

THE HIGH COURT

[2024] IEHC 297

2023 496 JR

BETWEEN:

B.A.C (BOTSWANA)

APPLICANT

AND

THE INTERNATIONAL PROTECTION APPEALS TRIBUNAL

RESPONDENT

JUDGMENT of Ms .Justice Mary Rose Gearty delivered on the 9th of May 2024

1. Introduction

1.1 This Applicant for international protection claims that, during a car journey, her father tried to kill her in order to use her body parts as part of a ritual sacrifice. This event is identified as a catalyst for other allegations about her father, culminating in a car crash many years later, which the Applicant believes was orchestrated by her father. The Applicant has exhibited a medical report in which a doctor with the relevant credentials, has confirmed that the symptoms the Applicant exhibits are *highly consistent* with her account of events in her native Botswana. The case raises the treatment of expert evidence in the context of a claim for protection, where the history of events offered appears implausible when viewed with an Irish lens.

1.2 The Respondent Tribunal, in its written decision, has found various aspects of the Applicant's narrative to be lacking in credibility. Events are meticulously described in a determination which is comprehensive, detailed and, in most respects, well explained. There is a combination of factors here, however, which persuades me that the Tribunal must revisit its decision. The Tribunal, while it

does outline the core claims made, rejects the Applicant's account of these initial events without specifically explaining why her account is not credible.

1.3 The Tribunal then discounts the medical evidence, but only insofar as it would support the Applicant's history. Again, the evidence is rejected without any explanation as to why the Tribunal has reached this decision. The result is that a diagnosis of post-traumatic stress disorder, or PTSD, which is accepted as correct, has been severed from the relevant history of the Applicant, although the doctor considered that history to be highly consistent with the diagnosis.

2. Events in Botswana, Alleged and Accepted

2.1 The Applicant was born in Botswana. She is an only child, whose parents separated when she was young. The Applicant describes her father as a violent man, prone to alcohol abuse and even, on occasion, a man who was apparently psychotic in his behaviour. The Applicant has completed undergraduate studies in Botswana in her chosen field, having taken a break in her studies to cope with depression. After a series of events, summarised below, she left Botswana and applied for international protection in Ireland the following day.

2.2 In her initial interview on arrival in Ireland in mid-2022, and her questionnaire and interview with the International Protection Office ("IPO") later that year, the Applicant's account of the following events was relatively consistent. She claims that she resided with her father for some time beginning in 2010 when her mother was unwell. The Applicant was in her early teens at that time. She discovered, having overheard him on a telephone call, that her father wanted to use her body parts in a sacrificial ritual which would enhance his chances of becoming chief of his tribe. The Applicant's mother, according to the Applicant's version of events, confirmed that she too was aware of these intentions and ambitions on the part of the Applicant's father. The Applicant describes being taken the following year, by her father, to be shown to a tribal

gathering of six men. The Applicant later associated this visit with the plan for a ritual sacrifice.

2.3 Crucial to an Irish understanding and assessment of this narrative is the fact that this kind of sacrifice is not only historically associated with some tribes in Botswana, there is support in the country of origin information (“COI”) before the Tribunal for the view that the practice of using human body parts for tribal rituals was continuing at the relevant time, namely, in or around 2010.

2.4 In 2012, the Applicant claims that she and her father were on their way to a university where the Applicant had obtained a place when, she recounts, he began to bang her head off the steering wheel, causing her to drive the car off the road. He then tried to strangle her. Passersby arrived and the police were called to the scene. When asked why she had not reported the reason for the crash to the police, the Applicant claimed that her father was an important man, and that she knew that she would be told that this was a tribal matter.

2.5 There were two events, in the following year, that the Applicant associated with her father. First, a man tried to get into her university accommodation, seemingly to attack her, and the second event involved her fear that another person was following her. When questioned at interview, the Applicant agreed that she did not know or recognise anyone but associated the incidents with her father. Her landlord installed extra security at her apartment.

2.6 The Applicant became depressed and, in 2014, she dropped out of university, which was confirmed by the university. The Applicant returned to her studies in 2018, but by then she was living with her mother. The next event was a burglary at their home that year. The Applicant’s laptop was taken, she believed, by her father. Again, she agreed with the IPO that she could not definitively link her father with this burglary.

2.7 In 2019 the Applicant was a passenger in a car which overturned, according to medical records. In her description, another vehicle ran the car off the road and the Applicant considered that this crash was orchestrated by her father in

another attempt to kill her. She did not see the other car but says that she heard it drive away. The Applicant reports that two of her friends died in this crash. Memorial cards for the two young people were exhibited by the Applicant, as was a radiology report said to confirm the injuries she received in the crash.

2.8 She reported the accident to police but did not tell them that she thought her father was responsible for the accident. She felt guilty about the deaths of her friends, ran away from home and stayed in South Africa, but returned after two months. She completed her degree in 2020 and left Botswana in 2022, stating that she did not feel safe due to fears that her father would continue to threaten her life. She claimed international protection the day after her arrival in Ireland.

3. The Protection Provisions

3.1 The International Protection Act of 2015 (“the Act”) makes provisions for those who enter Ireland seeking protection, as refugees or otherwise. Very briefly stated, the Act sets out eligibility requirements for those who seek refugee status and for those who seek subsidiary protection. One of the matters which may lead to a successful claim for protection is if an applicant can show that she would face a real risk of suffering serious harm if returned to her country of origin and where that applicant cannot avail of protection within her country of origin for any one of a number of stated reasons.

3.2 The Act sets out detailed procedures whereby applications are processed and assessed. The process includes a preliminary interview in which identity and general reasons for the application are explored. A detailed questionnaire is filled out by each applicant. Unless the case for protection is made out on the basis of these steps, and on the documentation provided, a later interview is then conducted. Section 35 of the Act sets out how the second interview should proceed, including the qualifications of the officer conducting the interview and provisions for an interpreter and a lawyer to attend. The IPO must write a report setting out all relevant parts of this interview and anything else that

would be relevant to the Minister's decision as to whether the applicant may be permitted to remain here.

3.3 Section 28 of the Act sets out a list of factors which should be considered by the IPO (and the Tribunal, if the matter is appealed) when assessing the facts and circumstances of an application for international protection. These include the COI, any statements or documents provided by the applicant, and the general credibility of the applicant. Section 28(7) addresses the issue of insufficient documentation, confirming that supporting documentation may not be necessary if there were efforts to obtain it, if an explanation is given in this regard, and if the statements of the applicant are otherwise plausible and her general credibility has been established. Further, section 28(6) provides that if the applicant establishes that she has suffered previous serious harm, that is a serious indication of a real risk of serious harm unless there are good reasons to consider that such harm will not be repeated.

4. The Impugned Decision

4.1 The Tribunal accepted that the Applicant is a single lady from Botswana. The decision set out a comprehensive account of her history and claims, which was accurate and fair. The Tribunal also set out the relevant tests to be applied and confirmed at the outset that it had read all of the relevant documentation, including the COI and the medical report provided by the Applicant.

4.2 The Tribunal recited some of the responses from the Applicant in respect of her early years in Botswana, after hearing about the alleged phone call and leading up to the first car crash that she had described. The Tribunal did not accept her account of her father's attempt to kill her and found that it was not credible.

4.3 As regards the incidents involving a man appearing at her accommodation and the burglary, the Tribunal did not accept that her father had anything to do with these incidents. It found no proven link between these events and the Applicant's father.

4.4 The Tribunal examined the issue of the second car crash in 2019. While the Tribunal did not accept that her father had anything to do with this event, it did accept that the crash occurred, that her friends died and that she felt guilt about this incident. The IPO had not accepted the account of the crash, noting that there appeared to be no independent support for the account of a road traffic accident leading to two deaths. The Tribunal, as it was entitled to do, found otherwise, accepting that the Applicant had been bereaved in this crash and that she felt guilty about it.

4.5 The Tribunal accepted the diagnosis of PTSD made by a medical doctor but rejected the expert's conclusion that this diagnosis was highly consistent with the Applicant's account. The report must be set out in more detail in order to examine the main issue in this case.

5. The Medico-Legal Report

5.1 The Applicant attended a 90-minute, online meeting with Dr. Joan Giller who prepared a report dated 28th November, 2022. This expert is a qualified obstetrician with impressive credentials including an MA in counselling and psychotherapy. She has practiced in Myanmar and Uganda, conducted research in Sudan and Darfur, and now works in Cork, where she prepares reports for SPIRASI, the national centre for torture survivors. She has 20 years of experience writing medico-legal reports in asylum cases here and in the UK.

5.2 Dr. Geller, in her report, sets out the various symptoms suffered by the Applicant, including nightmares and flashbacks related to the reported trauma that she experienced (in particular, the fear that her father would find and kill her), extreme attempts to avoid these memories and anything that reminds her of them and "*severe watchfulness and guardedness, with a pronounced startle reflex*". The symptoms, which were also listed in the determination of the Tribunal, were pronounced by the expert as being highly consistent with severe trauma as described by the Applicant. The doctor concluded that her anxiety disorder overlapped with PTSD and the conditions related to her "*remembered fears of*

being discovered by her father and also of being returned to Botswana, where she fears that her father will find and kill her."

5.3 The depressive symptoms described by the Applicant were linked by the expert to the loss of her home, her country and her culture, and separation from her mother. Specifically, her history of the experiences with her father, her extreme fear following this and her account of the car accident in which she was involved are described as "*congruent and clinically plausible*". Dr. Geller concluded that the overall clinical evidence was "*highly consistent*" with the traumatic history that she describes.

5.4 The Tribunal, as noted, accepted the diagnosis of PTSD and of depression and anxiety disorder. That diagnosis, the Tribunal decided, was supportive of the road traffic accident in which two of her friends died in 2019, her flight to South Africa, the blame she places on herself post-accident and her separation from her mother and her country, but not of the account of her father's assault on her or her account of his plan involving any ritual sacrifice.

6. The Tribunal's Decision: Core Claims and Sequence

6.1 The Applicant submitted that her core claims were not examined in the written decision and that the initial event concerning her father's assault on her in a car was dismissed with insufficient reasoning. My understanding of the core claims can be stated quite briefly: the Applicant's fear of her father is the reason she gives for not wanting to return to Botswana. Her description of an assault in a car in 2012, preceded by having overheard a call about ritual sacrifice and given later conversations with her mother, is the backdrop against which all other events take place. Fear that her father will find and kill her is the serious harm contemplated within the words of the 2015 Act. This is central to her claim and the related events are justifiably described as the core claims in the case.

6.2 The Tribunal recognises these matters as core events. The initial assault is, perhaps, conflated with the later account of being followed, but it is clear from

the headings used and the content of the decision in several paragraphs that the Tribunal treated this assault in the car as a core claim and examined it as such. Whether reasons were offered which explain why the Tribunal rejected this account is a separate argument.

6.3 The Applicant submits that the sequence of the findings, as set out by the Tribunal, indicates a substantial and a structural failure in the appropriate treatment of medical evidence by the Tribunal. It is argued that findings on credibility were made first, without sufficient explanation to support those findings and, thereafter, the opinion outlined in the medical report was rejected. It is submitted that the report was rejected on the basis of general credibility findings and without giving any reasons for having departed from the reasoning and diagnosis of the doctor. It is submitted that the report should have informed the credibility findings, not the other way around.

6.4 The decision of the IPO can be contrasted with that of the Tribunal in this respect. The IPO is, to some extent, irrelevant as it is the decision of the Tribunal with which this Court is concerned, but Counsel for the Applicant drew attention to a series of findings in the earlier decision order to highlight similar sequencing and what is described as a significant departure from the reasoning of the IPO on the part of the Tribunal.

6.5 The IPO draws attention to inconsistencies, including a reference to this key assault in the car occurring in 2013, not 2012 as the Applicant maintained elsewhere. In relation to that assault, the conclusion of the IPO is that given the number of contradictory statements the Applicant gave and the implausible nature of her account at interview, the Applicant cannot be afforded the benefit of the doubt in this instance, a reference to the burden of proof that applies in respect of certain evidence where general credibility is established.

6.6 After this finding in the written decision, the IPO considers the medical report. The conclusion is that *“a report which states that her symptoms are highly consistent with her history of trauma do not establish the circumstances in which she developed*

her symptoms." This may be true, insofar as it goes, but is not repeated in the Tribunal's analysis which is the decision under consideration. Nor does the Tribunal or the IPO outline a rationale whereby the accepted diagnosis may be explained by a different theory, particularly where the history of trauma has been described as highly consistent with the account given. Further, the IPO has already rejected the Applicant's account of the later car crash in 2019. All of this leads to a situation in which the IPO has a medical diagnosis of PTSD with no triggering event. There is no evidence of any other trauma.

6.7 Moving back to the Tribunal's decision and looking at the structural arrangement of that decision, the sequence here is similar. While it is clear that the sequence of a written ruling may not always suggest the order in which a deciding body has approached a decision, nor will sequencing, alone, be sufficient to sustain an argument that material has not been considered, here there was a combination of sequence and context which combine to suggest that that there was probably a general credibility finding before the expert evidence was considered or that credibility was determined without appropriate consideration of the medical evidence.

6.8 It is not the function of the Court to ascribe weight to evidence but, where it has been rejected, the decision maker must explain why. The Tribunal's treatment of the medical report and its conclusions lead me to the view that, on the balance of probabilities, either (a) the report was not considered at all before the credibility finding was made and was then read so as to chime more harmoniously with that finding, or (b) if the report was read in advance of that finding, its implications for the assessment of the Applicant's credibility were not appreciated, or the rules in respect of assessment of expert evidence were not applied by the decision maker, or both.

7. Factual Findings: Formulaic or Forensic Analysis?

7.1 There is a separate, but related, issue which is that of using formulae in each such decision which may come to replace analysis. In his judgment in *Balz v An Bord Pleanála* [2019] IESC 90, O'Donnell C.J. makes a reference to “*administrative throat-clearing*”. This described the practice of confirming carefully at the outset of every written decision that the material submitted has all been considered. Just as occurred in *Balz*, the decision maker here, understandably perhaps, began with the same confirmation: that all the material submitted has been considered.

7.2 That statement was challenged in the Applicant's submission that the Tribunal had not considered the COI before making a determination on credibility. This has not been established to my satisfaction and this is largely because of the careful listing, not only of the fact that COI was considered but of individual items considered, including website links, which titles are set out in full in the determination. The titles of the websites alone, including multiple references to ritual murders, provide strong support for the conclusion that the Tribunal must have understood that human sacrifice and ritual practices were known to occur in parts of the Applicant's country of origin or amongst sections of the population.

7.3 The Tribunal in this case has adopted another formula which precedes each conclusion in its determination. The relevant paragraphs begin with this phrase: “*on the basis of the evidence read, heard, considered and assessed the Tribunal ...*” and then the Tribunal either accepts or does not accept the evidence which has just been discussed. This appears unobjectionable but does not in fact explain why the conclusion set out has been reached. The danger in using such a phrase is that it may lull a decision maker into a false sense of security, here, thinking that a sufficient reason has been given. Using this phrase does not explain why the decision maker accepts or rejects an account, it does not explain why the evidence was, or was not, sufficient to satisfy the relevant test,

it tells the reader nothing about which piece of evidence was accepted, which piece was rejected, and nothing about weight of the evidence which led to the Tribunal's conclusion.

7.4 There are many paragraphs in this decision where there is no further explanation and where further explanation is not needed, because the reason for the conclusion reached is obvious. This does not mean that the statement is a full explanation, merely that sometimes, in the case of inconsistencies or admissions, for example, no further analysis is needed.

7.5 For instance, where the Tribunal rejects account of the Applicant having been threatened by, and followed by, men connected with her father and where she alleges a laptop has been stolen by him, the Applicant herself acknowledged that she didn't know if either of the men she described was connected with her father and she conceded that she assumed the missing laptop was linked to her father. The Applicant's stated basis for linking him with the burglary was that she "*just felt*" the laptop was taken by someone close to her. These statements having been set out, no further explanation was needed as to why the Tribunal rejected this claim as the reasons were obvious. But there is no express reason and no forensic analysis. The reasons to reject the evidence might include:

- (a) there is no logical connection between these events and her father
- (b) the Applicant herself concedes this; it was a belief, not a logical link
- (c) there is no basis for such a belief as she did not recognise the men
- (d) there was no other information which might establish a link

7.6 In the section of the decision which deals with the Applicant's account of a direct attack on her in a car in 2010, the Tribunal recites various responses of the Applicant. The Tribunal then makes a finding immediately after this recital. The evidence included that she did not "*at that time*" know what he meant on the phone when he referred to ritual sacrifice, that after the car incident she did not tell police, as she was "*confused and scared of [her] father*" and that "*then I not understand why he was trying to kill me.*" She had no supporting documentation

for this event, telling the interviewer that she took public transport into the city and *“was confused”* at the time. The same formula is repeated, that the Tribunal is reaching a conclusion *“based on the evidence read, heard, considered and assessed.”* The finding is then set out that, on the balance of probabilities, the claimed car journey event in 2010 is not credible.

7.7 This finding is not explained further. Unlike the previous passage about events involving unknown men, there is no obvious reason for this conclusion. There are *potential* reasons which might have been given, whether referring to inconsistencies, lack of specificity, inability to recall an aspect of the event being described, but the only reason offered is that the car journey is not credible *“on the basis of the evidence read, heard, considered and assessed [by] the Tribunal”*.

7.8 The medical report was relevant to this issue. As set out in the Chairperson’s Guidelines, a medico-legal report substantiating claims of ill-treatment can help to explain inconsistencies. In respect of the time period during which she lived with her father, for instance, it may be relevant to consider whether the PTSD had any effect on the Applicant’s reliability in recalling or relating these events. But the medical report was not mentioned in this section.

7.9 In circumstances where this attack by her father is the key element in her narrative, the most significant event which explains the later events and grounds the Applicant’s claim, the formula used to reject the evidence is insufficient. In other circumstances, or in relation to another finding, such a dearth of forensic analysis might not be fatal to the decision but, as the sections in this judgment on the medical evidence and on the core claims makes clear, this event was pivotal in the Applicant’s narrative. Further, the finding in respect of the event also appears to have been the basis for rejecting a key diagnosis in the expert medical report. Its central importance in the Applicant’s narrative and its central place in the medical diagnosis combine to require the decision maker to spell out why the account of the event was not credible.

7.10 The Tribunal accepts that the Applicant was involved in a car crash in 2019 but *“does not accept that her father was involved”* to use the wording that appears in the finding. There is no finding in respect of her two friends. The IPO did not accept that two of her friends had died as there was no internet reference to their deaths, which would have offered strong support for this finding. There is no reason to query this finding of the Tribunal in that there was some support for the event and the Applicant herself had provided no evidence to support the conclusion that her father was involved. There was some support for her claim that her friends had died and support for the fact of a crash, in the form of a medical report, photos of a crashed car and what appear to be a kind of memorial card in respect of the people who died.

8. The Factual Findings: Changing the Premise of Expert Conclusions

8.1 As noted, Dr. Geller concluded that the overall clinical evidence was highly consistent with the history recounted by the Applicant. The Tribunal accepted the diagnosis of PTSD and of depressive and anxiety disorder. That diagnosis, the Tribunal decided, was supportive of the road traffic accident in which two of her friends died in 2019, her flight to South Africa, the blame she places on herself post-accident and her separation from her mother and her country.

8.2 The Tribunal finishes this section with the sentence: *“However the Tribunal does not accept on the balance of probabilities that the medico-legal report submitted is probative of the Appellant’s claims regarding her father.”* In its conclusion, immediately below, the Tribunal states that it is not accepted that the Applicant’s father tried to ritually sacrifice her and stalk her. And just as it has done in respect of the finding of fact relating to the incident in 2010, there is no further explanation for the Tribunal’s finding that the medical report, which specifically connects the diagnosis with her fear of her father, is not probative of any claim in respect of her father.

8.3 The status of expert evidence is the same in a decision on immigration as it is in any court case. The courts accept and value an expert's view, usually in direct proportion to the expertise and reliability of that expert. But a decision maker is not bound by an expert report. Where an expert is successfully impugned, if a better or more reliable alternative view is offered by an opposing expert, or even if the decision maker simply rejects the expert's views, the report may be abandoned in its entirety. However, in order to reject such evidence, reasons must be offered justifying this decision. Just as a contested report may not be accepted in full without analysis, reducing the decision maker to a rubber stamp, a report, or part thereof, may not be rejected without analysis of its deficiencies and express reasons explaining why it is not accepted.

8.4 In the field of immigration law there is further assistance offered by the IPAT Guidelines. In Guideline No. 2017/6, there is detailed advice about medico-legal reports. There, the guideline itself confirms that it has been issued pursuant to the 2015 Act and, having acknowledged international recognition of the fact that medico-legal reports are valuable aids in assessing claims for protection, paragraph 6 deals with the assessment of reports from an expert medical practitioner. In this context it should also be noted that "*highly consistent*" is a term of art, described in the Guidelines in connection with its use for assessing the cause of injuries as follows: "*could have been caused by the trauma described and there are few other possible causes.*"

8.5 The purposes of expert medical evidence are described at paragraph 4 of the Guidelines. The most relevant in the context of this case include: to substantiate claims of ill-treatment, to establish a correlation between injuries and alleged ill-treatment, to reduce the need for a person to give evidence about traumatic events and to explain that person's difficulty in recounting events by giving possible explanations for inconsistencies.

8.6 Here, there is no question of the expert having been impugned or even challenged. The diagnosis is accepted, in full. Recall, the diagnosis is that the

Applicant's PTSD was caused by her experiences with her father and her fear of him. The conclusion Dr. Geller reached was that the symptoms she saw were highly consistent with the Applicant's account or, in the words of the Guidelines: *"could have been caused by the trauma described and there are few other possible causes."*

8.7 Examining the assessment of the report, there is no rationale explaining why the Tribunal decided that the diagnosis is correct but that the doctor is wrong about the cause. The Tribunal took the view that it was not her homicidal father and various violent events directed at the Applicant which caused her PTSD, but a road traffic accident, the deaths of her friends and her separation from her mother. All of these may be traumatic but for most people they are relatively normal events (an accident, bereavement, separation from family). Further, the doctor has specifically linked all but one of these events to depression, not PTSD. The symptoms of PTSD have been described almost exclusively as relating to a fear of her father, yet this is the one cause that is rejected, outright, by the Tribunal.

8.8 To amend the expert's finding to a finding that the more common life events of leaving home and bereavement, even in the shocking circumstances of a road traffic accident, led to this Applicant's psychiatric condition as opposed to the extraordinary claim of a violent assault and a murderous intent on the part of a parent, is a very significant change in the diagnosis with no stated reason to question, let alone reject, the doctor's findings. This particular doctor had expertise in evaluating claims of torture and the relevant human responses to violent trauma. The expert expressly found the Applicant's account to be plausible and highly consistent with her symptoms. The inescapable conclusion is that the Tribunal probably considered the initial account implausible, as indeed it is, if told in the totally different cultural context which pertains in Ireland. However, the expert who prepared the medico-legal report clearly considers otherwise and, without giving any reasons as to why this was

done, the Tribunal rejected her findings insofar as they related to the factual basis for the medical diagnosis.

8.9 The Respondent relied on *EBS v. Refugees Appeals Tribunal & Anor* [2017] IEHC 71 where O'Regan J. expressed the view that the medical report could not identify who caused the relevant injuries in that case. That was a completely different factual scenario, including the vital distinction that the medical report in *EBS* did not seek to ascribe causes for the symptoms. The Chairperson's Guidelines makes it clear that the medico-legal report will not identify a perpetrator, as this is a matter for the credibility findings, but that was not identified as an issue here, indeed no issue with the report was identified. Ascribing a cause is not the same as identifying an actor responsible for that cause. The report in this case concluded with the view that certain symptoms were consistent with fear after a direct assault by a parent in very disturbing circumstances such as those described by the Applicant, but the Tribunal rejected the expert's view without explaining why it did so.

8.10 The Respondent also cites *C.M. (Zimbabwe) v. The Chief International Protection Officer* [2018] IEHC 410 but there, the medical evidence was equivocal. Indeed, if one examines the facts in *C.M.*, that report contained a conclusion that could be described as illogical even to a non-medic, where effects of a sexual assault were emphasised to the exclusion of what most would consider to be a much more traumatic history of rape and prostitution. It is clear to any reader why that report could be rejected and why the High Court did not disturb a finding of fact to that effect. There was no such difficulty with the report in this case or, at least, none was expressed. Again, it should be emphasised that the decision maker is not bound by this, or by any expert report. What is required is that she analyse the report and, if rejecting it or any part of it, that she give reasons for this decision.

9. The Factual Findings: Ritual Sacrifice

9.1 Ms. Justice Phelan has recently reviewed the caselaw in a comprehensive and authoritative judgment dealing with credibility issues. The case involved an applicant from Kashmir, *M. H. v IPAT & Anor* [2023] IEHC 372 where Phelan J., in her consideration of credibility and COI, endorsed a passage from Lord Woolf M.R. in *Manzeke v. Secretary of State for the Home Department* [1997] Imm AR 524 which is often cited in this context. The passage reads as follows at p. 529:

"In administering the asylum jurisdiction, the tribunal (whether it be a special adjudicator or an appeal tribunal) has to consider not only whether the individual asylum seeker has the necessary subjective fear to be regarded as someone who is entitled to asylum, but in addition has to be satisfied that that fear is well-founded. Whether or not that fear is well-founded involves applying an objective standard a standard which will depend upon the state of affairs in that particular country as well as the circumstances of the individual asylum seeker."

9.2 The Tribunal here has identified some inconsistencies but none of the analysis in the case supports the decision to reject part of the medical report. If the implicit view is that the account is simply implausible and this conclusion has led to the rejection of part of the expert report, that should be expressly stated and the logic explained. This is a possible explanation for the decision taken but it is impossible to know. The passage above, referring to the subjective fear of the applicant and the objective state of affairs in the country of origin, suggests the appropriate lines of enquiry for the Tribunal in this case.

10. Conclusion

10.1 The Applicant is entitled to an order of certiorari quashing the decision of the Respondent. The case will be remitted for a further hearing.