



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/11759/2017

THE IMMIGRATION ACTS

**Heard at : Field House
On : 22 April 2022**

**Decision & Reasons Promulgated
On: 11 May 2022**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

**MTT
(Anonymity Direction made)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Smith, instructed by Wilsons Solicitors

For the Respondent: Ms J Isherwood, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Vietnam, born on 13 January 1972. She entered the UK clandestinely on 13 September 2009 and was encountered and served with removal papers. She absconded and then, after being encountered again, on 29 June 2012, claimed asylum on 2 July 2012.

2. The appellant claimed to be at risk from the 'black society' as her husband borrowed a large sum of money from them to feed his drug habit and she took over the debt since he was a drug addict and was incapable of paying back the loan. In 2003 three men visited her home, demanding repayment, threatening her with knives and threatening to kidnap her children, but she promised to

repay the money the following year. In 2004 she paid back a portion of the money borrowed and she fled to another town in 2005 where she worked in a restaurant. She was found by the men and tied up, but she managed to escape. She then paid the men some more money but decided to flee Vietnam before the next payment was due. She travelled to Russia and then came to the UK on a false passport.

3. The appellant's claim was refused on 31 July 2012. The respondent did not accept the appellant's account as it was inconsistent and considered that she would not be at any risk on return to Vietnam. She did not appeal against that decision, but she overstayed and remained in the UK.

4. On 7 June 2013 the appellant was convicted for possessing criminal property and she received a sentence of imprisonment of eight months, suspended for 18 months. On 18 January 2017 she was convicted of conspiring to supply a controlled drug - Class B - Cannabis, and she was sentenced to two years' imprisonment after pleading guilty and being described by the sentencing judge as part of an "organised, sophisticated, well-managed commercial enterprise". As a result of that conviction the appellant was served with a decision to deport, on 1 February 2017, notifying her that section 32(5) of the UK Borders Act 2007 applied. She was invited to make representations in response, and she did so, by way of an asylum claim, in which she claimed that she would be tortured and killed by the loan mafia in Vietnam and that her removal to Vietnam would interfere with her family life with her partner and would breach her Article 8 human rights.

5. On 27 October 2017 the respondent signed a deportation order against the appellant under section 32(5) of the UK Borders Act 2007 and made a decision to refuse her asylum and human rights claim. In that decision the respondent considered that the appellant did not meet the exceptions to deportation on family life grounds, as her partner was not a British citizen and was himself subject to deportation proceedings. The respondent considered that the private life exception was not met either, as the appellant had not been lawfully resident in the UK for most of her life, she was not socially and culturally integrated in the UK and there were no very significant obstacles to her integration in Vietnam. The respondent noted that the appellant's children were in Vietnam and that there was no evidence of any dependency upon family members in the UK. The respondent considered that there were no very compelling circumstances outweighing the public interest in her deportation and that the appellant's deportation would not, therefore, be in breach of her Article 8 human rights.

6. The appellant then made further submissions on the basis of being a victim of trafficking, having previously had a negative reasonable grounds decision made against her in October 2016 after an NRM referral was made by an immigration officer. She claimed to have been transported from Vietnam to Russia and then through Europe to the UK, and to have been sexually exploited and forced to work as a prostitute. In a decision of 12 July 2018, the Competent Authority concluded that there were reasonable grounds to believe that the appellant had been a victim of trafficking.

7. In the meantime, the appellant's appeal against the respondent's decision refusing her asylum and human rights claim was heard by First-tier Tribunal Judge Lingam on 15 August 2018. It was noted by the judge that the appellant had not disclosed that she was trafficked until October 2017. The matter of trafficking and the risk of being re-trafficked was considered by the judge. A country expert report from Professor Bluth had been submitted in that regard. The judge also had before her a medical report from Dr Hussain, an adult psychiatrist, dated 26 October 2016, which referred to the appellant having been taken to a remote area and raped multiple times by three men who had found her after she had relocated and when she was working in a restaurant. The report referred to the men having beaten the appellant on the head and having cut off her left little toe, which resulted in two months' hospital treatment. There was a diagnosis from Dr Hussain of PTSD. There was also a second medical report before the judge from Dr Ahsan, dated 5 November 2017, which referred in addition to the appellant being forced to work as a prostitute in Russia, Poland and then in the UK by the agents who brought her here, and to her managing to escape from the brothel in the UK and being assisted by a Vietnamese woman with whom she then stayed for four years. In addition, the judge had before her a Rule 35 report from Dr Mahmood, which referred to the rape and beatings but not to her having been trafficked.

8. Judge Lingam noted that the appellant had given a false name and date of birth when she was interviewed in 2009, that her account had evolved over time and that she had provided inconsistent evidence about her family and relationships in Vietnam, about the loan, about being raped, about being trafficked and about her travel route to the UK. As a result of the numerous inconsistencies in the appellant's various accounts, the judge did not consider that the appellant was being truthful and considered her to be incapable of speaking the truth. The judge considered that the appellant had made up her account of being raped and trafficked when she realised that there was a real chance she could be returned to Vietnam. She rejected the appellant's account in its entirety and dismissed the appeal on all grounds, concluding that she was at no risk on return to Vietnam and that her deportation would not be disproportionate.

9. Following the dismissal of the appeal, the Competent Authority, in a letter of 7 November 2018, concluded that there were insufficient grounds to believe that the appellant had been a victim of trafficking. That decision was based upon the negative credibility findings made by Judge Lingam. However, following a challenge to that decision by way of judicial review proceedings, the matter was reconsidered and a subsequent decision of the Competent Authority, 25 November 2019, found there to be conclusive grounds to believe that she was a victim of trafficking.

10. In the meantime, permission was granted to the appellant to appeal Judge Lingam's decision to the Upper Tribunal and, in a decision promulgated on 28 February 2019, the Upper Tribunal set aside her decision and directed that the appeal be heard again in the Upper Tribunal.

11. The decision in the appeal was then re-made in the Upper Tribunal following a hearing on 19 December 2019 before Upper Tribunal Judge (UTJ) Perkins, who observed that the appellant had by then satisfied the Competent Authority that she had been trafficked. At the hearing, the Home Office Presenting Officer accepted that the appellant had been the victim of trafficking, that she had been trafficked as she tried to escape from loan sharks and that she owed money which she had borrowed for her needs or to pay the debts of her husband, but he did not accept that she would have no family support in Vietnam and did not accept that she would be at risk from loan sharks or traffickers. UTJ Perkins found the appellant to be a deeply untruthful witness who would say anything she thought would bring the result she wanted. Nevertheless, and given the concessions made by the respondent, he accepted that she had fallen victim to loan sharks, largely as a result of her husband's drug addictions, and he accepted that she had been trafficked into the UK and forced to work as a prostitute. UTJ Perkins also accepted that the appellant had tried to enlist the help of the police in Vietnam and that that prompted a threat from her creditors, that she had tried to relocate within Vietnam and that she had suffered the traumatic amputation of her toe and then a beating that included her being raped. He accepted that the kidnap, beating, rape and mutilation which followed her being accosted in Ho Chi Minh City happened as claimed and that she would be returning to a country where she had been ill-treated by people who had ill-treated her previously.

12. However, UTJ Perkins did not accept that the appellant would be unsupported on return to Vietnam. He did not believe that she had lost contact with her two adult children as she had claimed, her evidence before him being that her children had left Vietnam to avoid being found by the creditors and had gone to Laos where she had lost contact with them when she was arrested and when the police took her mobile telephone containing their telephone number in Laos. He did not accept that her creditors would know about her return, and he concluded that she could relocate to another part of the country where she would not be at risk. UTJ Perkins also found that the appellant's mental health concerns did not reach the Article 3 threshold and that her removal would not be in breach of Article 8. He accordingly dismissed the appeal on all grounds.

13. Permission was sought by the appellant to appeal UTJ Perkins' decision to the Court of Appeal. Permission was granted on the basis of agreed errors in his decision, namely: that the judge did not adequately consider evidence regarding the appellant's medical condition when concluding that she could safely return to Vietnam, in particular the impact of her psychological condition on her capacity to establish support networks; and that the judge did not adequately address whether the appellant's risk of suicide was such that returning her to Vietnam might be a breach of her Article 3 rights. The matter was remitted to the Upper Tribunal for a re-hearing.

14. At a case management review hearing on 26 August 2021, it was agreed by both parties that the issue before the Upper Tribunal for the re-making of the decision was the risk to the appellant on return to Vietnam: the risk of re-trafficking, the risk from loan sharks and the risk of suicide, which involved an

assessment of the level of support available to her in that country. It was agreed that the risk was to be assessed on the basis of the profile accepted by UTJ Perkins, following the concessions made before him by the respondent.

15. At a further case management review hearing, the appellant wished to rely upon a new matter, namely her relationship and co-dependency with a British citizen, to which the respondent had no objection.

16. The case then came before me on 18 March 2022 for a substantive hearing but had to be abandoned due to interpreter problems. Although cross-examination had commenced, it was agreed by all parties that that evidence would be disregarded, and the case would be heard afresh.

17. The matter then came before me again, on 22 April 2022.

New evidence

18. Additional evidence had been produced for the appeal, which was not before UTJ Perkins. That included two further witness statements from the appellant, evidence from the appellant's current partner and evidence of their relationship, a further medical report from Dr Juanita Isaacs, a further country expert report from Dr Mark Sidel, and family tracing evidence including correspondence with HMP Peterborough and with the Greater Manchester Police about the appellant's mobile telephone and communications from the Salvation Army and the British Red Cross. Also included in the appellant's consolidated appeal bundle were the Conclusive Grounds decision minutes dated 25 November 2019 which Ms Smith informed me had not been before UTJ Perkins.

19. In her statement of 10 December 2021, the appellant explained that she had commenced a relationship with her partner, LS, in May 2020 and that they had been living together since October 2020. He was a British citizen, born in the UK and was disabled. He had a heart condition, problems with his legs and headaches and used a wheelchair when outside the house. He had a carer who came every day, but she also supported him. She was still in regular contact with L, the friend with whom she had been living previously, but she did not depend upon her as much as previously now that she had her partner. The appellant stated that she still had nightmares and problems sleeping and had been having some counselling with a Vietnamese therapist which had stopped. She was no longer receiving counselling. She could not manage without LS if she had to return to Vietnam and he would not be able to go with her. She had had no contact with her children since going to prison in 2016 and had no idea who had taken her mobile telephone which had their telephone numbers in it. She had last seen her children in 2007 and as far as she knew they were in Laos. She had tried to find them through various organisations but had been unable to do so. Even if she had contact with them, they would not be able to help her in Vietnam. Neither could she get any help from people in general in Vietnam.

20. In her statement of 14 April 2022, the appellant stated that she had now been told that neither the police nor the prison had her mobile phone. It must have been left at the place where she was staying with her ex-boyfriend when they were arrested. She no longer had any contact with him.

21. There is also a statement dated 10 March 2022 from TD who shared a room with the appellant in prison and who was with her in the detention centre subsequently. TD confirmed that the appellant had talked to her about her children and had told her that she had lost contact with them but had heard that they were in Laos.

Hearing and submissions

22. The appellant gave evidence before me, through an interpreter in the Vietnamese language. It was accepted that she was to be treated as a vulnerable witness in accordance with the relevant guidance, as set out at [5] to [8] of Ms Smith's skeleton argument, and care was therefore taken to ensure that cross-examination was appropriate and that she was given breaks when required. The proceedings were held *in camera*.

23. The appellant adopted her four witness statements as her evidence in chief and was cross-examined by Ms Isherwood. When questioned about the whereabouts of her mobile phone, the appellant said that when she was in prison, she had sent letters to her boyfriend to ask him to send someone to the house to look for it. She did not call the mobile phone herself as she could not remember the number. At first, in the police station, she was not allowed to make a call, and later, when she was in prison, she could not remember the number. She was aware, prior to her arrest, that her two children were in Laos, and she knew for sure that they had not returned to Vietnam as they would be caught by the loan sharks and would be harmed. With regard to her past offending, the appellant accepted that she had been found guilty of the crime for which she was convicted but she did not accept that she was part of an organised and sophisticated operation or that she was carrying drugs. The appellant confirmed that she was not currently receiving any counselling or taking any medication. When asked how the moneylenders would know she was back in Vietnam, the appellant said that they had great connections with the police and would find out where she was as she would have to register her residency. The people who trafficked her to the UK would also know she was back. She had no family in Vietnam. Her parents and her extended family members had all passed away. She would not be able to get a job in Vietnam as all she had done before was washing dishes. The loan sharks had managed to find her when she was doing that work. She had not seen her friend L for some time but was feeling more relaxed and confident now that she had met her partner LS. She would go out with him, but when she was alone, she went no further than the local shops.

24. The appellant's partner, LS also gave oral evidence before me. He adopted his statements as part of his evidence. He said that his mobility had deteriorated recently, and his condition varied from day to day. He would be able to manage without the appellant physically if she went back to Vietnam as

he had a carer who came three times a day, but he would not be able to manage emotionally. He would not be able to support her financially if she returned to Vietnam.

25. Both parties then made submissions.

26. Ms Isherwood submitted that despite the previous favourable findings made for the appellant, she was a person who was willing to lie and whose evidence should therefore be treated with caution. There had been no real attempt to find her children and it was not credible that she had no contact with them. As for the ability of the loan sharks to find the appellant Ms Isherwood referred to the expert report from Mark Sidel and asked me to accord it little weight as it was based on out-dated information and sources. Ms Isherwood placed reliance upon three Country Policy and Information Notes (CPINs), "Vietnam: Fear of illegal moneylenders" dated December 2018, "Vietnam: Victims of trafficking" dated April 2020 and "Vietnam: Mental healthcare" dated May 2021, none of which were referred to by the country expert. She relied on the first of those CPINs in submitting that there was an effective system of protection available in Vietnam and that victims of moneylenders were able to relocate in Vietnam to escape the local threat., and furthermore that the Hukou registration system was set to be scrapped. With regard to the second CPIN, the government was making efforts to prevent trafficking and there was support available to victims. Ms Isherwood submitted that the appellant would therefore be able to access protection and assistance and would not be at risk on return to Vietnam. As for the mental health issues, the appellant would be able to access healthcare facilities and assistance in Vietnam. The evidence of her relationship with her partner LS was very limited and it was not clear what support he provided for her. With regard to Article 8, Ms Isherwood reiterated that the evidence of the appellant's relationship with LS was very limited and there was no medical evidence to confirm his condition. She asked me to dismiss the appeal.

27. Ms Smith, in her submissions, relied on UTJ Perkins' positive findings of fact and the conclusions reached by all three medical experts that the appellant suffered from PTSD. The appellant's conviction should be seen in the light of the fact that she was an accepted victim of trafficking and that her offences were those usually associated with criminal activity within the Vietnamese community. As for the appellant's contact with her children, there was evidence to show that she had tried to find them and to locate her telephone which had their numbers in it and her evidence should be accepted. It was plausible that, at her age, her parents were deceased and that she had no surviving family members in Vietnam. As for the risk to the appellant on return to Vietnam, Ms Smith responded to Ms Isherwood's reliance on the CPINs and asked me to find that they were no more than published statements of Home Office policy and instructions to caseworkers and were not in themselves objective country evidence, whereas the country expert reports were reliable evidence of the risks the appellant would face on return. They were well-referenced reports by recognised experts. There was no proper basis for Ms Isherwood's submission that the appellant would be able to find work in Vietnam as she had only done dishwashing jobs previously and she had no

skills. She was vulnerable then and was even more so now. Ms Smith confirmed that she was not arguing a separate Article 3 case on the basis of mental health and suicide risk, but she was referring to the appellant's mental health in the context of risk on return and her ability to access medication and support. Her mental health had improved in the UK because of the support she received from her partner, but that would deteriorate if she returned to Vietnam without him. As for Article 8, there was no challenge to the appellant's relationship with LS. It was clear that he had medical problems and the evidence was sufficient to show that he was disabled. He and the appellant provided mutual support for each other, and he would not be able to go to Vietnam if the appellant was returned there. The factors in the appellant's favour amounted to very compelling circumstances. The appeal should be allowed on all grounds.

Consideration and findings

28. The starting point in this case is the accepted findings of fact made by UTJ Perkins based upon the concession of the respondent as set out at [68] of his decision. Those accepted findings are to be found at [130] to [134], [135], [137], [149], [152] and [155] of his decision, and are as follows: that the appellant had fallen victim to loan sharks largely as a result of her husband's drug addictions, that she had tried to enlist the help of the police in Vietnam but found that that exacerbated her problems because the report promoted a threat from the creditors, that she had tried to relocate within Vietnam but was found by the money lenders in Ho Chi Minh City and was beaten, suffered the amputation of her toe and was raped, that she had been trafficked into the UK and forced to work as a prostitute, that she still owed a considerable sum of money and that she was fearful for her safety in the event of her return. UTJ Perkins also accepted, at [141], that victims of trafficking constituted a particular social group in Vietnam within the meaning of the phrase in the Refugee Convention and, at [149], he accepted Professor Bluth's suggestion that even if the appellant had been untruthful in many respects, she must still owe money to the traffickers, and they will want the debt paid. None of those findings have been challenged by the respondent and neither did they form the basis of the remittal by the Court of Appeal to the Upper Tribunal.

29. It is also relevant to note the adverse findings made by UTJ Perkins which were not affected by the Order of the Court of Appeal and which Ms Smith conceded were therefore also preserved. UTJ Perkins did not accept that the appellant had lost contact with her children and did not accept that she would be unsupported on her return to Vietnam. He did not accept that her creditors or her traffickers would know about her return, and he did not accept that the Vietnamese authorities would hand her over to them. At [150] he did not accept that registering in Vietnam would draw attention to her return and he rejected the suggestion that she would be identified and reported to the loan sharks more than ten years after having left the country.

30. Where UTJ Perkins was found by the Court of Appeal to have erred in his decision was his failure adequately to consider the impact of the appellant's psychological condition on her capacity to establish support networks in Vietnam and his failure adequately to address the appellant's risk of suicide under Article 3 of the ECHR. Ms Smith made it clear, however, that she was not pursuing Article 3 on the grounds of the appellant's mental health and the risk of suicide, in light of the most current evidence and the relevant caselaw. It therefore falls to me to decide whether the appellant could safely return to Vietnam, taking into account her mental health condition and vulnerability and how that would impact upon her ability to access support and protection.

31. Those are matters which are clearly relevant to the question of the reasonableness of internal relocation. UTJ Perkins did not make a specific finding as to whether the appellant would be at risk in her home area. However, the implication from his findings at [158] is that he found that there was such a risk and the adverse findings that he then went on to make were in relation to the appellant's safety and support in another part of the country. Indeed, that must be the case because the basis of his decision to dismiss the appellant's appeal was that her creditors and traffickers would not know of her return to Vietnam and that the process of registering herself would not draw attention to her return nor lead her to be reported to the loan sharks after more than ten years of absence. In any event, I make the finding myself that there is a risk that the appellant, if returning to her home area, would be found and harmed by her creditors, both the loan sharks and the traffickers, as it is accepted that there is an outstanding debt to both and that her creditors would still want the debt paid. That is made clear in Mark Sidel's report, from [48], where he also referred to the risk of the appellant being exploited by her original traffickers, and it is also consistent with the CPIN on victims of trafficking at paragraphs 2.4.6 to 2.4.8. I do not accept that the appellant would be adequately protected by the authorities in her home area. As UTJ Perkins found and accepted at [131], her previous attempt to seek the help of the police in her home area had prompted a threat from her creditors and there is a risk that that would occur again. Mark Sidel makes the point at [64] that the appellant would be unlikely to seek protection from the police if the traffickers located her.

32. As for whether she would be located if she went to another part of Vietnam, I see no reason to go behind UTJ Perkins' findings. The evidence does not suggest that her creditors, whether the loan sharks or the traffickers, would know that she had returned to Vietnam. The fact that she was located previously in another part of Vietnam does not mean that that would occur over ten years later. At that time, she was actively being sought and the information of her whereabouts could readily be ascertained, as UTJ Perkins found at [134]. UTJ Perkins did not consider that the previous discovery of the appellant in Ho Chi Minh City by her creditors was a result of the registration system and I do not accept that the evidence now relied upon suggests any different. That is not inconsistent with the report from Mark Sidel since his reference at [50] to the ease with which victims could be located, was on the basis that they were being actively sought in the first place. As for the risk of the appellant being re-trafficked simply because of her vulnerability rather than

on the basis of being located by her previous traffickers, I do not consider that that is made out. There is no dispute that the appellant is a damaged and vulnerable woman, but she is older and more aware than she was previously and there is nothing in the evidence before me, including the reports of Mark Sidel and Professor Bluth (and I share the view of UTJ Perkins at [138] in regard to the latter), to persuade me that that is reasonably likely.

33. However, I am now persuaded that what is the crux of this case, namely the question of undue harshness and reasonableness of relocation, is made out by the appellant on the basis of the evidence before me. Although UTJ Perkins' findings as to the appellant's contact with her children have not been disturbed by the Court of Appeal order, it is open to me to depart from his adverse findings if the evidence which has since been produced provides a proper basis for me doing so. There is further evidence which was not before UTJ Perkins in regard to attempts by the appellant to locate her children and to find her mobile telephone which held their details. I acknowledge that this has arisen only after UTJ Perkins' adverse findings, but there is consistent evidence from various sources to suggest that the appellant has indeed lost contact with her children. The respondent does not appear to dispute the claim that they moved to Laos and have lived there for many years, and it is not implausible to conclude that she has not been able to locate them. In the circumstances I am prepared to accept that the appellant does not have contact with her children. However, even if she was able to find her children, it is not necessarily the case that they would be prepared to return to Vietnam to look after her or that they would be in a position to support her. The appellant claims to have lost her parents and her extended family members and to have no ties left to Vietnam. I have some doubts as to the truthfulness of such a claim, as indeed there have consistently been doubts about the truthfulness of her account as a whole. However, her account of her past experiences has ultimately been accepted, to the lower standard of proof, owing to concessions made by the respondent, and I am prepared to accept that the burden of proof has been discharged to that lower standard in this respect too, in light of the evidence now before me.

34. Accordingly, I accept that the support network envisaged by UTJ Perkins, in terms of family support, is not available to the appellant. As for the support available in general from the community in Vietnam, I have regard to the CPINs and to the expert evidence. Section 7 of the CPIN on victims of trafficking refers to NGO shelters being available in Hanoi but accepts that they are limited in capacity. The CPIN on mental healthcare refers to mental health services being available in Vietnam, but again those are limited. That is confirmed by Mark Sidel in his report at [78] to [82]. I have regard to the CPIN on victims of trafficking which refers at section 9 to the social stigma of trafficking victims and to the difficulties for victims of trafficking in finding a job and accessing appropriate services. That is confirmed in Mark Sidel's report at [85]. The evidence is that the appellant does not have any particular skills which would enable her to find work in Vietnam. The appellant's subjective fear of being found by her previous traffickers and creditors is also a relevant factor which would impact upon her ability to establish herself.

35. It is clear from the medical reports produced that the appellant, as a vulnerable person with the experiences she has suffered and the psychological impact of those experiences, requires a strong support system from those with whom she is familiar. I take note of the consistent diagnosis of various professionals, of PTSD, and of the concerns they all have as to the likely deterioration in the appellant's mental health if she were to be removed from her current support network and from her partner LS. I refer in particular to the opinion of Dr Isaacs, a chartered clinical psychologist, at [99] to [101] of her report, in regard to the likely escalation of the appellant's PTSD and the reduction in her ability to keep herself safe as a result, at [133] to the significant negative effect on her mental health of being separated from the protective factors in the UK such as her boyfriend, GP, friends and legal team and at [164] to the risk of exploitation such as further enforced prostitution. I do not consider that anything arises from Dr Isaacs' reference at [101] of her report to the appellant having to support and care for herself "and her child". It is clear that the only children the appellant has are the two adult children living in Laos and that that reference was simply an error on Dr Isaacs' part. Dr Isaacs' opinion is entirely consistent with the opinions of the other medical experts who provided reports for the appellant's appeal and I refer also to the report of Dr Nikopaschos, a clinical psychologist who stated her concerns, at [56], about the impact of separating the appellant from her support network (at that time her friend L) on her "*ability to care for herself, access and engage with both medical and practical support, and keep herself safe*".

36. I do not consider that the appellant's criminal history impacts adversely in the reasonableness assessment. Her past offending has to be considered in the context of her vulnerability and the fact that she was trafficked to the UK and thus forcibly associated with the criminal underworld, albeit that was not directly linked to her own offending. I take the point made by Ms Smith that there is some relevance that the nature of the appellant's offending was one commonly linked to the Vietnamese community, but again that in itself is not a reason to ignore the conviction. In any event, considering all matters in the round, taking account of her past experiences, her vulnerability, her mental health issues and her current lack of a support network in Vietnam, I conclude that it would be unduly harsh to expect the appellant to relocate to another part of Vietnam and to re-establish herself there. It seems to me that she would face unduly harsh circumstances if she had to relocate to a part of the country with which she was unfamiliar and where she had no ties and that to require her to do so would be unreasonable.

37. Accordingly, I find that the appellant is entitled to protection under the Refugee Convention and I allow her appeal on that basis.

DECISION

38. The making of the decision of the First-tier Tribunal involved an error on a point of law and has been set aside. I re-make the decision by allowing the

appeal on asylum grounds. As such there is no need to undertake any separate consideration on humanitarian protection and human rights.

Signed S Kebede
Upper Tribunal Judge Kebede

Dated: 28 April 2022