Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/04634/2017

THE IMMIGRATION ACTS

Heard remotely at Field House	**Decision & Reasons Promulgated**
On 18 August 2020 *via Skype for Business*	**On 06 October 2020**

Before

UPPER TRIBUNAL JUDGE STEPHEN SMITH

Between

AN
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms. N. Anwar, Solicitor
For the Respondent: Ms S. Cunha, Senior Home Office Presenting Officer

DECISION AND REASONS (V)

This has been a remote hearing which, once the issues had been narrowed, was not objected to by the parties. The form of remote hearing was V (video). A face to face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing.

The documents that I was referred to are in the file from the earlier First-tier Tribunal proceedings (including the appellant's bundle from the original FTT hearing in June 2018), plus the additional background materials relied upon by the respondent at the hearing, the contents of which I have recorded.

The order made is described at the end of these reasons.

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The parties said this about the process: they were content that it was fair and that the appellant herself had been involved in the process.

1. This is an appeal against a decision of the respondent dated 2 May 2017 to refuse the asylum claim made by the appellant, AN, a citizen of Pakistan born in 1979. Her appeal was originally heard, and dismissed, by First-tier Tribunal Judge ST Fox promulgated on 20 February 2019, following a hearing on 8 June 2018. Sitting at the Royal Courts of Justice, Belfast on 13 February 2020, I found that the decision of Judge Fox involved the making of an error of law, and set it aside, with no findings of fact preserved, and directed that the matter be reheard in the Upper Tribunal. It was in those circumstances that the appeal returned to me to be remade.

2. I attach my error of law decision as the **Annex** to this decision.

Factual background

3. The appellant claimed asylum on the basis that she was a member of the particular social group women in Pakistan. She claimed she was forced to marry her husband in 2004 by her abusive father. The husband subjected her to years of violent and sexual abuse in Pakistan, and, when she later sought a period of separation from him in her father's home, her father was abusive towards her and her son (now aged 14) and her daughter (now aged 12). The appellant came to this country in 2014 to study, and her husband joined her shortly afterwards. Although she hoped that the international move would be a "fresh start", it was not, and her husband continued to be violent and abusive, culminating in the police removing him from the family home shortly after his arrival. The appellant claims that she cannot return to her home area of Pakistan as she will continue to face threats from her father, husband and wider family from which, she contends, there is no effective state protection. As a single woman in the process of divorcing her estranged husband, she cannot relocate to another area of Pakistan. She lacks the required male guardianship to be able to survive, and even if she managed to find a women's shelter that did not expose her to more risk, she would be at risk of losing her son, as it is very unlikely that he would be admitted to a shelter, too, she claims. As a single mother in those circumstances, her earning power would be minimal.

4. The respondent now simply contends that it would not be unduly harsh for the appellant to relocate to a different part of Pakistan. She is highly educated and would be well placed to live, with her children, elsewhere.

Procedural issues

5. Ms Anwar applied to adjourn the proceedings. Counsel originally instructed was unable to attend, and even though Ms Anwar would ordinarily have been able to appear on behalf of the appellant, the facilities at her office premises were unsuitable for the appellant to give evidence remotely, given the need for social distancing to take place. In addition, the sensitive nature of the appellant's claim for asylum, which included allegations of sexual abuse and domestic violence, were not suitable for discussion over a remote video link. This was a case, submitted Ms Anwar, which could and should be conducted on a face-to-face basis.

6. Before deciding whether to grant the adjournment request, and mindful of the delay the appellant had already experienced (at no fault of her own; the decision of the First-tier Tribunal was not promulgated until some eight months after the original hearing, and the re-hearing in the Upper Tribunal was further delayed by the Covid pandemic), I narrowed the issues with the parties. As set out in more detail below, Ms Cunha realistically accepted that the appellant had given a plausible, consistent and credible account of the domestic violence and sexual abuse she claimed to have experienced in Pakistan and in the United Kingdom, and that the sole issue in the case was whether internal relocation to another part of Pakistan would be unduly harsh. That represented a change in the position of the respondent from the original refusal letter, which accepted that the appellant's relationship with her husband had broken down but rejected her claimed fear of her family. At the error of law hearing, the presenting officer had submitted that the case turned on internal relocation: see [21] of my decision in the Annex. In light of that concession, Ms Anwar agreed that the matter could proceed on submissions alone, addressing the ability of the appellant internally to relocate within Pakistan. It was not, therefore, necessary to grant the adjournment request. I was satisfied that the matter could proceed fairly on the day, in particular as the social distancing arrangements which would have been required were the appellant to give evidence did not apply to Ms Anwar making submissions.

7. During closing submissions, Ms Cunha sought to rely on additional background materials concerning the position of women in Pakistan. The materials had not been served on the tribunal or the appellant in advance, although Ms Cunha had emailed some links to the tribunal on the day of the hearing. It was unfortunate that the respondent waited until the door of the court, as it were, to rely on these additional materials. I directed that the respondent serve any additional materials on the appellant and the tribunal, along with post-hearing submissions, within 14 days (the case was not adjourned part-heard, as subsequently suggested in the respondent's written submissions; I simply gave permission for post-hearing submissions to be made). That would have been 1 September 2020. I directed that the appellant could respond to those submissions within a further 14 days, by 15 September 2020, and make any further post-hearing submissions concerning internal relocation.

8. By 11 September, there had been no compliance with the directions. I arranged for the tribunal administration to issue a reminder of the directions that had been given at the hearing, highlighting the original timetable for compliance, which had, by then, been all but lost. It was incumbent upon any party seeking to make submissions after the time limit for doing so had passed to make an application for relief from sanctions.

9. The respondent complied with the directions on 17 September 2020.

10. Pursuant to Denton v White [2014] EWCA Civ 906, [2014] 1 W.L.R. 3926 at [24] and following, Hysaj v Secretary of State for the Home Department [2014] EWCA Civ 1633, [2015] 1 W.L.R. 2472 at [39] – [48], there is a three-stage test for relief from sanctions. The matters to be addressed under the three stages of analysis are as follows:

a. Is the breach significant?

b. Why did the default occur?

c. Evaluate all the circumstances of the case, so as to enable the [tribunal] to deal justly with the application.

11. As to (a), applied to the facts of the present matter, the breach was significant. Post-hearing submissions were invited by the respondent by 1 September 2020, with a consequential deadline imposed on the appellant of 15 September. The effect of the delay has meant that the appellant was unable to comply with her own deadline, necessitating her to make an application for an extension, on an anticipatory basis.

12. As to (b), it is not clear why the breach occurred. There was no explanation for the delay, nor was there an application for relief from sanctions by reference to the established criteria. The cover email from the presenting officer simply stated,

> "The Respondent apologises for the inconvenience caused by such delay in complying with the direction. She understands the detrimental impact this delay may have on the outcome of the Appellant's appeal. Nonetheless, she would be very grateful for the extension in retrospect …"

Paragraph 6 of the respondent's written submissions stated that the respondent "avers that such delay was necessary to provide the court with clarity of position and to assist with the administration of justice…"

13. This tribunal expects the respondent to have "clarity of position" and "assist with the administration of justice" without breaching directions. These are not reasons for the delay, but a description of some of the duties the Secretary of State owes towards the tribunal at all times.

14. As to (c), looking to all the circumstances of the case, I do not consider it to be necessary in the interests of justice to grant the application for relief from sanctions.

a. Procedural rigour is important in this jurisdiction.

b. As the Court of Appeal held in Hysaj at [46], "[o]nly in those cases where the court can see without much investigation that the grounds of appeal are either very strong or very weak will the merits have a significant part to play when it comes to balancing the various factors that have to be considered at stage three of the process." Having had regard to the underlying merit of the materials contained in the submissions, this is not a case where the respondent has provided compelling post-hearing submissions which, for example, throw into sharp relief the existing country guidance and background materials. The submissions do not seek to demonstrate that the criteria for departing from country guidance cases have been met. In SG (Iraq) v Secretary of State for the Home Department [2012] EWCA Civ 940, the Court of Appeal addressed the ability of judges to depart from country guidance decision, in these terms, at [47]:

> "… tribunal judges are required to take Country Guidance determinations into account, and to follow them unless very strong

> grounds supported by cogent evidence, are adduced justifying their not doing so."

The Secretary of State's submissions do not reach this threshold for reasons which include:

i. The submissions themselves note that some of the equality reforms in Pakistan they seek to highlight are a "working progress" [*sic*] (see [13]).

ii. Elsewhere, the written submissions refer to Court of Appeal authority on the concept of "unduly harsh" in the context of the public interest in the deportation of foreign criminals, and its impact on the requirement in Januzi v Secretary of State for the Home Department [2006] UKHL 5, [2006] 2 AC 246 to consider all relevant circumstances surrounding the prospective internal relocation of the person concerned: see the reference at [20] of the further submissions to SC (Jamaica) v Secretary of State for the Home Department [2017] EWCA Civ 2112. SC (Jamaica) is not of significant relevance to the prospective internal relocation of a female victim of domestic violence where there are no criminality-based public interest concerns which could calibrate what amounts to "unduly harsh" for the purposes of internal relocation (c.f. [40] of SC (Jamaica)).

iii. At [21], the respondent's submissions seek to distinguish SM and MH (lone women – ostracism) Pakistan CG [2016] UKUT 00067 (IAC) on the basis of the facts of one the appeals before the Upper Tribunal on that occasion; that approach is misconceived, as SM is significant for the country guidance it gives, not for the fact-specific application of that guidance to the appeals before it.

iv. At other points, the submissions simply cover matters upon which Ms Cunha addressed me at the hearing in any event, or which featured in the refusal letter. See for example [22], which refers to paragraph 2.4.3 of the relevant *Country Policy and Information Note*. I refer to that document at [38], below, in any event. Paragraph [26] of the post-hearing submissions addresses the impact of the appellant's education, perceived wealth and linguistic skills on her ability internally to relocate. That was a matter in issue at the hearing, and which I consider at [45] and following, below.

The Secretary of State's post-hearing submissions do not, therefore, add significantly to the matters which have already received full argument. To the extent the submissions make additional arguments, those additional arguments are not of such gravitas so as to merit an extension of time.

c. Permitting the Secretary of State to make post-hearing representations had, itself, been a generous approach, in an attempt to avoid unnecessary

formality in response to Ms Cunha's attempted reliance on new materials during closing submissions. That is a factor which is relevant to my assessment of "all the circumstances of the case", and one which militates in favour of not permitting further procedural non-compliance. The respondent was generously provided with the ability to make post-hearing submissions, and even then, took twice as long as the permitted time, for no good reason.

d. Finally, were I to allow the Secretary of State to rely on the late post-hearing materials, it would necessitate a corresponding extension to be given the appellant; 14 days further would have taken the appellant's revised deadline well into October. The hearing before me had been in August. The original refusal decision was taken on 2 May 2017. The overriding objective of this tribunal includes the need to avoid delay, so far as compatible with proper consideration of the issues (rule 2(2)(e) of the Tribunal Procedure (Upper Tribunal) Rules 2008). Admitting these late post-hearing submissions, with the consequential additional delay doing so would introduce, would be incompatible with the overriding objective.

15. For these reasons, I reject the Secretary of State's application for an extension of time within which to make post-hearing submissions and decline to consider the respondent's post-hearing submissions.

16. It follows that an extension of time for the appellant to make post-hearing submissions in response was unnecessary.

Legal framework

17. The burden is on the appellant to establish that applying the lower standard of proof she meets the requirements of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006 ("the Qualification Regulations"). The appellant must establish to the reasonable likelihood standard that she falls within the definition of "refugee" contained in Article 1(A) of the Geneva Convention as incorporated into domestic law by Regulation 2(1) of the Qualification Regulations.

18. Directive 2004/83/EC, known as "the Qualification Directive", provides at Article 8, under the heading, "Internal Protection":

> "1. As part of the assessment of the application for international protection, Member States may determine that an applicant is not in need of international protection if in a part of the country of origin there is no well-founded fear of being persecuted or no real risk of suffering serious harm and the applicant can reasonably be expected to stay in that part of the country.
>
> 2. In examining whether a part of the country of origin is in accordance with paragraph 1, Member States shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant."

19. The lead authority on internal relocation is Januzi v Secretary of State for the Home Department [2006] UKHL 5.The burden of proof is on the appellant to demonstrate that it would not be reasonable for her to relocate internally within Pakistan: see MB (Internal relocation – burden of proof) Albania [2019] UKUT 00392 (IAC). The principles are not in dispute and I need say no more about them.

Submissions

20. I am grateful to Ms Anwar and Ms Cunha for their helpful and succinct oral submissions at the hearing. I will summarise the salient submissions made by each party during my analysis of the submissions, below.

Findings of fact

21. In light of the respondent's concession, both at the error of law hearing, but more significantly on the part of Ms Cunha at the remaking hearing, that this case rests on internal relocation, it follows that the summary of her case set out below is not disputed by the respondent. I consider that the concession was appropriately made. The appellant has given a credible, consistent and (bearing in mind the extensive background materials concerning the position of women in Pakistan) plausible account of a childhood of sexual abuse at the hands of her father, followed by forced marriage to a sexually abusive and violent husband (which included abuse inflicted in the United Kingdom), and threats from her wider family.

22. The following summary of the appellant's case is taken primarily from her witness statement dated 6 June 2018, prepared for the original hearing before the First-tier Tribunal, and from her substantive asylum interview conducted on 26 January 2017.

23. The appellant is from a large and relatively wealthy family in Lahore, Pakistan, which has now disowned her. Her mother died when she was seven years old, leaving her an inheritance of land and money. Due to her age, her father was entrusted with the inheritance, but has withheld most of it from her. The appellant's case is that it would be more convenient for her father if she were simply dead, for it would end once and for all the continued inheritance dispute that catalysed the difficulties she experienced in Pakistan. Her father and one of her uncles have built factories and farms on the land she owns. The appellant's father sexually abused her during her childhood, starting when she was aged seven. It is not clear if the sexual abuse started upon the death of her mother, or whether it is otherwise connected to it. Nevertheless, it took place the beginning of an abusive childhood and upbringing, which culminated in the appellant being forced by her father and the wider family to marry BK in November 2004. The appellant was so unhappy at the prospect of the forced marriage that she attempted suicide. She was raped and beaten by her husband; her father encouraged the violence (statement, [5]) and acquiesced in the rape (statement, [10]). In 2006, the appellant's son was born. The violence and sexual abuse from her husband continued following the birth. In 2008, it reached a peak, and the appellant had to leave him; after being refused a place at her sister's home, she stayed with an aunt for a few days, who subsequently took her back to her

father's home. The aunt convinced her father to let the appellant stay for the summer vacation, despite his reluctance.

24. In July 2008, the appellant's daughter was born. It was a traumatic home birth. The appellant's family refused to take her to hospital and forced her to give birth with no medical assistance, with only the family maid to help. The appellant lost a lot of blood. It was only when she was visited by her sister later that evening that she was able to get to hospital. She fears that she would have been killed by her family had she not been taken for medical assistance by her sister.

25. The appellant stayed with her father from 2008 to 2011. She was subject to repeated pressure to return to her husband, who was permitted to visit her at the family home, even though the appellant did not want to see him again. He would rape her during these visits. The family were cruel to her during this time. They hid food, and would take her son from the house, withholding his location from her. He would often be beaten by the appellant's stepbrother and would emerge from a period of absence with unexplained injuries. Her daughter contracted pneumonia, but her father refused to help or to take the child to hospital.

26. The family generator was not connected to the appellant's room during power outages, and she was denied hot water during cold winters. This led to her children becoming sick. The appellant's son was ridiculed by her father; the appellant's case is that he was specifically targeted as he is the male heir to the inheritance.

27. The appellant had a low-paid teaching job in Pakistan, which did not provide enough money to support her or her family. She sold the gold jewellery she was given as a wedding present to fund her children's school fees in Pakistan, supplement her income, and to fund her studies here. Her brother sold some of the land he inherited from their mother, and he gave her a share of that, too. In her asylum interview, she describes how she had a total of 8 gold bangles, and that she has now sold them all: question 95.

28. The appellant arrived in the United Kingdom in October 2014 on a student visa. Her husband followed in December 2014, accompanied by their children. The children had been left in the care of her sister, M, when the appellant first left Pakistan.

29. Shortly after his arrival, the appellant's husband resumed his violence towards her and was controlling and abusive. He told their son that all white people are infidels and they were obliged to join jihad against them. The husband was verbally and physically abusive towards their daughter and threatened the appellant that if she tried to leave him, "he would not spare me in a condition worth living" (statement, [15]). The violence culminated in an incident later in December 2014 in which the appellant's husband threatened her with a knife, threatened to set fire to their home and strangled her. The appellant called the police and the husband was arrested. The appellant was provided with emergency accommodation, and the proceedings for the non-molestation order and subsequent occupation order were commenced. In June 2016, he sent her a photograph of a dead woman in a shroud via social media. She understands that her husband is now back in Pakistan.

30. The appellant states that her mental health is poor, and that she has been prescribed with Sertraline. There is no medical report, although her GP provided a letter dated 5 March 2018 which confirmed that she was then receiving treatment for anxiety. The letter summarises the account provided by the appellant of the traumatic birth of her daughter in terms which are consistent with the account in her statement, adding:

> "This has caused significant and deep-seated psychological difficulties and physical difficulties with urinary frequency and occasional urge incontinence."

The appellant also has Thalassemia, which is a genetic blood disorder.

31. In her asylum interview, the appellant said that she did not seek the assistance of the authorities in Pakistan as she was afraid that they would offer her no assistance and side with her husband. She said that the police have a very bad reputation and often refuse to help women (question 89).

32. I adopt the above summary as my findings of fact upon which my assessment of the reasonableness of the appellant's possible internal relocation must be based.

Country guidance

33. In SN & HM (Divorced women – risk on return) Pakistan CG [2004] UKIAT 00283, the Immigration Appeal Tribunal held that the following questions must be addressed when considering the prospect of internal relocation:

> "(a) Has the claimant shown a real risk or reasonable likelihood of continuing hostility from her husband (or former husband) or his family members, such as to raise a real risk of serious harm in her former home area?
>
> (b) If yes, has she shown that she would have no effective protection in her home area against such a risk, including protection available from the Pakistani state, from her own family members, or from a current partner or his family?
>
> (c) If yes, would such a risk and lack of protection extend to any other part of Pakistan to which she could reasonably be expected to go (Robinson [1997] EWCA Civ 2089, AE and FE [2002] UKIAT 036361), having regard to the available state support, shelters, crisis centres, and family members or friends in other parts of Pakistan?"

Pursuant to paragraph (1) of the Headnote in SM and MH (lone women – ostracism) Pakistan CG [2016] UKUT 00067 (IAC), the guidance in SN & HM remains applicable. I will therefore consider the above questions, before addressing the specific guidance given in SM and MH which is most relevant to question (c), quoted above.

(a) Has the claimant shown a real risk or reasonable likelihood of continuing hostility from her husband (or former husband) or his family members, such as to raise a real risk of serious harm in her former home area?

34. The appellant has demonstrated that there is a real and continuing risk of harm in her home area, when assessed to the lower standard. Her husband's hostility towards her commenced with their forced marriage and continued over the

following four years while they both lived in Pakistan. The violence flared up almost immediately upon her husband's arrival in the United Kingdom, resulting in his arrest, and a non-molestation order and an occupation order being made against him and in favour of the appellant. In June 2016 he sent the appellant a photograph of a dead woman. Given the context of the earlier threats and violence, I find that it is reasonably likely that that was intended to be understood as a threat of fatal violence towards the appellant herself. The husband is now thought to be back in Pakistan but there is absolutely no suggestion that his violent and abusive attitude has changed. The appellant's unchallenged evidence is that he is now manifesting radicalised views. Similarly, the appellant's father has caused serious harm to her in the past, including the withholding of medical treatment during the birth of her daughter, and acquiescing, if not actively encouraging, further harm on the part of her husband. At [25] of her statement, the appellant writes that in August 2017, her husband's brother threatened to take her children away upon her return.

35. On that basis, the appellant's husband and her father pose a real risk of serious harm to the appellant in Lahore.

(b) If yes, has she shown that she would have no effective protection in her home area against such a risk, including protection available from the Pakistani state, from her own family members, or from a current partner or his family?

36. In the respondent's *Country Policy and Information Note – Pakistan: Women fearing gender-based violence*, version 4.0, February 2020 ("the CPIN"), it states at [2.4.1]:

> "Although women are protected by law, in practice this is not systematically enforced because of deep-rooted social, cultural and economic barriers and prejudices. A woman's status – and therefore her ability to exercise her social, economic and human rights – varies according to her social position in terms of class, religion, education, economic independence, region and location (urban or rural), cultural and traditional values, caste, educational profile, marital status and number of children. **Women face direct, cultural and structural violence through a deeply entrenched system of patriarchy in all tiers of public and private life**…" (Emphasis added)

37. Paragraph [2.4.2] records the World Economic Forum's *Global Gender Gap Index* as ranking Pakistan as the second lowest country in the world in 2017, 2017 and 2018 in terms of gender equality relating to various matters including survival. The same paragraph adds that Pakistan is rated, presumably also by the World Economic Forum, as the sixth most dangerous country in the world for women.

38. At [2.4.3], the CPIN states the respondent's view that "Women in large urban areas such as Lahore, Karachi and Islamabad often can actively participate in society, i.e. are able to access education, employment and health services, socialise and travel, without a male chaperone." This general observation is tempered by what follows at [2.5.3], which is of direct relevance to the specific question under consideration in this part of my decision:

> "Pakistan has a functioning criminal justice system; however, the authorities are sometimes unwilling to provide protection for women fearing sexual or gender-based violence as police and judges are reluctant to take action in domestic violence cases,

> viewing them as family problems. Instead of filing charges, police typically responded by encouraging the parties to reconcile and returning the victims to their abusers. It is common for police to refuse to register reports of rape. Some police demand bribes before registering cases and investigations are often superficial. Courts often perceive rape victims as immoral in character and therefore to blame…"

39. At [2.5.4], the CPIN reports that many so-called "honour" crimes against women go unpunished. While there are some police stations staffed by women, they are an insignificant minority; women accounted for less than 1% of the police force in 2017, and such stations are often under resourced: [2.5.5]. Female testimony is worth half that of male testimony in the courts (see [2.5.6]).

40. At [63] of SM and MH, it was held that:

> "The generic country evidence indicates that despite protective legislation introduced in 2010 and after, **sufficient state protection will normally not be available in the home area, in circumstances where a real risk of persecution or serious harm has been shown to exist there from a female applicant's family or husband**. Any assessment of international protection needs will require a careful and fact specific assessment as to the nature, source and scope of the risk to the applicant at the date of hearing, including taking into account the possibility, if the woman has family support, a male protector, or is educated, wealthy, or older, of internal relocation to one of the larger cities." (Emphasis added)

41. The emboldened text demonstrates that, in general, there is unlikely to be sufficient state protection available in the home area of a woman facing gender-based violence, where, as here, it has been shown that there is a real risk of serious harm from the family. The appellant's now unchallenged account records that she was subject to violence and abuse at the hands of her father and husband for many years. During the birth of her daughter, it was her uncle's wife who was instrumental in forcing the maid away from her in order to prevent her from receiving any form of medical or other assistance (see [7] of her statement).

42. Although she has five sisters in Pakistan, they were unable to help prevent that violence. One of them lives with the sister of her husband and refused to house her during the initial phase of her separation from her husband in 2008: see [6] of her statement. The remainder were unable to help with the subsequent violence over the years that followed.

43. While the appellant is from a wealthy family, and had independent wealth of her own, she has now exhausted her supply of gold jewellery, which she had previously been able to sell to raise funds, and her inheritance has been withheld from her. She writes at [27] of her statement that she has no remaining savings, and nothing left to sell.

44. The appellant has no male protector. Although her brother shared some of his inheritance with her prior to her departure, her unchallenged evidence (see question 26 of the asylum interview) is that his focus is now on her returning to Pakistan, and that he is "pushing" her to do that. There is no suggestion that she will have his protection or assistance on her return, and he is, in any event, resident in Denmark.

Her stepbrother was instrumental in beating her son when she lived with her father and his current wife.

45. The main factor the appellant has in her favour is her education and work history, as noted by the refusal letter at [68] to [72]. She is highly educated. She speaks English, Urdu, Hindi and Saraiki. She received a Master's degree, taught in English, in Pakistan, and is currently studying for a further Master's degree at a prestigious UK university, on a fees scholarship. She worked as a teacher in Pakistan in the past and has worked as a research assistant at her current academic institution. In her bundle are two references from her supervisors which speak of her skills, abilities and resolve in glowing terms.

46. Despite her educational achievements, I do not consider that the appellant would enjoy a sufficiency of protection in Lahore. She had the benefit of her Master's degree and some work experience prior to her departure. Neither enabled her to enjoy a sufficiency of protection in the past, in her home area. Her studies and limited work experience here (in her asylum interview she spoke of a total of 20 hours' work as a research assistant), while impressive, are not of the order that will enable her to overcome the family violence and hostility that has marred much of her life. As the CPIN notes, the police, if approached, would be likely to seek a family-based resolution to the problem. Women's police stations are under resourced and few and far between.

47. For these reasons, I reject the analysis at [51] to [60] of the refusal decision. Accordingly, the appellant has shown that she would have no effective protection in her home area.

(c) If yes, would such a risk and lack of protection extend to any other part of Pakistan to which she could reasonably be expected to go (Robinson [1997] EWCA Civ 2089, AE and FE [2002] UKIAT 036361), having regard to the available state support, shelters, crisis centres, and family members or friends in other parts of Pakistan?

48. In SM and MH, this tribunal gave further guidance on the considerations which must be taken into account when, "having regard to the available state support, shelters, crisis centres, and family members or friends in other parts of Pakistan." The relevant questions, as summarised in the headnote, are set out below. I address each factor in turn.

    a. *Where a risk of persecution or serious harm exists in her home area for a single woman or a female head of household, there may be an internal relocation option to one of Pakistan's larger cities, depending on the family, social and educational situation of the woman in question. (Headnote (2))*

       The appellant would return as the female head of her household, including her two children aged 12 and 14. Her family situation is such that she cannot expect assistance from her immediate family, and her sisters were unable to prevent the abuse she experienced previously. Her social situation would be one of isolation, as a single mother. She does have education, though, and this may be of some assistance.

b. *It will not be normally be unduly harsh to expect a single woman or female head of household to relocate internally within Pakistan if she can access support from family members or a male guardian in the place of relocation. (Headnote (3))*

The appellant has no male guardian anywhere in Pakistan. The appellant has two sisters and three stepsisters. The stepsisters are the daughters of her father's wife (referred to by the appellant as her "second mother" in her asylum interview), and there is no reference in any of the evidence to the stepsisters being of any support to her at all, still less is there a basis to conclude that they would be of support in the putative place of relocation. The appellant's two birth sisters live in Lahore and so are not available to assist in an alternative city, such as Karachi. Both sisters are married and live in their own family units in Lahore; one lives with her husband and his parents, the other lives with her own husband and their four children. One of her sisters previously refused to provide her with a place of refuge. The respondent has not suggested that it is reasonable to expect either sister, assuming they were willing to move to another city to facilitate the appellant's relocation and I do not consider that it would be appropriate to speculate that they would be willing and able to do so. The appellant also writes at [26] of her statement that if she were to maintain contact with her sisters upon her return to Pakistan, that would risk revealing her location to her wider family. There is force in that suggestion, as the background materials suggest, that it is very difficult for married women to keep any areas of their lives independent from their wider families and male protectors; as the respondent notes at [2.4.1] of the CPIN, "Women face direct, cultural and structural violence through a deeply entrenched system of patriarchy in all tiers of public and private life." See also the results of the Pakistan Demographic and Health Survey summarised at [6.3.2] which records the prevalence of domestic violence and control experienced by women in Pakistan, confirming that the appellant's fears about her sisters' ability to withhold information about her location from her wider family are reasonably likely to be well-founded.

c. *It will not normally be unduly harsh for educated, better off, or older women to seek internal relocation to a city. It helps if a woman has qualifications enabling her to get well-paid employment and pay for accommodation and childcare if required. (Headnote (4))*

The appellant is very well educated and has previously worked in Pakistan. However, her unchallenged evidence is that her work as a teacher paid poorly. She undertook that work while living with her husband and his mother, in their family home. She did not have to pay the rent for that property as it was covered by her mother in law, meaning that her past earning history is no basis to conclude that she would be able earn enough to pay for her own accommodation and childcare. Moreover, her earnings did not provide enough money to purchase medicine for their children or pay for school for her children. See the answers to questions 29 and 95 of the asylum interview. See also the appellant's

answer to question 108, in which she states that the highest salary she was ever offered in Pakistan would not cover the rent. I accept that the appellant would be returning with the benefit of further education secured in this country, but for the reasons set out below, I do not consider that that would be sufficient properly to restore her situation, in view of her irregular social situation and the absence of a significant earnings history in the past.

d. *Where a single woman, with or without children, is ostracised by family members and other sources of possible social support because she is in an irregular situation, internal relocation will be more difficult and whether it is unduly harsh will be a question of fact in each case. (Headnote (5))*

The appellant's unchallenged evidence is that she was ostracised by her family for the separation from her husband between 2008 and 2011, and that the hostility and estrangement has continued. She would be returning as a separated woman with two children, seeking to divorce. While divorce is available to women in Pakistan (as to which, see (8) of the Headnote in SM and MH), the appellant would not be returning with a new partner, and would not enjoy the benefit of no longer being ostracised, in contrast to the hypothetical divorced returning woman with a new partner or husband in (8) of the Headnote in SM and MH.

e. *A single woman or female head of household who has no male protector or social network may be able to use the state domestic violence shelters for a short time, but the focus of such shelters is on reconciling people with their family networks, and places are in short supply and time limited. Privately run shelters may be more flexible, providing longer term support while the woman regularises her social situation, but again, places are limited. (Headnote (6))*

The appellant has no prospect of reconciliation with her family network, given the risks of doing so identified above, with the effect that the likely focus of a state domestic violence shelter would be inappropriate. A privately-run shelter is unlikely to be of assistance because of the limited places available and, significantly, the appellant's children.

f. *Domestic violence shelters are available for women at risk but where they are used by women with children, such shelters do not always allow older children to enter and stay with their mothers. The risk of temporary separation, and the proportionality of such separation, is likely to differ depending on the age and sex of a woman's children: male children may be removed from their mothers at the age of 5 and placed in an orphanage or a madrasa until the family situation has been regularised (see KA and Others (domestic violence risk on return) Pakistan CG [2010] UKUT 216 (IAC)). Such temporary separation will not always be disproportionate or unduly harsh: that is a question of fact in each case. (Headnote (7))*

It is not reasonably likely that the family situation of the appellant will regularise, meaning that the prospect of separation from her 14 year old son will be anything but temporary. If the only way the appellant would

be able to secure accommodation upon her return would be to give up her son to an orphanage or madrassa, that would be unduly harsh. There is no suggestion that such separation would only be on a temporary basis.

49. In summary, the factors mitigating against internal relocation being reasonable include the following: the appellant would return as a lone female head of a household; she would have no prospect of assistance from her family in the place of relocation; she would suffer the constant fear of being located by her husband; her earning history in Pakistan has never been sufficient to meet the costs of an entire household, for even when she did not have to contribute to the rent, she had to sell wedding jewellery to fund her children's education, medical care, and other daily living costs (see question 95).

50. The main factor militating in favour of a conclusion that internal relocation would be reasonable and not unduly harsh is the appellant's education. She is highly educated and speaks four languages. Despite being subject to the most horrific abuse throughout her childhood and early adult life, she was able to study, move to this country, and has commenced further study at a prestigious institution. Ms Cunha submits that she will be well placed to commence work in one of the major cities in Pakistan such that she would be able to support herself and her family. She would have the benefit of the Home Office "Assisted Voluntary Return" programme, which would provide up to £1,500 to facilitate her return, and, contends Ms Cunha, she would be assisted by the International Organisation for Migration ("the IMO") upon her return. In relation to the prospect of assistance from the IMO, in response to a question from me, Ms Cunha accepted that neither the CPIN nor the other background materials before the tribunal outlined those arrangements, so I place minimal weight on that aspect of the submission. But the fact of returning as a highly educated individual, with improved qualifications, and possible AVR support, is a weighty matter.

51. For completeness, I have navigated the links that Ms Cunha emailed during the hearing. Nothing accessible via these links calls for a different approach.

52. For example, nothing in the respondent's *Country Policy and Information Note Pakistan: Background information, including internal relocation, Version 3.0, June 2020*, purports to call into question the conclusions of the country guidance authorities outlined above. What it does say, though, underlines the difficulties the appellant is likely to encounter seeking to obtain housing with her children. In relation to the position of women, at [25.1.1] the CPIN simply cross refers to *Country Policy and Information Note – Pakistan: Women fearing gender-based violence*, version 4.0, February 2020, referred to and considered at [36], above.

53. Nothing accessible via https://www.un.org.pk/unwomen/ (UN Women, Pakistan) provides any concrete reasons to depart from the country guidance set out above. Similarly, nothing on the World Bank's *Pakistan* page (https://www.un.org.pk/unwomen/) militates in favour of an alternative approach.

Conclusion

54. The appellant has demonstrated that it would be unduly harsh for her to be expected to relocate to another city in Pakistan. Although she is educated and may be in a better position than some, with no male support she would struggle to find accommodation, and with no prospect of family reconciliation. Her past history of being a victim of domestic violence places her in a vulnerable position. Her earnings history in Pakistan has been minimal, and she has no access to family wealth, and has no savings. She is likely to face significantly more than a temporary separation from her son, who would not be permitted into any shelters with her. It is unduly harsh for the appellant to be expect to return to Pakistan, with her two children, under these circumstances.

55. This appeal therefore succeeds on asylum grounds. The appellant has a well-founded fear of being persecuted in Pakistan on account of her membership of the particular social group women in Pakistan. Although the threat is from non-state agents, she would not enjoy a sufficiency of protection in Lahore, and relocation to another city would be unduly harsh.

56. This appeal is allowed.

57. In light of the sensitive nature of the contents of this decision, and the risk I have found the appellant to face, I maintain the order for anonymity I made previously.

Notice of Decision

This appeal is allowed on asylum grounds.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed *Stephen H Smith* Date 23 September 2020

Upper Tribunal Judge Stephen Smith

TO THE RESPONDENT
FEE AWARD

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award and have decided to make a fee award of any fee which

has been paid or may be payable for the following reason. The appellant was successful in the proceedings. There were sufficient materials originally before the Secretary of State to enable her asylum claim to have been allowed, without the unnecessary recourse to the litigation that followed.

Signed *Stephen H Smith* Date 23 September 2020

Upper Tribunal Judge Stephen Smith

Annex – Error of Law Decision

Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/04634/2017

THE IMMIGRATION ACTS

Heard at the Royal Courts of Justice, Belfast
On 13 February 2020

Decision & Reasons Promulgated

……

Before

UPPER TRIBUNAL JUDGE STEPHEN SMITH

Between

AN
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms F Connolly, BL, instructed by NA & Co. Solicitors
For the Respondent: Mr A Govan, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, AN, is a female citizen of Pakistan, born in 1979. She appeals against a decision of First-tier Tribunal Judge ST Fox promulgated on 20 February 2019 dismissing her appeal against a decision of the respondent dated 2 May 2017 to refuse her claim for asylum, made on 3 August 2016.

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Factual background

2. The appellant claimed asylum on the basis that she was a member of the particular social group women in Pakistan. She claims to have been forced to marry her husband in 2004 by her abusive father. The husband subjected her to years of violent and sexual abuse in Pakistan, and, when she later sought a period of separation from him in her father's home, her father was abusive towards her and her son (now aged 14) and her daughter (now aged 11). The appellant came to this country in 2014 to study, and her husband joined her shortly afterwards. Although she hoped that the international move would be a "fresh start", it was not, and her husband continued to be violent and abusive, culminating in the police removing him from the family home shortly after his arrival. The appellant claims that she cannot return to her home area of Pakistan as she will continue to face threats from her father, husband and wider family from which, she contends, there is no effective state protection. As a single woman in the process of divorcing her estranged husband, she cannot relocate to another area of Pakistan. She lacks the required male guardianship to be able to survive, and even if she managed to find a women's shelter that did not expose her to more risk, she would be at risk of losing her son, as it is very unlikely that he would be admitted to a shelter, too, she claims. As a single mother in those circumstances, her earning power would be minimal. Internal relocation would be unduly harsh, she claims.

3. The respondent accepted the appellant to be a victim of domestic violence at the hands of her husband but did not accept her wider account of abuse at the hands of her family to be credible. Internal relocation would be an option, considers the respondent.

4. In a decision promulgated eight months after the hearing, Judge Fox dismissed the appeal on the basis that the appellant's evidence was that she had chosen previously to live with her father following a period of estrangement from her husband, her children were treated properly by him when, and they were not at risk: see [17]. The appellant's cousin in Denmark had not attended the hearing to give evidence in her support, and neither had her two cousins who lived in this country: [19]. Judge Fox considered at [22] that the background information:

> "clearly confirms that help, assistance and support [*sic*] various NGOs and the [*sic*] course the state itself or [*sic*] available to her in Pakistan."

At [23], the judge said:

> "she claims that she would receive less money and education to claim [*sic*] she had to teach the school [*sic*], compared with lecturing in the University. That claim has not been supported by any objective material before me today."

Judge Fox considered that a "letter" from the appellant's sister was "self-serving", but that would not "be unduly held against her", but added that the letter was "late coming" and that, accordingly, "the intention that they have may be [*sic*] behind the submission of such a letter could be the [sic] less than genuine." See [24] to [25]. The

appellant's husband had returned Pakistan, and she had "failed" to demonstrate that there had been any specific threats since he had returned: [26].

5. Even taking the appellant's case at its highest, internal relocation would be an option to her: [28]. The judge said he was "satisfied that the appellant is erudite, extremely well educated, competent hair [*sic*], talented and resource full [*sic*]." She would be able to establish herself and have "no difficulty" in securing accommodation and employment elsewhere in Pakistan.

6. Part of the appellant's case had been that her husband began to espouse radical and extremist Islamic views. This, said the judge, provides "added comfort", for the authorities may already be aware of him and there would, therefore, be an "open door" should she wish to approach the authorities about him. Prior to coming to the United Kingdom, the appellant had taken no steps to engage any assistance from the authorities, and the delay in making a claim for asylum following her arrival in the United Kingdom was "of some considerable measure and as yet unexplained to any satisfactory degree." See [31].

7. The judge concluded his findings of fact at [37] stating that the appellant was "not a good witness as to fact and truth." She had "sought to embellish" the fear that she had upon her return and had not supported or corroborated "to any meaningful degree" the central tenets of her claim. As such, the judge dismissed the appeal.

Permission to appeal

8. Permission to appeal was granted by Upper Tribunal Judge Norton-Taylor on the basis that the judge had arguably failed to consider the extensive background materials before him concerning the position of women in Pakistan and had arguably failed to give sufficient reasons for his decision.

Discussion

9. The judge erred in law. The reasoning given by the judge for key features in his findings was wholly at odds with the evidence before him.

10. Pursuant to R (Iran) v Secretary of State for the Home Department [2005] EWCA Civ 982 at [9], making perverse or irrational findings on a matter or matters that were material to the outcome is an error of fact which may amount to an error of law. I consider the judge's findings at [17] to fall into this category. There is simply no evidential support for the judge's findings in that paragraph. The appellant gave detailed evidence of the physical, sexual and emotional abuse she experienced during the period from 2008 to 2011 when she returned to her father's house to escape the abuse from her husband.

11. Recalling that the judge's findings at [17] were that, in relation to this time, the appellant was able to cite "a number of examples how her and her children were properly treated", it is necessary to turn to her evidence. In her statement dated 6

June 2018, adopted before Judge Fox, the appellant gave the following examples of treatment, which was anything but "proper":

a. At [7], the appellant describes abuse from her father when she became pregnant with her first child, and how her stepmother used force to prevent the family maid from providing her with any assistance during labour. The appellant had to give birth in her father's home, and the umbilical cord was aggressively pulled from her. There was significant amount of bleeding, as the appellant suffers from a haemorrhaging condition which required urgent medical treatment, but which her father prevented her from receiving. Eventually, she was able to persuade her sister to take her to hospital, and the appellant believes that she would have been left to die were it not for the presence of one of her aunts who would have been a witness to the murder.

b. At [8], the appellant describes her father hiding food from her and locking the cupboards. Her son would be taken from the house, without warning, and her father would not tell her where he was, resulting in the appellant frantically looking for him, and the rest of her family refusing to say where he was. Her son's head was banged against the wall of a swimming pool by the appellant's cousins. He was thrown into the water and almost drowned. The appellant's stepbrother beat her son and threw him into a hole that had been dug outside. The family generator, which was essential for power during the frequent outages which are common in Pakistan, was disconnected from the appellant's room. She was forced to remain in there with her children, in freezing conditions, during the cold winters. Her children would get sick. The appellant's father would beat her son.

c. At [10], the appellant describes how her father began to touch her daughter in a sexually inappropriate way, in behaviour which appeared to replicate that which he had subjected her to when she was seven years old. The appellant described his behaviour as grooming her daughter.

12. I have not been presented with any submissions or other basis to conclude that the appellant's account as set out above was challenged successfully by the respondent at the hearing before the judge. Indeed, the presenting officer submits that this is a case which turns on internal relocation, accepting the premise of the primary thrust of the appellant's case that she faces a real risk of harm at the hands of her family, and that she does not enjoy a sufficiency of state protection in her local area.

13. As such, against that background, there is simply no basis for the crucial finding at [17] of Judge Fox's decision that the appellant had given a number of examples of she and her children being treated "properly" by her father.

14. The language used by Judge Fox ("she chose to live with her father for a number of different reasons…") woefully understates the horrific reality faced by the appellant. She was a highly vulnerable victim of domestic violence; the only reason she had been forced to fall back on her father at home was because her own husband was being physically and sexually abusive to her during their marriage, and as an

otherwise lone female, again, she would have had very few, if any, other options. There was no element of choice; the appellant had been forced by the compulsion of circumstances.

15. At [18], the judge addressed the evidence of the appellant's sister, which he described as a "letter". The judge notes that the sister's letter provided "some support" for her account of what took place at her father's house, but observed that it was "delivered late in the day" and did not "fully support some of the crucial material detail given by the appellant". That sentence itself is surprising, as in the previous paragraph the judge had found that the evidence the appellant had given was of proper, as opposed to improper, treatment at the hands of her father.

16. In fact, the sister's evidence was not a "letter", it was a sworn affidavit issued before a magistrate of the Lahore District Court.

17. At [24], the judge said that the document "is open to the charge that the claim are [*sic*] self-serving". In the case of R (on the application of SS) v Secretary of State for the Home Department ("self-serving" statements) [2017] UKUT 00164 (IAC) Upper Tribunal Judge Peter Lane, as he then was, held the following at [1] of the headnote:

> "The expression self-serving is, to a large extent, a protean one. The expression itself tells us little or nothing. What is needed is a reason, however brief, for that designation. For example, a letter written by a third party to an applicant for international protection may be 'self-serving' because it bears the hallmarks of being written to order, in circumstances where the applicant's case is that the letter was a spontaneous warning."

18. The description of the document as "self-serving" fails to engage with its contents, of which the judge did not conduct any qualitative analysis. As held in SS, the term "self-serving" can be used to denote a document which has been written to order, purporting to give the appearance of authenticity or reliability, in circumstances when it is anything but. However, the judge's application of the term to this document, taken to its logical conclusion, would result in no witness's evidence ever attracting weight for, on Judge Fox's approach, all such evidence would be self-serving.

19. The fact that the statement was "late in the day" is a factor which, provided there was sufficient additional analysis of the contents of the document, taken in the round, is capable of forming a legitimate part of a judge's analysis. The judge must have been using the terminology metaphorically, as the document was provided with the appellant's bundle ahead of the hearing before Judge Fox, rather than on the day of the hearing, at a late stage. However, it is not clear why the timing of the appellant's statement was a factor which detracted from its weight. Given the absence of qualitative analysis on the part of the judge, this was an observation that was not reasonably open to him, in the circumstances.

20. I consider that the grounds of appeal are made out in relation to the judge's analysis of the risk faced by the appellant from her family. The judge failed to give sufficient reasons for his findings, in that the reasons that he did provide were at odds with the

evidence before him. In order for the judge to have reached the conclusions he did, against the background of that evidence, clear and cogent reasons would have been necessary.

21. In the presenting officer's submission, this was a case which centred on the appellant's ability so to relocate. I consider that the judge failed to give sufficient reasons for his findings that the background materials to relocate internally in Pakistan.

22. In this respect, also, Judge Fox's analysis was flawed. At [22], he wrote:

> "I have noted the **background information clearly confirms that help, assistance and support** [*sic*] various NGOs and the course [*sic*] the state itself or available to her [sic] in Pakistan. She demonstrated that she was able to leave her husband without serious repercussions, while a lived together there [*sic*]. She does not have to live with her father." (Emphasis added)

I have already explained why Judge Fox erred in relation to his treatment of what took place when the appellant returned to her father's home, so it is not necessary for me to engage in further detailed analysis of why the judge was wrong to state that the appellant had been able to "leave her husband without serious repercussions".

23. If the background materials confirm that the appellant would be able internally to relocate within Pakistan, then the judge's flawed findings in relation to what took place in her home area would be otiose.

24. The judge had before him the respondent's *Country Information and Guidance - Pakistan: women fearing gender-based harm/violence*, version 3.0, February 2016. He had also been provided with a "list of essential paragraphs" by counsel who appeared before him on that occasion. An examination of those materials demonstrates that the question of whether a woman would enjoy the ability internally to relocate within Pakistan is an inherently case-specific question, which must be answered against the backdrop of well-documented and systemic gender-based discrimination and harm directed against women in Pakistan.

25. First, it is not clear how the judge was able to conclude that the background materials "clearly confirm" that help would be available. The judge did not give reasons for this finding. He did not cite any extracts from the background materials, nor reconcile his conclusions on this point with the detailed materials before him which militated towards the opposite conclusion being reached.

26. The following extracts from the respondent's guidance note concerning gender-based violence in Pakistan are relevant:

    a. Paragraph 1.1.6, quoting the Immigration and Refugee Board of Canada in January 2013, concerning police stations with a female presence: "women police stations were considered 'not very effective', too few and therefore difficult to access, and under-resourced with insufficiently trained staff

and that most women police stations do not register first information report…"

b. Paragraph 11.2.1, "there are very few shelter homes against the number of women seeking refuge. Going to a shelter home is still considered taboo and perceived as the last resort of women who have been turned away by respectable society."

c. Paragraph 11.2.5, government-run shelters were too few, didn't house women for long enough, were overcrowded, suffered from poor facilities and inadequately trained staff. There were reports of abuse at some shelters. The focus of many, due to the difficulties of single women living alone in Pakistan society, was family reconciliation.

27. In SM and MH (lone women – ostracism) Pakistan CG [2016] UKUT 00067 (IAC), to which the judge was referred, this tribunal accepted expert evidence that boys aged over five would be unlikely to be accepted by shelters, given the cultural perception that they should be with their fathers. See the headnote at (7). This appellant would, of course, be returning to Pakistan with her 14 year old son. The position the judge should have engaged with, therefore, was how, against the background of difficulties (only a selection of which have been outlined above), this appellant could be expected to avail herself of what limited services are reasonably likely to be available, given she would be returning with her two children, one of whom would be prevented from accessing what limited shelter support there would be available to her.

28. The judge does appear to have attempted to engage with one facet of the appellant's personal circumstances, namely the fact she is well-educated. See [28]. It is right that the education of a woman is a factor which must be considered, when determining whether it would be reasonable for her internally to relocate. This tribunal in SM and MH held at [54] that "highly educated and economically independent women" may be able to live alone in an urban environment. The difficulty with the judge's analysis in this respect is that, although he correctly identifies one factor which is likely to be relevant to the reasonableness of internal relocation, he did so against a background of flawed findings concerning the domestic violence the appellant had experienced, and her inability to rely on male sponsors or guardians. In reaching his finding at [22] that the appellant had been able to leave her husband without serious repercussions, the judge fell into error, and approached his entire analysis of the question of internal relocation on a flawed premise.

29. The "added comfort" provided by the fact that the appellant's husband was wanted in connection with suspected extremist Islamic links is not a factor which finds any support in the background materials. There is absolutely no suggestion in any of the background materials that the anti-terror police in Pakistan would provide a sufficiency of protection to a vulnerable victim of domestic and sexual abuse who is linked by marriage to a suspected extremist. This was pure speculation on the part of the judge which featured no evidential basis.

30. For the above reasons, I find that the decision of Judge Fox involved the making of an error of law in relation to his analysis of the appellant's account and internal relocation. The judge failed to give sufficient reasons for his findings concerning the ability of the appellant internally to relocate, given the background materials that were cited to him which militated in favour of the opposite conclusion. He based part of his conclusions on his own conjecture and speculation.

31. There is also a risk that the frequent typos which littered the decision could give rise to the impression that Judge Fox failed to engage in sufficiently anxious scrutiny of his decision, although in light of my findings, above, it is not necessary for me to reach a final view on that concern.

32. I set the decision of Judge Fox aside with no findings preserved.

33. I consider that it is consistent with the overriding objective for the matter to be reheard in the Upper Tribunal.

34. I maintain the anonymity order previously made.

Notice of Decision

The decision of Judge Fox involved the making of an error of law and is set aside with no findings preserved. The matter is to be re-heard in the Upper Tribunal.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed *Stephen H Smith* Date 2 March 2020

Upper Tribunal Judge Stephen Smith