively seek to publicly express their lack or rejection of religion or simply no longer actively adheres to a faith, is generally low. Many Bangladeshis do not attend mosque on a regular basis and there are no apparent repercussions. However, high profile atheist/secularist bloggers and activists, deemed to have defamed Islam, face a high risk of discrimination in the form of threats and physical violence by Islamicist extremists ..."

49. Then at para 2.4.25, the *CPIN* states that:

> "2.4.25 Decision makers must consider whether there are particular factors relevant to the person, which might make the treatment serious by its nature and repetition as to amount to persecution or serious harm. Each case must be considered on its facts, with the onus on the person to demonstrate that they face a real risk".

50. In my judgment, Judge Gill effectively applied this approach. She considered all the circumstances of the appellant and identified a number of particular factors relevant to the appellant which, based upon Dr Hoque's report, she found created a real risk to the appellant. Nothing in the *CPIN* contradicted the judge's ultimate finding in the appellant's favour in this appeal.

51. I bear in mind that in order to demonstrate an error of law in the judge's decision the respondent must establish that the judge failed properly to consider the documentation before her, or failed to give adequate reasons for her finding or reached an irrational or Wednesbury unreasonable conclusion on the basis of that evidence. The judge, in a very detailed decision, set out at some length extracts from Dr Hoque's report and from other background material before her. As I have already noted, Dr Hoque's report supported her conclusion that the appellant, given the combination of circumstances pertaining to him on return to Bangladesh, faced a real risk of persecution. Taking the background evidence as a whole I am unable to conclude that the judge's reasons were inadequate or that her conclusion was irrational or Wednesbury unreasonable in that it was a conclusion which no reasonable judge properly directing herself could reach on the basis of that evidence.

52. Consequently, the judge did not materially err in law in concluding that the appellant had established a real risk of persecution because of his religion on return to Bangladesh. The grounds do not focus on any challenge to whether, if a real risk from extremists exists, the Bangladeshi authorities would not be able to provide a sufficiency of protection. Indeed, Ms Aboni did not make any such oral submissions before me. Plainly, as I have already set out above, Dr Hoque expressed the view that the Bangladeshi authorities would be unable or unwilling to provide protection which, in my judgment, provided a sustainable basis for the judge's finding that the appellant would not be adequately protected by the Bangladeshi state from non-state actors if he was open about his religion.

53. That finding, based upon Dr Hoque's opinion, extended to the whole of Bangladesh even if the appellant were to live in a community which was predominantly Christian. As Ms Sanders submitted, the respondent's ground seeking to contend that the judge failed to consider the evidence about the Christian areas or cities where he could relocate, fails to grapple with Dr Hoque's expert opinion that such relocation within Bangladesh was not safe. Dr Hoque's view was that, if open, the appellant's background would become readily apparent and extremist groups such as HI had a reach both within the rural and urban communities in Bangladesh.

54. In my judgment, the respondent has failed to establish that the judge's conclusion that the appellant could not safely internally relocate was irrational or Wednesbury unreasonable based upon the background evidence and, in particular, the expert report of Dr Hoque.

55. Consequently, I reject the main grounds of appeal challenging the judge's decision to allow the appellant's appeal on asylum grounds.

56. The remaining ground concerns the judge's finding in para 61 that the appellant would not be able to become a leader of a church in Bangladesh because of the negative attention he would draw to himself. The grounds contend that this finding was "not supported by the evidence".

57. The judge accepted that there were Anglican churches in Bangladesh and that he would not be a "attractive" member of the congregation given he was an ex-Muslim and married to a Muslim. The grounds contend that the evidence, set out by the judge in para 49 and cross-referred in para 61, did not support her finding. There, in particular, evidence is cited that "churches, especially house churches" prefer not to display Christian symbols to avoid being recognised and that this would impact upon the appellant's ability to join a church, in particular to be ordained as a priest.

58. It may well be that the evidence upon which the judge relied was 'wafer thin' to support her finding. However, as Ms Sanders submitted, the judge's finding in para 61 played no part in her reasons for finding that the appellant would be at risk on return because of his circumstances. The judge did not, for example, take it into account as an aspect of the treatment which would be meted out to the appellant on return and cumulatively giving rise to persecution. The persecution which the judge identified was his ill-treatment (or worse) by extremist groups because of his profile, including his openly speaking about and practising his religion. Consequently, even if this finding is unsustainable it was not material to the judge's ultimate finding which led her to allow the appeal on asylum grounds.

59. For all these reasons, the judge did not materially err in law in allowing the appellant's appeal on asylum grounds.

Decision

60. The decision of the First-tier Tribunal to allow the appellant's appeal on asylum grounds did not involve the making of an error of law. The decision, therefore, stands.

61. Accordingly, the Secretary of State's appeal to the Upper Tribunal is dismissed.

Signed

Andrew Grubb

Judge of the Upper Tribunal
14 July 2021