



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

Appeal Number: PA/06279/2019

THE IMMIGRATION ACTS

**Heard at Bradford
On 13 December 2019**

**Decision & Reasons Promulgated
On 17 January 2020**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**AMAL BUSHRA YOUSIF AHMED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 31 December 1989 and is a citizen of Sudan. She claims that she cannot return to Sudan because she married against her uncle's will and she fears that she will be ill-treated by him on return. The respondent, in a decision dated 29 May 2019, refused the appellant's claim for international protection. She appealed the First-tier Tribunal which, in a decision promulgated on 16 September 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The appellant attended the initial hearing in the Upper Tribunal in person. The Secretary of State was represented by Mr Diwnycz, a Senior Presenting Officer.
3. I find that the decision of the First-tier Tribunal is flawed by legal error. First, in his analysis of the appellant's credibility, the judge has failed to take account of evidence by way of explanation of her account provided by the appellant. At [50], the judge noted that the appellant claimed that her mother had received threats by text and telephone after the appellant's marriage and that her uncle had found out that she was pregnant whereupon he had attended the appellant's mother's home to threaten her with a knife. The judge states that, 'no evidence has been put before me as to how the appellant's uncle found out that [the appellant] was pregnant.' However, in her asylum interview at [Q98], the appellant been asked how her uncle knew that she was pregnant and she had replied, 'My mother spoke with a neighbour and told him I am pregnant to tell the people I'm married as legal marriage and the rumour spread around my uncle found out about this. (*sic*)' The judge was, of course, not obliged to accept that explanation but he was, at the very least, required to engage with it. The judge has found that the failure or refusal of the appellant to provide an explanation diminishes her credibility as a witness; that finding for those reasons was not available to the judge given the fact the appellant had provided an explanation.
4. Secondly, at [52] the judge writes:

There is another area of the appellant's account which I find to be somewhat incongruous. The suggestion is that the appellant's uncles threatening the appellant is a result of her marriage to a non-Sudanese and their pregnancy by a husband behaving in what may be termed as a traditional manner. However, on the basis of the appellant's account her uncles ensured she was highly educated, pursuing a degree in an extremely technical subject. I find that this is somewhat incongruous set against the suggestion that the appellant's uncles are behaving in the manner claimed as an enforcement of what may be termed more traditional cultural patterns.

5. I find that the meaning of that paragraph is by no means clear. In particular, the judge fails to explain how his finding that the behaviour of the uncle (or uncles) is 'somewhat incongruous' impacts upon his assessment of the appellant's credibility. The appellant is entitled to know why her appeal was dismissed and the poor expression and vague references in this paragraph to 'incongruous' behaviour and 'traditional manners' (without any explanation as to with what the behaviour might be incongruous

or what exactly is meant by 'tradition' in this context) has understandably puzzled the appellant.

6. In the circumstances, I find that the decision of the First-tier Tribunal should be set aside. None of the findings of fact shall stand. There will need to be a new fact-finding exercise which is better conducted in the First-tier Tribunal to which this appeal is now returned.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the FTT for that tribunal to remake the decision.

Signed

Date 31 December 2019

Upper Tribunal Judge Lane