



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/02613/2014

THE IMMIGRATION ACTS

Heard at Columbus House, Newport
On 14 October 2014

Decision & Reasons Promulgated
On 6 November 2014

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

S V T
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Bostwick-Barnes of Thompson & Co., Solicitors
For the Respondent: Mr I Richards, Home Office Presenting Officer

DETERMINATION AND REASONS

1. This appeal is subject to an anonymity order made by the First-tier Tribunal pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (SI 2005/230). Neither party invited me to rescind the order and I continue it pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698).

Introduction

2. The appellant is a citizen of Vietnam who was born on 9 October 1995. He left Vietnam on 11 June 2011 and arrived in the UK clandestinely in a lorry sometime in June 2011. On 2 April 2013, the appellant claimed asylum. On 4 April 2014, the Secretary of State refused the appellant's claim for asylum and humanitarian protection and under Arts 2, 3 and 8 of the ECHR.

The Appeal

3. The appellant appealed to the First-tier Tribunal. The appellant claimed to be at risk of persecution and serious ill-treatment in Vietnam because of his father's political activities in Vietnam and because he was of the Catholic faith. In a determination promulgated on 12 June 2014, Judge Waygood dismissed the appellant's appeal on all grounds.
4. First, Judge Waygood rejected the appellant's evidence that he had been arrested and ill-treated by the Vietnamese authorities because of his father's involvement with the anti-government, Catholic group "Bloc 8406" after the family home had been raided and material relating to that group found. Secondly, the judge rejected the appellant's evidence that he had been arrested on 28 May 2010 and detained and ill-treated by the police after they broke up a Catholic prayer meeting at his grandmother's house. Thirdly, the judge rejected the appellant's evidence that he had been arrested in June 2011 after distributing leaflets and DVDs promoting a demonstration against the Vietnamese government organised by the Catholic Church and that he had been released after a bribe was paid. Fourthly, the judge accepted the appellant's evidence that he had attended an anti-government demonstration in the UK and that a photograph of him at that demonstration was on the internet. Further, the judge accepted that the appellant had made comments on a Facebook page in his Catholic name. However, the judge found that, in relation to the Facebook comments, this had been done in order to bolster his claim. The judge did not accept that the appellant was a political activist who, as a result of his *sur place* activities, would be at risk on return to Vietnam. Fifthly, whilst accepting that the appellant was a Catholic, the judge did not accept that the appellant was a religious activist and would therefore be at risk on return to Vietnam on that basis.
5. On 3 July 2014, the First-tier Tribunal (Judge PJG White) granted the appellant permission to appeal to the Upper Tribunal. The basis of the grant of permission is set out in para 2 of Judge White's reasons as follows:
 - "2. Having had regard to the grounds for permission to appeal and the determination, I am satisfied that in reaching his decision the judge arguably made an error of law for the following reasons:-
 - a. In considering the Appellant's credibility in his account concerning the activities and arrest of his father, it is arguable that the judge failed to make adequate allowance for the Appellant's young age.

- b. In regard to sur place activities, it is arguable that the judge failed to take adequate account of the likelihood of the Vietnamese authorities monitoring the internet.
- c. In regard to the risk on return as a Catholic, it is arguable that the judge failed to take adequate account of the background country information.”

6. Thus, the appeal came before me.

Discussion

- 7. Ms Bostwick-Barnes challenged the judge’s adverse credibility finding and reasoning at paras 44-52 of his determination where he rejected the appellant’s account that his father was an active member of Bloc 8406 and that the appellant had been arrested, detained and ill-treated following a search of the family home in August 2009.
- 8. First, Ms Bostwick-Barnes submitted that the judge had failed to take into account the appellant’s age, in particular at para 46 of his determination, when he counted against the appellant that he knew little about his father’s activities until the raid in August 2009. Ms Bostwick-Barnes submitted that the appellant was only 13 at the time and the judge had failed to take this into account.
- 9. At paras 46-47, the judge said this:
 - “46. In his asylum interview the appellant also referred to his father belonging to a group called ‘8406’ he said they fight for justice, freedom and freedom of religion for people in Vietnam. He said he only knew his father was a member of the group because when they searched the house they found materials relating to the group. The police told him they found notes relating to that group and said they had found some documents but he did not know exactly what they found. I find that this part of the appellant’s account is particularly vague, given the fact that the police were at the house for three hours and he on his own account was questioned for either two or three days and asked questions about his father’s alleged involvement with the group. The appellant said that he does not know any more about his father situation or where he is now.
 - 47. In oral evidence today during cross-examination the appellant confirmed that he did not know that his father was involved in Bloc 8406 until the police searched his house in August 2009. It was put to the appellant that if his father was a high-profile member of the group he would have known before the police came to his house. But said before the police arrived he did not know about his father’s activity. He also confirmed that he himself was not involved in any way with Bloc 8406. He said the police did not give him a copy of the warrant when they arrived they just read out the warrant.”
- 10. On behalf of the respondent, Mr Richards pointed out that at para 101 of his determination, the judge specifically said that in coming to his adverse credibility

finding: "I have taken into account the appellant's young age". The judge also refers to the submission on behalf of the appellant by Ms Bostwick-Barnes that the appellant's age should be considered (see para 27 of the determination).

11. The assessment of evidence is essentially a matter for the fact-finding judge in the First-tier. Only if a finding was inadequately reasoned or was not properly open to the judge because it is irrational will there be an error of law such that an appellate Tribunal may, if it is material, interfere with the judge's findings.
12. Even bearing that caution in mind, it does seem to me that the judge's finding on this matter is difficult to sustain. The appellant was 13 years of age in 2009 and there is no reason to believe that he should have had a detailed knowledge of any political activities by his father.
13. Secondly, Ms Bostwick-Barnes submitted that the judge had fallen into error in paras 49 and 51 of his determination by taking into account that the name of the appellant's father was not among the 118 members of Bloc 8406 referred to on their website. Ms Bostwick-Barnes submitted that there was no reason for the judge to assume that the appellant's father was one of the "first" 118 members who were listed on the website.
14. At paras 49-51 the judge said this:

"49. The respondent produced a webpage taken from the Bloc 8406 blogspot.co.uk website. It refers to the first 118 peaceful democratic fighters who have been the first members of Bloc 8406 since the beginning of April 8, 2006. As the respondent has stated nowhere in that list is the appellant's father's name.

50. In addition the respondent has produced a webpage from the Vietnam committee on human rights from www.queme.net which has a list of political and religious prisoners in Vietnam. This is described as a non-exhaustive list. However the appellant's father's name of Truc Van Tran does not appear on that list either even though there are some 180 names on it and even includes people, for example, who are simply under house arrest. The appellant's father has now been in detention for some four and a half years and yet there is no mention of him on that list either.

51. As the respondent pointed out the fact that he is in detention and has been for the last 4½ years would indicate that he is of significant interest to the authorities and a significant member of Bloc 8406. Yet his name does not appear on the Bloc 8406 website and he does not appear on the list of persons detained in Vietnam for political or religious activities or views. Whilst I note that neither list can be taken to be exhaustive the onus is upon the appellant and he has provided no objective evidence or indeed evidence of any kind to support his claim that his father was politically active and a member of Bloc 8406 in Vietnam, not even a confirmation from the organisation itself. In addition the appellant has provided, for example, as part of his objective evidence the Wikipedia web page on Bloc 8406. This refers to members of Block 8406 such as Roman Catholic priest Nguyen Van Ly being sentenced to eight years in prison for his support of the

group's manifesto. A former communist party official Vi Duc Hoi being imprisoned in 2011 for 'spreading anti-government propaganda'. There are other articles such as one from the Vietnam interfaith Confederation which refers to a number of members named being under house arrest and still facing restrictions yet there is no evidence at all of the appellant's father."

15. Whilst the judge recognised in para 51 that the list is not "exhaustive", he appears to place a premium on the absence of the appellant's father's name from the list or reference to him as someone who has been in detention for some four and a half years. In my judgment, again bearing in mind the caution required in assessing factual findings made by a First-tier Judge, I am, albeit with some hesitation, led to the conclusion that the judge's reasoning is difficult to sustain.
16. Thirdly, Ms Bostwick-Barnes submitted that the judge had been wrong to count against the appellant at para 51 of his determination that the appellant had not referred to his father's activities as a reason for him coming to the UK in his screening interview referring only, instead, to problems he subsequently faced because of his religion. She pointed out that the appellant had referred to his father's activities in his asylum interview (see questions 41-44) and in his statement attached to his SEF form.
17. At para 51 the judge said this:

"... In addition whilst I accept that he raised the issue of his father's arrest in his screening interview by that time he had been in the United Kingdom for more than two years and therefore had had plenty of time in which to consider any basis upon which a claim was made. Furthermore he stated at question 5.1 of his screening interview that he was arrested in August 2009 but clearly indicates this was for practising a banned religion not because of his father's activities. He did not say anything at that time about being arrested in connection with his father's activities. Further at question 4.1 of the screening interview under the heading 'basis of claim' when asked what the reason was for coming to the UK he said that he was ill-treated in Vietnam due to his religion, that he was beaten up and put into prison by the police. Once more there was no mention whatsoever of being arrested or detained because of his father's involvement in Bloc 8406."
18. A screening interview provides an asylum-seeker with the first opportunity to set out the basis for his claim to remain in the UK. It is not, however, an opportunity to set out the detail of any claim. The appellant referred to his father's arrest in August 2009 (at 1.16). In answering the question: "What was your reason for coming to the UK?" the appellant replied at 4.1: "I was ill-treated in Vietnam due to my religion. I was beaten up and put into prison by the Police." Whilst it is true that the appellant made no mention of what he subsequently set out in detail in his SEF, asylum interview and statement concerning the authorities' raid on the family home in August 2009 and his arrest, detention and ill-treatment as a result of his father's involvement with Bloc 8406, there is a real danger that the judge placed too great an emphasis on the absence of that detail in the appellant's screening interview. Particular care was required in this case because, of course, at the time of his screening interview the appellant was still only 17 years old. In truth, the absence of

specific reference to that and, more particularly, the appellant's answer at 4.1 was perhaps more (or at least equally) indicative of the appellant's real fear based upon his Catholic faith which led him to leave Vietnam.

19. Ordinarily such errors would inevitably lead to the Judge's decision being fatally flawed and unsustainable. That, however, is not the case in this appeal. Despite the difficulties identified in the judge's reasoning by Ms Bostwick-Barnes, I do not consider these were material to the judge's ultimate finding that the appellant would not be at real risk on return to Vietnam because of his father's political activities. That is because at para 53 of his determination, the judge made the following finding taking the appellant's claim on this basis "at its highest":

"53. Even if a contrary view should be taken on this point the fact remains that taken at its highest he was arrested in August 2009 he says he was detained for a period of two or three days then released, he says he was beaten and has a scar. He has produced no medical evidence to support the fact that he has a scar as a result of this beating or even has a scar at all. In addition he on his own account accepts that he has not been subsequently arrested or detained by the authorities as a result of his father's alleged activities and also on his own account when arrested he could tell the police nothing about his father's activities or Bloc 8406. In the circumstances taking the appellant's account at its highest on this point I find that he is of no interest to the authorities because of the alleged involvement by his father with Bloc 8406."

20. Neither the grounds nor Ms Bostwick-Barnes' submissions challenged this specific finding by the judge. In my judgment, in any event, that reasoning is unassailable. In my view, the judge was entitled to find that, even if he were arrested and ill-treated as he claimed in August 2009 as a result of his father's involvement with Bloc 8406, the appellant has not been detained or subject to any adverse interest beyond his claim that he was being watched. Even if that were accepted, the appellant between August 2009 and when he left Vietnam in June 2011 was not subject to any adverse ill-treatment because of his father's political involvement. The judge was entitled to find that on return the authorities would have no interest in him and he would not be at real risk of ill-treatment on this basis.
21. Ms Bostwick-Barnes also challenged the Judge's adverse credibility finding and his conclusion that he did not accept that the appellant had been arrested in May 2010 and ill-treated following a prayer meeting at his grandmother's house. The judge gave detailed reasons for this finding at paras 60-61 as follows:

"60. In relation to his account of the arrests in May 2010 the respondent did not accept this account because they indicated that it would be far more practical to hold such an event at a church. I consider this to be a valid point. The appellant's explanation was during his oral evidence that because he was praying for the spirit of his mother that therefore it was felt it should be held at their private home. However the appellant stated in his first witness statement that after his father's arrest for supporting what was a Catholic led organisation, the local police 'came to our house very often'.

The police were therefore, if this evidence is to be believed, still very interested in what was going on at the house. However once again there is no evidence to corroborate the reason for holding the ceremony at the house from his grandmother who was once again arrested at the same time, or from any of the 50 or 60 people who attended the prayer meeting. Further I do not find it credible that if the police were visiting the house very often that the appellant and his grandmother would not have been aware that there was potentially a large element of risk in holding such a large Catholic event at their home, when it could have been held at church. In addition this account was slightly different from what he said at paragraph 15 of his second statement dated 19 May 2014 when he was dealing with issues raised by the respondent in the refusal letter when he said that they asked for people to attend their house in order to pray for his mother's death as they simply prefer to pray at home on such occasions as it was more intimate even though once again he also said at paragraph 15 of the second statement that the local police always kept an eye on them because of his father's political activity.

61. He said in his first statement at paragraph 11 that having been arrested, in the morning they called people out individually and warned them not to gather at their house and he was simply asked to sign to confirm that he would not hold gatherings at home. Nothing further happened to him after that in relation to his practising of religion until June 2011 which I consider indicates that the authorities did not regard him as an activist. I do not accept the account of the ceremony at the house or the arrests taking into consideration the appellant states that he was being watched because of his father's arrest. It would have made much more sense to hold such a large gathering at a church when there was less likelihood of trouble and taking into account there is no evidence whatsoever to substantiate his claim. In any event even if his account is to be accepted his release and the fact that he was simply asked to sign to confirm that he would not hold gatherings at his home clearly indicates that he was of no particular interest to the authorities after that event occurred. There was no indication at this point that he was an activist simply a Catholic pursuing his religion. In oral evidence today, during cross examination, he confirmed that there were no incidents between May 2010 and June 2011 because of his religion even though he attended religious events weekly."
22. Ms Bostwick-Barnes submitted, relying upon the grounds, that the judge's reasoning was flawed: in effect that it was implausible that the appellant would hold such a large gathering in his home, whilst the police were watching his home, rather than in a church because the appellant's evidence was that the authorities were also keeping a close watch on the church.
23. Ms Bostwick-Barnes did not place great emphasis on this point in her oral submissions. In my judgment, she was right not to do so. The point made by the judge was one open to him on the evidence, namely that a large gathering at the home of the appellant's grandmother was likely to attract attention more than if it took place in a church, particularly as the appellant's evidence was that the police were visiting the house very often.

24. The ground challenging the judge's reasoning in paras 60-61 of his determination is, in my judgment, without merit and I reject it.
25. Ms Bostwick-Barnes did not directly criticise the judge's reasoning at para 62-70 which led him to conclude that he did not accept that the appellant had been arrested following the distribution of leaflets and DVDs promoting an anti-government demonstration by the Catholic Church. To the extent that Ms Bostwick-Barnes' submission in relation to the judge's failure to take into account the appellant's age is read across to his finding on this issue, I see no merit in that submission. In large measure, the judge's reasoning is based upon the implausibility of the appellant distributing 300 to 400 leaflets to Catholic homes and also clear inconsistencies in his evidence concerning the person who assisted the priest in bribing the authorities to release the appellant. The reasoning is unaffected by any issue concerning the appellant's age.
26. Turning now to the appellant's *sur place* activities, the judge dealt with this in some detail at paras 71-78 of his determination. His principal reasons are at paras 76-78 as follows:
- “76. Taking all this into account and the Nature of ‘sur place’ activity. The appellant has produced evidence of attendance at one rally outside the Vietnamese Embassy where the photographs on the ‘UK - Fight’ website for ‘human rights of peoples who were fighting for freedom and democracy Vietnam’ shows the appellant in the background in three photographs from which I conclude it would be very difficult to specifically identify him. I conclude from the photographs that the appellant could in no way be described as taking a prominent role. He is certainly not identified as a leader or mobiliser and there is no evidence that he has addressed the crowd he is simply a member of the crowd. Although he appears to carry a banner I have been unable because of the position of the appellant to identify what the banner says. The indication from the banners held by protesters is that those who are demonstrating are asking the Vietnamese Communists to stop trading their motherland and it is a human rights protest. There is no indication that they are for example seeking the violent overthrow of the government. No evidence has been placed before me that this particular demonstration would be viewed by the Vietnamese government. There is no evidence that the demonstrators have attracted any particular media coverage in the United Kingdom or Vietnam. There has been no evidence placed before me that surveillance of demonstrators took place through filming them or that the Vietnamese government had for example agents in the crowd. In addition no evidence has been placed before me of the regime's capacity to identify individuals. The appellant himself accepts he did not know if his name would appear in connection with the rallies.
77. If the appellant were returned to Vietnam I do not consider that he has the profile of a committed opponent or someone with a significant political profile or any political profile. No evidence has been placed before me of anything that would lead the appellant to be specifically identified or

targeted upon return to Vietnam. As far as his Facebook comments are concerned there is no photograph of the appellant to associate him with those comments which appear to have started very shortly before his asylum claim. I am not satisfied that these comments would bring him to the attention of the authorities in Vietnam as an activist. In the circumstances I am not satisfied that his 'sur place' activities in the United Kingdom will bring him to the attention of the Vietnamese authorities as an activist that will place him at risk on return.

78. In the appellant's case I do not accept his account as credible for the reasons I have previously stated. As far as political involvement is concerned there is evidence of attendance at one demonstration in the UK. I do not consider him to be a regular or high profile demonstrator. His postings on Facebook would not I conclude on the basis of the evidence lead him to be identified by the Vietnamese authorities. I do not therefore consider that he is likely to come to the attention of the authorities or that they would give any priority to tracing him. I therefore do not consider taking into account that I do not accept his account of his activities in Vietnam or the low profile of his activities in the UK that there is a real risk of him facing persecution upon return."
27. Ms Bostwick-Barnes submitted that the judge had failed to take into account evidence at pages 59-64 of the bundle which demonstrate that the government in Vietnam was overseeing the internet and public domain and tracing people who criticised the government.
28. Mr Richards submitted that the judge was entitled to find that the appellant's involvement in one demonstration showing him in a photograph, but not apparently named, would not place him at risk on return. Further, in relation to his Facebook page, the appellant would not be at risk for the reasons given by the judge.
29. As regards the appellant's involvement in a demonstration, Ms Bostwick-Barnes did not rely before me, nor would it seem before the First-tier Tribunal, upon any background material showing that activities of this sort were monitored and led to action against those involved. Even if the Vietnamese authorities do track websites of the sort on which the photograph was placed, the judge was entitled to find that a photograph merely showing the appellant as a member of a crowd, albeit carrying a banner, but unnamed, would not create a real risk that the authorities would be interested in the appellant as a political activist on return to Vietnam.
30. As regards the appellant's Facebook page, the background material relied upon by Ms Bostwick-Barnes relates to the arrests of a number of "prominent bloggers" by the Vietnamese authorities. It is not clear whether the judge was specifically referred to this material but, in any event, it does not in my judgment undermine the judge's findings. The appellant's Facebook page contained no photograph of the appellant and his name was limited to his Catholic name. The background material relied upon by Ms Bostwick-Barnes related to "prominent bloggers". Nothing in the material justifies the conclusion, contrary to the judge's finding at paras 77-78, that

the appellant fell into such a category or would be identified by, and be of interest to, the Vietnamese authorities on return.

31. Finally, Ms Bostwick-Barnes submitted that the judge had been wrong in law to find that the appellant would not be at risk on return by reason of his Catholic faith. She submitted that, contrary to the judge's finding, the background material supported a risk to Catholics in Vietnam even if they were not "Catholic activists". She relied upon para 3.12.7 of the *Operational Guidance Note* for Vietnam (at page 89 of the bundle) which stated that:

"In the past several years, including last year, police have used tear gas and batons against, and have detained, participants at peaceful prayer vigils and demonstrations at properties formerly owned by the Catholic Church."

32. Further, she relied on background materials at pages 48-56 of the bundle which, she submitted, showed the risk to Catholics in Vietnam and that despite the Constitution's provision allowing religious freedom, the reality was different.
33. Ms Bostwick-Barnes also relied upon the Supreme Court's decision in HJ (Iran) [2010] UKSC 31 and submitted that the appellant would be at risk as a result of his Catholic faith or would be required to be discreet or lie about his religious beliefs in order to avoid persecution and so had a claim on that basis.
34. Mr Richards submitted that the judge had made a clear finding at para 83 that the appellant was not a "religious activist". Mr Richards submitted that the judge had set out at length the background evidence at paras 80-81, 87 and 89 including the *OGN* and the *Country of Origin Information Report* (August 2013). Mr Richards submitted that having taken that evidence into account, in particular what was said at para 3.12.18 of the *OGN* that: "the majority of Vietnamese Catholics are not generally at risk of treatment amounting to persecution", the judge was entitled to find, having rejected the appellant's account of his detention in both 2010 and 2011, that he would not be at risk on return as an "ordinary Catholic". Mr Richards submitted that in the light of that, the HJ (Iran) point did not 'get off the ground'.
35. There is no doubt that Judge Waygood took into account the background material to which he was referred, in particular the *OGN* and *COI* Reports. He sets extracts out at some length at paras 80-81, 87 and 89 of his determination. The background evidence demonstrates that the Vietnam authorities do restrict religious worship, in particular for these purposes, of those of the Catholic faith.
36. In the grounds, the appellant relies upon an extract from the USCIRF Annual Report 2013 set out at para 18.37 of the *COI* Report as follows:

"Catholicism continues to grow rapidly in Vietnam, and the church has expanded both clerical training and charitable activities in recent years. Hanoi and the Vatican continue to discuss resuming diplomatic relations. Nevertheless, the relationship between the Vietnamese government, some members of the Church's hierarchy, Catholic laity, and members of the Redemptorist Order continue to be tense. Over the past several years, including in the past year,

Catholics have been detained for participating in peaceful prayer vigils and demonstrations at properties formerly owned by the Catholic Church. In addition, government officials have employed 'contract thugs' to assault and intimidate Catholics from engaging in both private study and worship at 'unregistered' locations."

37. At para 3.12.18, the OGN reaches the following conclusion:

"Although there are restrictions on religious freedom, and the Vietnamese authorities seek to control religious groups, the treatment individual members of officially registered religious groups suffer on account of these restrictions does not, in general, amount to persecution. The majority of applicants from this category of claim are therefore unlikely to qualify for asylum or Humanitarian Protection. However, in some instances, Catholics, including priests, Catholic activists and Catholics from ethnic minorities have faced treatment that does amount to persecution. Applications should be considered on a case by case basis, since the majority of Vietnamese Catholics are not generally at risk of treatment amounting to persecution."

38. At para 90 of his determination, Judge Waygood, having considered the background evidence (including these two passages), reached the following conclusion:

"I consider the appellant has demonstrated that he is no more than an ordinary Catholic who is at no greater danger of coming to the attention of the authorities if returned to Vietnam than any other Catholic. I also consider that the background evidence overall indicates that the ordinary Catholic can observe their religion in Vietnam."

39. In my judgment, that finding is entirely consistent with the background evidence, even though the evidence does show that a Catholic in Vietnam may experience problems from the authorities. However, the level and incidence of the problems identified in the background material does not, in my judgment, establish that there is a real risk of persecution or serious ill-treatment merely on the basis of being of the Catholic faith and practising that faith. The judge's adverse credibility findings left the appellant, as regards his claim based upon religion, relying only on the risk to himself as a Catholic who has had no problems with the authorities. He had no history of activism. Taking away the specific incidents which the judge did not believe had occurred, the appellant was able safely to practise his faith before he came to the UK.

40. I agree with Mr Richards' submission that, as a consequence, the HJ (Iran) point cannot succeed as the appellant would not be required to act discreetly in order to avoid persecution. He can continue to practise his religion as he did before and there is no basis for inferring that he would chose to do anything more. Linking the two findings together the judge said at paras 83-85:

"83. As far as his religious activity is concerned. Whilst it is accepted that he is a Catholic, I do not find for all the reasons I have outlined that he has demonstrated that he is a religious activist.

84. Accepting the fact that he would wish to continue to worship as a Catholic. The appellant is not a priest, I have concluded he is not a Catholic activist and therefore has displayed no evidence that he is likely to a Catholic activist upon return to Vietnam. Nor is he a Catholic from an ethnic minority and therefore I conclude would not be at any greater risk upon return than any other Catholic in Vietnam.

85. On this basis I do not accept that he would be liable to persecution in Vietnam because of his religion. I also conclude there is no reason why he would be required to act discreetly with regard to his political activity or religion as I do not accept that he is a religious or political activist. I therefore do not accept that he would be at risk on return to Vietnam for that reason."

41. That finding is, in my judgment, legally unassailable on the basis of the judge's findings and the background evidence before him.

42. I am satisfied that the Judge was entitled to conclude on the basis of his findings and the background material that the appellant had failed to establish a real risk of persecution or serious ill-treatment in Vietnam on the basis of his religion.

Decision

43. For these reasons, the First-tier Tribunal's decision to dismiss the appellant's appeal did not involve the making of a material error of law. The decision stands.

44. The appellant's appeal to the Upper Tribunal is, accordingly, dismissed.

Signed

A Grubb
Judge of the Upper Tribunal
14 October 2014