



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/13631/2018**

**THE IMMIGRATION ACTS**

**Heard at Manchester CJC  
On 30 September 2022**

**Decision & Reasons Promulgated  
On the 01 February 2023**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**MSR by his litigation friend Michael Crompton  
(anonymity direction made)**

Appellant

**And**

**Secretary of State for the Home Department**

Respondent

**For the Appellant: Mr Gilbert, Counsel instructed by Kesar & Co  
For the Respondent: Mr Tan, Senior Home Office Presenting Officer**

**DECISION AND REASONS**

1. The Appellant is a national of Bangladesh born in 1983. He faces deportation as a foreign criminal, because on the 25<sup>th</sup> June 2018 he was convicted of causing Grievous Bodily Harm and was sentenced to 14 months imprisonment. He resists that deportation on protection and human rights grounds

## Background and Matters in Issue

2. This matter has a long and complex history, which is set out in the decision of the First-tier Tribunal (Judges Bird and Simpson) dated the 6<sup>th</sup> April 2021, the decision of Upper Tribunal Judge Stephen Smith in granting permission to this Tribunal on the 1<sup>st</sup> June 2021, the decision of Upper Tribunal Judge Pickup of the 2<sup>nd</sup> August 2021 to set the decision of the First-tier Tribunal aside, and my own decision and directions of the 24<sup>th</sup> March 2022. That history need not all be reiterated here. The core matters salient to this remaking of the decision in the appeal are these:
  - The Appellant came to the UK as a Working Holidaymaker in 2008 and has been here ever since
  - He has significant learning disabilities, and it is for this reason that the court has appointed Mr Michael Crompton as his litigation friend. Mr Crompton is a social worker and an approved mental health professional. The Appellant is also partially blind and it was the finding of the First-tier Tribunal that he has particular vulnerabilities arising from his 'trusting nature'
  - The Appellant is a victim of trafficking. The First-tier Tribunal made undisturbed findings to this effect, accepting that he was trafficked by family members in 2008-2012. In a 'conclusive grounds' decision of the Competent Authority dated the 16<sup>th</sup> September 2021 it is accepted that the Appellant was a victim of modern slavery in the UK for the purpose of forced labour between 2013 and 2018 during a period when he worked in a restaurant
3. It is against this background that the Appellant seeks leave to remain in the UK on protection and human rights grounds. In particular the Appellant asserts:
  - (i) That he has a well-founded fear of persecution (violence/discrimination/harassment/re-trafficking) for reasons of his membership of a particular social group (victims of trafficking/ disabled people);
  - (ii) That his removal would give rise to a real risk that he could face inhuman and degrading circumstances in the form of re-trafficking and/or destitution contrary to the UK's obligations under Article 3 ECHR;
  - (iii) That his removal would in all the circumstances be a disproportionate interference with his private life in the UK and so a breach of Article 8 ECHR.

## The Facts

4. The parties are in agreement that the Appellant does not have capacity and he was not therefore called to give oral evidence. The evidence before me falls into three parts: evidence about the Appellant's life so far, professional assessments of his ongoing vulnerabilities, and country background material on Bangladesh. None of it is contested.

### *The Appellant's Life*

5. The Appellant was born in 1983 in a small town, where he grew up with two brothers and a sister<sup>1</sup>.
6. In the 1990s his elder brother H migrated to the UK to work as an Imam<sup>2</sup>. In 2008 a Working Holidaymaker visa was arranged for the Appellant by family members. He arrived and was taken to Cardiff, where he lived with H and his family. H got the Appellant a job in a restaurant. The Appellant gave all of his earnings to H.
7. In 2009 H suffered from a serious stroke. He was left paralysed and required full time care<sup>3</sup>. The Appellant gave up working in the restaurant to take up that role. The family moved from Cardiff to Bradford. An application was made on his behalf for leave to remain on compassionate grounds as H's carer, but this was refused. An appeal against that decision was dismissed by the First-tier Tribunal in 2011. The Appellant states that sometime after he lost his appeal he was thrown out of H's house.
8. The Appellant was street homeless for a period. He contacted his brother in Bangladesh who put him in touch with someone he knew in Colchester, who ran a restaurant. Sometime in 2013 the Appellant met with this man, who offered him a job and accommodation. The accommodation was in the basement of the restaurant. Photographs are provided in the Appellant's bundle. These were provided by the Appellant's former representative who obtained them, with consent, from the Appellant's telephone in late 2019<sup>4</sup>. They show a small room with bare breezeblock walls and a single small, high window. Two metal-frame beds are provided for the Appellant and co-worker. Their clothes are hung over the bedframes.
9. The Appellant worked 13-14 hours per day, six days a week. When interviewed by the Competent Authority the Appellant said that he was paid in cash by the owner of the restaurant. He was given £180 per week, although it was supposed to be £220. The Appellant would put the cash under his mattress in the basement. After some time he

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<sup>1</sup> FTT decision 6.4.21 §51

<sup>2</sup> FTT decision 15.6.11 §7

<sup>3</sup> Evidence produced in application dated 2.12.10 at Annex C22 HO bundle

<sup>4</sup> See witness statement Rebecca Morris of Wilson & Co Solicitors dated 21<sup>st</sup> December 2020

realised that AU, the owner of the restaurant, was simply taking the cash out from under his bed and giving it back to him every week: he was being given his own money back<sup>5</sup>. If he complained about anything this man would threaten him and his family. He was regularly beaten by AU, and the photographs provided show what are said to be burns deliberately inflicted on him.

10. On the 5<sup>th</sup> March 2018 the Appellant entered a guilty plea to the offence of wounding (s20 OAPA) and on the 25<sup>th</sup> June 2018 he was sentenced at North Essex Magistrates Court to 14 months' imprisonment<sup>6</sup>. The sentencing remarks describe the offence as an "unprovoked assault with a knife". The victim of the assault was AU, from the restaurant in Colchester. Obviously it was not known at that time that the Appellant had been a victim of assault there himself, when held there for the purpose of labour exploitation.
11. The Appellant's relationship with his family has been difficult. He reports that his late brother H, with whom he lived for a time in the UK, used to beat him. It is apparent from the history narrated by the Appellant, although not framed in these terms by him, that H and his family exploited the Appellant. In Cardiff he was sent out to work and they took all of his earnings; after H had his stroke the Appellant was required to be his carer; when he lost his immigration appeal and he became a problem, he was thrown out of the house. The Appellant's brother in Bangladesh, F, was on the face of it in some way complicit with the trafficking situation that the Appellant found himself in in Colchester. It was him who arranged the job and accommodation, and introduced the Appellant to AU. The Appellant has explained in his witness statements that since his arrival in the UK his brother F has consistently asked him to send him money, and he is aware that some of his earnings in Colchester were sent directly to F in Bangladesh by one of his co-workers. The family in Bangladesh do not have money. The Appellant does however speak to F and F's wife by telephone on a regular basis, and has, in a recent Manchester City Council care assessment, expressed a desire to return to live with them in Bangladesh. He told the assessor that he feels lonely here and that nobody listens to him. He expressed a belief that if he went back to Bangladesh he would be able to get married and have a family there.
12. The Appellant has for some time been supported by members of the church in the UK. The First-tier Tribunal, in their decision of the 6<sup>th</sup> April 2021, accepted that he now considers himself to be a Christian.

#### *The Appellant's Abilities*

13. At some point during his stay in Colchester the Appellant reports that his eyesight began to deteriorate. He attributes the start of his difficulties with an incident where hot oil splashed in his eye in the

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<sup>5</sup> Competent Authority conclusive grounds decision minute

<sup>6</sup> Trial Record Sheet at Annex H1 HO bundle

kitchen, but upon clinical examination ophthalmologist Dr Matthew J Starr of the London Eye Clinic found it to be unlikely that this was the cause. The Appellant has a degenerative eye condition called retinis pigmentosa. It is incurable and his vision will continue to get worse until he is entirely blind. At the date of Dr Starr's report in February 2019 the Appellant was categorised as "severely sight impaired (blind)". At the time of this assessment the Appellant retained what seemed to be a "reasonable central field of vision", meaning he was still able to use his phone (which he held very close to his face) and move around unaided, albeit with care.

14. The medical evidence in this case comes primarily from Dr Craig McNulty, Clinical Psychologist. Dr McNulty has over 25 years' experience and a full CV has been supplied. Since no issue is taken with his expertise, I need say no more about that here save to say I accept that he is qualified to give expert evidence on the Appellant's cognitive abilities and mental health, and that in doing so he understands his duty to the court. He has prepared a total of three reports on the Appellant, the first dated the 11<sup>th</sup> June 2019 and the most recent the 26<sup>th</sup> April 2022. To prepare these reports Dr McNulty saw the Appellant in consultation on four occasions between 2019 and 2022. During those meetings they discussed the Appellant's life and situation, and Dr McNulty attempted, in part unsuccessfully, to administer standardised tests. He read the relevant papers in the case, and spoke personally to a number of people who engage with the Appellant on a regular basis: Mr Tweed, a Visual Impairment Rehabilitation Officer and Sensory Impairment Team Leader; Mr Adam Leese, who works for an organisation called City Hearts that provides outreach support to victims of trafficking; and a Mrs Ruth Whitehouse who along with her husband Ian had become 'mum and dad' to the Appellant through their role at the church he attended whilst living in Preston.
15. Dr McNulty concludes that the Appellant's verbal comprehension and reasoning ability are significantly impaired. Although the Appellant was unable to engage in many of the standardised tests the results that Dr McNulty was able to obtain suggest that the Appellant falls within the lowest 0.3% of the population in respect of his verbal reasoning ability, and the lowest 2% in respect of his IQ. These results support a diagnosis of a mild to borderline Intellectual Disability. This is most likely to have been present since birth. Dr McNulty concludes:

"3.1. ... I believe that his general cognitive ability is unlikely to change significantly in the future, and he is highly likely to require ongoing professional care and support from specialist mental health service professionals to help avoid a significant deterioration in his mental and physical state for the foreseeable future".

16. There is in Dr McNulty's opinion a high probability that this intellectual impairment rendered the Appellant vulnerable to exploitation in the past; there is a high degree of likelihood that this could happen again. Dr McNulty further notes that the Appellant reports many symptoms consistent with a diagnosis of Post Traumatic Stress Disorder. His overall conclusion is expressed in his most recent assessment like this:

“Overall, in my opinion, he is not able to realistically assess his own needs for care and support, or to assess his own capacity to engage in paid work, and he would be extremely vulnerable to exploitation in anything other than a supervised care setting”.

17. An undated Lancashire County Council support plan states that the Appellant is able to undertake basic cleaning tasks; he can make himself basic foods and a cup of a tea; he is able to get to a shop if it is nearby and he is familiar with it. He is able to go to the toilet himself and can dress himself if his clothes are laid out for him. The report notes that he would struggle with paperwork and any more complex, deep cleaning tasks. His room-mates in the shared accommodation and before that, immigration detention assisted him with everyday tasks such as laundry and dressing. As to this kind of assistance I see that there are letters in the bundle from other inmates in the prison where the Appellant was held which confirm that he was to a large extent reliant on cell mates. This evidence appears to be chronologically consistent with an earlier report from West Sussex County Council which finds the Appellant able to do slightly more, at a time when his eyesight was slightly better.

18. I also have a letter from the aforementioned former support worker for the Appellant, Adam Leese. He was assigned to the Appellant between 2019-2020. Mr Leese explained that he saw the Appellant on a regular and frequent basis even into the pandemic because he was deemed to be a “high need” service user. Mr Leese describes the Appellant as kind, gentle and childlike. Mr Leese gives several examples of this. He follows members of the royal family on Facebook and apparently believes that when he receives messages from their social media accounts that he is having direct communication with the royal in question; he refers to shop assistants as “officers”; he was unable to understand instructions about how to prepare a drink to the extent that Mr Leese had to make a video for him. On another occasion, when Mr Leese accompanied the Appellant on a train to attend an appointment at the Home Office in Liverpool, the Appellant:

“shook the hands of everyone he met and said hello and good morning to them. On the way back, at one point he became very quiet and then became panicked and quite upset because he realised he had not said Merry Christmas and Happy New Year to everyone he had met. I tried to explain to him that it was only November and no-one would

have expected him to say those things but he was quite fixated on it.

On the one hand, these things are rather quaint and sweet but they are concerning because I think that his naivety and deferential, agreeable nature mean he could easily, without even realising it, end up in a situation that is actually very bad for him and he would not necessarily recognise it or be able to get out of it”.

19. Mr Leese reports concerns that the Appellant was being pressured into attending mosque by others in his accommodation and local area. He did not want to go but was unable to resist their entreaties and instructions. This vulnerability is, Mr Leese believes, exacerbated by the Appellant’s visual impairment which gives him cause to be even more dependent upon others.
20. The tenor of the evidence given by Mrs Whitehouse is very similar. She describes the Appellant as kind-hearted and generous, and very trusting. Whilst she notes these positive attributes she expresses concern: “if he is not supported and guided at times, they leave him at risk of being exploited and hurt. I think the crucial thing is that overall he appears to view the world from a very simplistic point of view and does not seem able to weigh up information so as to make a reasoned conclusion”.
21. It is against this background that I am asked to consider the evidence that in 2019 the Appellant signed a voluntary returns form and asked the Home Office to arrange his return to Bangladesh. It is the view of Dr McNulty, and his current representatives, that he did not have the capacity to understand the implications of this agreement. A formal complaint has been made about his then representatives to the Ombudsman.

### *Bangladesh*

22. The Appellant relies on a report prepared by Amnesty International at the request of his previous representative. It is specifically concerned with the position of the Appellant and is dated the 6<sup>th</sup> March 2020. The report takes the form of a series of questions posed by the solicitor and answered by Amnesty’s Refugee and Migrant Rights Programme in conjunction with the individual Bangladesh research team based at AI’s International Secretariat. The Bangladesh research team consists of experienced research and campaigning staff who conduct continual research in the field and from AI’s regional hub office in Colombo, Sri Lanka. They conduct field research to gather information and testimony, as well as maintaining regular contact with a range of sources in Bangladesh, which include Bangladeshi human rights organisations, UN bodies, and international

non-governmental sources. They also receive information from a variety of sources including individual contacts and the media.

23. In response to the question 'what are known societal attitudes in Bangladesh towards those with physical disabilities and the cognitively impaired' the research team responded that their experience in Bangladesh is that people with mental and physical disabilities face a range of pervasive societal issues. These include "widespread harassment, bullying and abuse; widespread problems of homelessness, often due to abandonment and being disowned by family; police harassment; and lack of awareness leading to abuse and abusive practices even when well-intentioned".

24. AI report that families remain by far the largest primary source of care for people with physical and cognitive disabilities. The attitude and circumstances of a particular family to these issues is therefore of great importance:

"Many families provide a supportive and caring environment to the best of their abilities, and there is considerable social expectation that they would do so. However, particularly depending on the nature of the disability, shame, stigma and lack of understanding can lead to families isolating disabled family members from wider society and the outside world. The family's financial position is also often a crucial determinant of their capacity and willingness to provide support and the appropriateness of that support. There are, for example, widespread reports of families relying on 'traditional healers' to treat mental and physical disabilities and illnesses, due to a lack of access to mainstream care and support. The practices of these traditional healers, and the advice they give to families, can at times involve serious abuses of the person's human rights, including the use of, chaining, shackling and beating. There are also reports of families, particularly but not exclusively families in poverty, abandoning disabled family members due to a combination of shame and financial pressures".

25. AI reports that there are laws in place to protect persons with disabilities (Rights and Protection of Persons with Disabilities Act 2013 (RPPDA) and the Mental Health Act 2018) but there is a significant gap between these legal commitments and the actual provision of protection. There is very little in the way of state-funded support for individuals with physical, mental or cognitive disabilities. Amnesty consider that the stigma which surrounds such conditions discourages government investment. There is a state allowance system which provides for £6.42 per month per recipient. The visually impaired would in principle fall within that category but access to the scheme is highly bureaucratic, information on access is reportedly sparse and there are reportedly little in the way of outreach programmes to promote access. Disability rights campaigners in Bangladesh allege high levels of corruption in the access and distribution of this benefit.



26. AI's conclusion on the risk of exploitation faced by persons with blindness and/or cognitive disability was as follows:

"Available information on this is limited, however, at a general level, Bangladesh is widely reported to be a major source country for trafficking and exploitation, both domestically and internationally. Male victims are primarily targeted for various forms of labour exploitation. As previously noted, those most vulnerable to being targeted in this way are likely to be marginalised individuals and/or from marginalised communities. In particular, poverty is a major risk factor, but other factors including homelessness and lack of familial or social support are also highly significant. Cognitive disability, particularly in relation to issues such as suggestibility and reasoned decision making, is likely to significantly exacerbate these risks.

... former victims of trafficking are often marginalised individuals or find themselves in a marginalised and otherwise vulnerable position within Bangladeshi society. This position is exacerbated by the failure on the part of the Bangladeshi state to provide adequate support and protective services for trafficking victims, including the complete absence of such services for male adult victims"

27. In respect of the latter AI cite from Trafficking in Persons research conducted by the US State Department (with which I was also provided) to the effect that such state support that does exist for victims of trafficking is exclusively for women and children.

### **Analysis**

28. The Appellant is a foreign criminal as defined by s32(1) of the UK Borders Act 2007. That means that he is subject to the automatic deportation provisions of that Act, and can only succeed in defeating such action if he can demonstrate that one or more of the 'exceptions' is engaged.
29. The exceptions are set out in s33 of the Act. Exception 1 is where removal of the foreign criminal in pursuance of the deportation order would breach that person's rights under the ECHR, or the United Kingdom's obligations under the Refugee Convention. In respect of both limbs the burden of proof lies on the Appellant, and the standard of proof is one of "reasonable likelihood" or "real risk".
30. I am satisfied that there is a reasonable likelihood that if the Appellant is returned to Bangladesh he will encounter inhuman and/or degrading treatment, and/or ill treatment in violation of the United Kingdom's obligations under Article 3.

31. My starting point must be that the Appellant will, if returned to Bangladesh, live with his brother F. I do not doubt that the Appellant loves his brother. It is clear from the evidence overall that he turned to F when H ejected him from his home in the UK, and that notwithstanding the situation he subsequently found himself in in Colchester, remains loyal to him. He continues to have regular telephone contact with him and his wife. As recently as March of this year the Appellant told the care assessor from Manchester City Council that he would like to return home to live with F. It may well be that F loves the Appellant and would welcome him into his home. F may not perceive that he has ever done anything wrong, or that the Appellant has come to any harm because of his actions. F may have considered the Appellant's placement in the restaurant in Colchester as natural: in extended family systems everyone is expected to do their bit and contribute to the collective pot. The family in Bangladesh were in need and the Appellant, as an adult male migrant, provided. Seen through the eyes of an impoverished family in Bangladesh, the Appellant's treatment and life since he came to this country may be unremarkable.
32. That is not however how I see it. I must view what has happened to the Appellant, and what could happen to him in the future, through the prism of international human rights norms. The Appellant is, and on the clinical assessment of Dr McNulty has always been, a highly vulnerable individual. His verbal reasoning ability is in the lowest 0.3% of the population, his overall IQ in the bottom 2%. His cognitive ability is significantly impaired. How this manifests itself is clear from the evidence before me. Mr Leese, Mrs Whitehouse and her husband, individuals who have conducted various care assessments, and Dr McNulty all describe him in the same way: he is deferential, suggestible, naïve and "child-like". Although he has been able to perform basic tasks such as washing, dressing, shopping and feeding himself, his understanding of the world around him, and his own position in it, has very clearly been impacted by his learning disability. Mr Leese gives several examples of the "child-like" nature of the Appellant's interactions with others. Crucially, he is unable to understand who is in authority: he refers to shopkeepers as "officers". He misses nuance and does not appear to have an understanding of how the world works, as illustrated by his belief that members of the royal family are messaging him on Facebook.
33. It is against that background that the family's actions must be assessed. When the Appellant was sent to the UK in 2008 there can be no doubt that he was brought here to work. Upon his arrival in H's home he was immediately found employment, and all of his wages taken from him. As I say, the family themselves may not have regarded that as improper, but given his disability, and his lack of capacity to consent to this arrangement, it was to my mind clearly a situation of labour exploitation. When H had his catastrophic stroke the Appellant's situation became immeasurably worse: without any

training or support he became a 24 hour a day carer for a severely disabled man. When his presence in the family home became more of a hindrance than a help, he was thrown out; and incalculably cruel action by his sister-in-law, who must have been well aware of his vulnerabilities.

34. It was then that the Appellant turned to F, his brother in Bangladesh. F's response to the news that his cognitively impaired brother was street homeless, having been rejected by head of the family H, was to come to an arrangement with a friend running the restaurant in Colchester. This man (AU) did, on the face of it, provide the Appellant with accommodation and employment, and to that extent F did his duty as a brother. The reality of that accommodation was however bleak. The photographs depict a cramped and poorly ventilated basement, where the Appellant and another man slept. His every waking moment was spent in the kitchen above, working long double shifts for which he was never paid. F had however no reason to complain about the arrangement, since he was being sent regular payments for the Appellant's labour. I am wholly satisfied, on the basis of this evidence, that the Appellant's family members have consistently demonstrated that they are willing to exploit the Appellant financially. There does not appear to have ever been any consideration of his best interests or his needs being met.
35. If the Appellant were to be returned today, this is the situation he would be facing once again. There is nothing to suggest that the financial situation of the family in Bangladesh has changed at all. F and his wife have their own family to provide for, and the Appellant's arrival in their home will certainly be an additional burden. In those circumstances it seems to me almost inevitable that the Appellant will once again be sent out to work and that the income from that work will come directly back to F. Unlike someone without a cognitive impairment, the Appellant is not equipped to negotiate his position in the workplace. Whilst I am satisfied that he does have the capacity to understand when he is being ill-treated, he certainly has not demonstrated the capacity to resist that or find a way out of his situation. The country background evidence on Bangladesh indicates that men at the margins of society - whether that be by disability or mental illness, their minority status or dire poverty - are extremely vulnerable to labour exploitation. The state does little to nothing to intervene. At best, following a complex and bureaucratic procedure the Appellant may be able to get a measly state benefit of £6.42 per month. It seems likely in the circumstances that this too would be taken by F.
36. Accordingly I am satisfied that if returned to Bangladesh there is a reasonably likelihood that the Appellant would face exploitation by way of forced labour, which may well involve direct physical ill-treatment. Although he would be living with his family it is difficult to see how he would achieve any degree of autonomy over his own

existence. Accordingly I am satisfied that the Appellant's return to his family in Bangladesh would result in a violation of the UK's obligations under Article 3, 4 and 8 ('outside of the rules') of the ECHR.

37. I should note that I have not, in reaching this conclusion, factored in the additional risks that might arise from the Appellant's conversion to Christianity. Although that fact has been accepted, it was the undisturbed conclusion of the First-tier Tribunal that this would not place him at any discrete risk. I do however note that the Tribunal's assessment was confined to the risk posed by Islamic extremists. It did accept that converts are, as a general matter, subject to "strong stigma and ostracism" by society in general, and whilst I agree with the Tribunal's conclusion that these matters would not by themselves amount to serious harm or persecution, I am satisfied that they would be factors which would worsen yet further still the Appellant's situation and treatment, in the workplace and at home. It is also a factor which would be of high significance in the assessment of whether it would be reasonable to expect the Appellant to avoid the harm he faces at the hands of his family by relocating elsewhere in Bangladesh, to which I now turn.
38. I am bound, in any protection assessment, to consider the possibility of internal flight, but here the facts give rise to a peculiar situation. That is because I am quite satisfied that the Appellant would return immediately to his family, regardless of the consequences. As a result of his cognitive ability he does not see them as posing a risk to his safety or integrity. The chances of him attempting to avail himself of internal flight are therefore to my mind extremely small, and in fact there is good reason for that: his life, if he did so, would be immeasurably worse than if he returned home to be trafficked. The risk of exploitation to this compliant, suggestible and highly vulnerable individual would remain, but allied with a lack of visible family support and his conversion to Christianity, place him at even greater risk of total social isolation at best and ill-treatment by strangers at worse. The risk of destitution, of him becoming a 'blind beggar', is in my view high in such a scenario. I note in this regard the evidence of Dr McNulty about his limited capacity to care for himself, and the assessment of Manchester City Council, who found that without supervision *in this country* there would be a risk of malnutrition though "passive self neglect".
39. For those reasons I would allow the appeal with reference to exception 1 as defined at s33(2)(a) of the UK Borders Act 2007. I am asked to also consider whether, as a disabled man and/or as a victim of trafficking and/or as a Christian the ill-treatment that the Appellant faces is "for reasons of" either his membership of a particular social group or his religion. In assessing causation I need only be satisfied that *an* effective cause of the harm inflicted is for one or more of those reasons. I am so satisfied. I am satisfied that the Appellant faces real risk of being exploited because of his cognitive disability. I

am satisfied that the Appellant faces an increased risk of mental and physical harm because of his cognitive disability, and because of his new faith. Accordingly I am satisfied that the appeal should also be allowed with reference to exception 1 as defined at s33(2)(b) of the 2007 Act.

40. It follows that I need not address Article 8 save in very brief terms. The Appellant cannot hope to succeed under any of the 'short cuts' provided for by Part 5A of the Nationality, Immigration and Asylum Act 2002 (as amended). His lack of status means he cannot rely on his private life, and he has no family life to speak of. For the reasons I have already set out I am however satisfied that his circumstances upon return to Bangladesh are such that there are "very compelling" and exceptional reasons to find that his removal would amount to a disproportionate interference with his Article 8 rights. In contrast to his position in Bangladesh in this country the Appellant will, with support from his friends, Church, medical professionals and local authority be able to live a life of basic dignity and hope. He may in time be able to find employment and will be able to build on the relationships that form the bedrock of his private life here. In time the feelings of loneliness he has expressed to key workers will dissipate.
41. Against all of that I balance the public interest in his deportation. He stabbed AU. He has never denied that: in fact it was he who called the police immediately after the incident and turned himself in. In a moment of rage, he took impermissible, and horrific, criminal action against the man who had kept him in a basement, beat him, burned him and exploited his labour over an extended period. None of those background facts were of course known to the police, the CPS or sentencing judge. It is not for me to now evaluate whether the result of the criminal trial could have been other than it was, but all of those matters are relevant to my proportionality balancing exercise. I conclude that although the Appellant has been convicted of a very serious criminal offence, it would not, in light of all the very compelling exceptional circumstances, be proportionate to deport him today.

### **Anonymity**

42. The Appellant is a victim of trafficking. I must therefore make the following order to protect his identity:

"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, any of his witnesses or any member of his family. This direction applies to, amongst others, both the Appellant and the

Respondent. Failure to comply with this direction could lead to contempt of court proceedings”

**Decisions**

- 43. The appeal is allowed on all grounds.
- 44. There is an order for anonymity.

A handwritten signature in black ink, consisting of the letters 'CBE' in a cursive, stylized font.

Upper Tribunal Judge Bruce  
22<sup>nd</sup> November 2022