



**Upper Tribunal
(Immigration and Asylum Chamber)**
AA/13525/2015

Appeal Number:

THE IMMIGRATION ACTS

**Heard at: Liverpool
On: 24th May 2017**

**Decision Promulgated
On: 12th June 2017**

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

**MMM
(anonymity direction made)**

Appellant

And

Secretary of State for the Home Department

Respondent

**For the Appellant: Mrs Johnrose, instructed by Broudie, Jackson and
Canter**
**For the Respondent: Mr Harrison, Senior Home Office Presenting
Officer**

DECISION ON 'ERROR OF LAW'

1. The Appellant is a national of Angola. Her age is disputed but she claims to have been born in 1999. She appeals with permission¹ the decision of the First-tier Tribunal (Judge AJ Parker) to dismiss her

¹ Permission granted on the 2nd November 2016 by First-tier Tribunal Martins

protection appeal.

Anonymity Order

2. This case concerns a claim to international protection involving allegations of sexual exploitation. Having had regard to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders I therefore consider it appropriate to make an order in the following terms:

“Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify the Appellant or any member of her family. This direction applies to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”

Background

3. The Appellant claimed asylum on the 10th March 2015. She told officers that she had lived with her father in Cabinda. Her father had worked for FLEC and when she was a child the government had burned down their home as a result. In February 2012 she and her father had attended a demonstration; he was arrested and ill-treated. Some months later her father went to work and never came back. The Appellant claimed that following her father’s disappearance she began to be abused by government soldiers, who would come to her home and rape her. In September 2014 a friend of her father, whom she knew as ‘Uncle’, told her that he would get her out of Angola. He would bring her to the UK and she could get a job here. ‘Uncle’ said he would pay for the journey if the Appellant had sex with him. She did this and he arranged her trip. They travelled with another Angolan man and three other girls. Upon arrival she was taken to a large house where she was informed that she was to work as a prostitute. After a few days she was taken on a long train journey and asked to wait at a station. She did so but no one came back to get her. The Appellant slept rough. After a few days she approached a man whom she heard speaking Portuguese. He referred her to the authorities.
4. The Appellant claimed to have been born in 1999 and so was placed in the care of Leicester Social Services (LSS). They doubted her claimed age. On the 2nd February 2015 two social workers employed by LSS conducted an age assessment. They concluded that the Appellant’s year of birth was 1994. A summary of their conclusions was provided to the Appellant, the Respondent, the Competent

Authority and in turn the Tribunal. It is headed 'Outcome of Age Assessment' and is dated the 9th March 2015. It is very brief. It records that the Appellant was advised that the full report would not be disclosed to the Home Office without her express permission, or unless it was ordered by a court. The conclusion reached is that the Appellant was at least 20 years old at the date of assessment. The following reasons are given for that conclusion:

"You have no documentary evidence to support your age, ID or nationality

Your physical appearance strongly suggest that you are not the age you claim to be

Your given account of your experiences and journey lack in consistency and credibility

Taking into the opinions and views of all the professionals and agencies involved with you"

5. The Respondent referred the Appellant's case to the Competent Authority (CA). Having initially found there to be reasonable grounds to believe that the Appellant had indeed been trafficked, in a decision dated 24th September 2015 the CA reached the conclusion ('the conclusive grounds decision') that the Appellant was not a victim of modern slavery. The author identifies a number of alleged inconsistencies in the Appellant's account. For instance, her decision to remain in her home in Cabinda after soldiers had come there and raped her is found to be inconsistent with the claimed events. The credibility of the account is further damaged by "the fact it is believed you attempted to deceive the UKVI regarding your true age". Overall the account is rejected.
6. The Appellant's claim to protection was rejected by the Respondent in a detailed letter of refusal dated 24th November 2015. The Respondent did not accept that the claim engaged the Refugee Convention. She did not believe the Appellant's account in respect of her father's involvement with FLEC. This was because the Appellant had given inconsistent accounts about what he did. Her evidence about the house being set on fire and her father disappearing was found to be "vague". The Respondent rejected the trafficking claim because CA had already done so. As to the Appellant's claimed age, the Respondent adopted the assessment made by LSS and concluded that she was an adult.
7. The Appellant brought an appeal to the First-tier Tribunal, that came before Judge AJ Parker on the 6th September 2016. The Appellant gave oral evidence. Judge Parker's findings are set out in his decision dated

19th September 2016.

The First-tier Tribunal Decision

8. The determination records the submissions made on behalf of the Appellant in respect of her age. Mrs Johnrose submitted that according to the terms of her own policy the Respondent was obliged to conduct her own evaluation of the Appellant's age independently of the local authority; her failure to do so rendered her overall decision unlawful. The 'Outcome of Age Assessment' report did not contain sufficient reasons to be deemed *Merton*² compliant. Reliance was placed on the decision of the Court of Appeal in Secretary of State for the Home Department v LV [2015] EWCA Civ 1142. The age assessment before the Tribunal was in summary form. The Tribunal noted that neither party had, at any stage, requested an adjournment in order that the full report be obtained. Given this, the Tribunal concluded [at 36] "I can only assume the parties were happy with the summary report presented", and [at 37] "I find the summary of the report is accurate and there is no credible evidence to the contrary that it is not. The Appellant and her representatives have had ample time to obtain their own age report and have not done so". Proceeding to make its own findings on the Appellant's age, the Tribunal finds that she is over 20 years old: "she certainly appears to be this age in appearance and demeanour".
9. Having made this finding, the Tribunal went on to agree with the Home Office that her evidence about all material events had been vague and contradictory. The asylum appeal, insofar as it related to her father's disappearance and her repeated rape by government soldiers, was dismissed for want of credibility.
10. In respect of the claim to have been trafficked, the Tribunal placed its reliance squarely on the conclusions reached by the CA. The Tribunal notes that Mrs Johnrose had asked it to reach its own conclusions on the evidence, but the Tribunal felt unable to do this: "I find the Appellant's claim not to be credible and therefore having examined the trafficking decision, I find there are no errors in it and find she was not trafficked in line with their report".
11. The appeal was thereby dismissed on all grounds.

The Appeal

12. There is one simple point raised on appeal. The only evidence available at the date of the First-tier Tribunal hearing was the summary from LSS. It is submitted that this could not possibly

² R (on the application of B) v London Borough of Merton [2003] EWHC 1689 (Admin)

demonstrate that a *Merton* compliant assessment had taken place. The Respondent has a duty, arising from public law as well as her own published policy, to satisfy herself as to the Appellant's age and she had failed to do so. That error, replicated by the Tribunal, led to flawed findings as to the Appellant's credibility, which in turn effected both the trafficking and asylum assessment. If the Appellant had been a child at all material times it would be unsurprising if her evidence was "vague" and in places. If the ground of appeal is made out the entire edifice of the reasoning must fall.

The Secretary of State's Response

13. In her 'rule 24 response' the Respondent adopts and endorses the Tribunal's reasoning and submits that there are no material errors in the determination. Before me (at an 'error of law hearing' on the 29th March 2017) Mr Harrison submitted that the report provided by LSS was adequate. It was on its face a summary of a *Merton* compliant assessment. The summary records that the Appellant was advised that the full age assessment would not be disclosed to any third party, including the Respondent, unless she gave her express permission. It is Mr Harrison's understanding that this is a correct statement of the legal position. Unless the Appellant requests the full *Merton* compliant report, or a Court orders it to be disclosed, no other party can see it. It was not therefore the Respondent's fault that she didn't have it.

Discussion and Findings on 'Error of Law'

14. In a written decision dated the 11th May 2017 I found as follows.
15. The task of the First-tier Tribunal in this appeal was to determine whether the Appellant was at risk in Angola. This required it to assess whether her account was true, and whether she had in fact been trafficked for the purposes of sexual exploitation. The parties before me agreed that the question of the Appellant's age was central to both these matters, since the findings of LSS had formed the cornerstone of the reasoning of the CA, and in turn the Respondent's conclusions as to risk.
16. It is the Appellant's contention that in its approach to the question of age, the Tribunal made two related errors.
17. The first was the assumption that the LSS age assessment was reliable at all. The Tribunal acknowledged the Appellant's submission that this document was not a *Merton* compliant assessment, and yet at paragraph 35 to 38 makes no clear finding on whether or not it was. I am satisfied that this complaint is made out. The Tribunal was not obliged to accept that findings of the social workers at all,

much less in the scant form that they were expressed. If a *Merton* compliant report had been produced, then of course that was something that could have attracted significant weight, but no finding was made to that effect. The Tribunal purports to have made its own assessment (at the insistence of Mrs Johnrose) at 38, but as Mr Harrison agreed, this was hardly a holistic evaluation.

18. The second was that the Tribunal appeared to proceed on the basis that the summary assessment had to be accepted because the Appellant herself had not challenged it, or even asked for it to be produced: see paragraph 36. This was an error of fact. The Appellant had asked for it to be produced, and had given her express consent to it being disclosed to the Respondent, as long ago as July 2015. Even if that were not so, the Tribunal has manifestly failed to weigh into the balance the Respondent's failure to consult or produce the document herself; it was after all a piece of evidence upon which she sought to rely. The Respondent's own guidance on this matter illustrates why that was important:

5.3 Obtaining the local authority's age assessment Case owners should request a full copy of the local authority's age assessment and confirmation from the local authority that it has been carried out in compliance with the guidelines in the *Merton* case. In some instances local authorities may still feel unable to share their full age assessment with the Agency citing data protection and/or confidentiality concerns. Whilst accepting that the information contains sensitive personal data, it should be pointed out to the local authority that there is provision for sharing such information with the Agency within the Data Protection Act 2008.

This approach reflects the findings of the judge in *A & WK v SSHD & Kent County Council* [2009] EWHC 939 (Admin), where it was considered that, "since it [the local authority assessment] is being obtained for the benefit of the Home Office as well as the authority, it is in my judgement entirely reasonable that it should be disclosed to the Home Office. Only if the full report is available can it be seen whether there are any apparent flaws in it and whether it is truly *Merton* compliant. And sight of the full report will be essential if there is any challenge raised to the decision by the Home Office."

Case owners should discuss with the relevant local authority and obtain in writing, at the very least their assessment conclusion, the reasons on which their conclusion is based and an assurance that their assessment complies with the local authority's assessment policy and the guidelines in the *Merton* case. Where applicants have been assessed as adults by the local authority, but maintain they are children, it is important to establish the local authority's reasons for their decision on age. The applicant should be asked to provide the age assessment or provide permission for the local authority to disclose it (where the local authority is reluctant to do so). If an applicant refuses to disclose the age assessment, this should be taken into consideration when assessing all evidence in the round, and if appropriate raised in the substantive decision and at any appeal. In particular, if the applicant has refused to provide the full age assessment before the appeal hearing, the

caseworker should consider writing to the tribunal asking for an order that the claimant discloses the assessment and, if necessary, this application should be pursued further at the Case Management Review (CMR) or appeal hearing.

Finally, if evidence relating to an applicant's age conflict, a judge may want to compare the experience and qualifications of those completing the evidence (often medical evidence submitted by a paediatrician and a local authority age assessment). In order to defend the local authority age assessment at appeal, case owners should ask local authorities to include with the age assessment report, the social workers' age assessment experience (including length of practise) and qualifications.

19. It is apparent from the decisions of the Competent Authority, the Respondent and the First-tier Tribunal how important the decision of the social workers in Leicester turned out to be. Their negative assessment of the Appellant's credibility was to form the basis for the decisions made by all three decision-makers that followed. It was therefore of real importance that those three bodies could be satisfied that the social workers had conducted a lawful assessment, by following the correct procedures and asking all the relevant questions. It is very difficult to see, on the basis of the summary form 'Outcome of Age Assessment', that this had been done.
20. For those reasons I was satisfied that the grounds of appeal are made out, and determined that that the decision must be set aside.

The Re-Made Decision

The Appellant's Evidence

21. The Appellant gave oral evidence and adopted her witness statement dated 18th August 2016. She maintains that she was born in 1999, and is national of Angola. The Appellant states that she never attended school as a child but that her father would teach her things at home.
22. The Appellant describes being aware of her father's involvement with FLEC during her childhood. She knew that it involved him wearing a green uniform and that he would carry a gun, but she does not know what role he might have had or the details of the problems he might have had.
23. In 2010 or 2011, when the Appellant was 11 or 12, she was at home with her mother and brother. She was getting ready for bed. She does not have a great deal of recollection about what happened but she can remember people screaming. In her statement she says that after a few days she found out that there had been a fire and that her mother and brother had been killed. The rumour was that the fire had been started by government soldiers. The Appellant's

bundle contains colour photographs of what are said to be scars sustained during the fire.

24. The Appellant's father rebuilt their home and she remained living there with him. The Appellant can recall attending a demonstration with her father, and him being detained for 1 day. She says that sometimes he would drink and blame himself for what happened. He disappeared in April or June 2012. He went to the market but never came back.
25. The Appellant stayed living in the family home. She got some help from a neighbour. She learned to cook and look after herself. Towards the end of 2012 government soldiers started coming to the family home. They raped the Appellant. She does not like to talk about what happened to her.
26. The Appellant finally left Angola with the help of a man whom she knew to be a friend of her father. His name was Joao. He had visited her on a couple of occasions and had suggested that she should leave Cabinda. He said that he would help her find her father. When he told her that it would cost money, and she said that she had none, he suggested "another way to pay". The Appellant had sex with Joao and he agreed to get her out. They travelled to Luanda by boat and stayed in a house for three days. Then Joao and his friends took the Appellant to an airport and arranged for her to go "somewhere she would have a better life". The Appellant travelled with three other girls, none of whom knew each other.
27. After they arrived in the UK they were taken to a house with lots of rooms. The Appellant was informed that her "job" was going to be having sex with men. Then Uncle Joao took the Appellant on a journey by train. He dropped her at a station (which she now knows to be Leicester) and told her to wait for him there. She waited overnight at the station but he never returned.
28. At the hearing the Appellant was asked to comment on the age assessment process. She remembers meeting a social worker called Goodluck who asked her questions for about three hours about her life. When she told him about her father and her past he and the interpreter had shared a joke. He said that "he like this kind of story". The other social worker told the Appellant to look in the mirror and told her that she looked like she was older than 20. They did not believe that she had been born in 1999. The Appellant was subsequently given a number to call to complain about Goodluck and the other social worker. She spoke with someone called Jessica and told them that they had laughed at her. Jessica had apologised and said that they should not have done that.

Age

29. By the date of the re-making the full age assessment report had become available. Mr Harrison confirmed that having had an opportunity to see the full report, the Secretary of State maintained her challenge to the Appellant's claimed age. The assessing social workers are identified as Goodluck Msangi and Surjan Sharma. The assessment is said to have taken place on the 30th January 2015 and the 5th February 2015, approximately two months after the Appellant's arrival in the UK.
30. The report begins by recording how the Appellant came into contact with LSS. She states that she had been left in a train station by her uncle Joao and that she had stayed there for 5 nights before she saw a black man speaking Portuguese on the telephone. She approached him and asked for help. The report confirms that LSS were contacted by a member of the public, (whose name and mobile telephone number are supplied). This gentleman told LSS that he speaks only a little Portuguese, his main language is French and that he had seen her and thought she needed help. Later the report notes that the Appellant said that she had come to the UK with belongings, and that someone else had them: she "would not share who". Social workers contacted the police about this element of the claim who advised that after the member of the public had called them about the Appellant, officers had viewed CCTV going back three weeks, but could see no sign of the Appellant being at Leicester station.
31. The Appellant advised the social workers that she had come to the UK to look for her father, but at other times said that it was because she wanted to claim asylum. The social workers observed on more than once occasion that the Appellant became tearful and distressed when she spoke about her father and his disappearance; she also cried when asked about having sex with Joao. At all other times during the age assessment process she appeared "calm", "very confident" and "self-assured". The authors of the report record [at page 5]; "in our view and experience, this appeared to be very unusual even having taken into consideration [the Appellant's] developmental level, cultural background and recognition of experiences during her journey which may have increased resilience".
32. As to her appearance both social workers considered that she looked older than twenty. This view was shared by the Appellant's initial foster carers, the interpreter used in the age assessment process and Police Constable Carolyn Boyce who interviewed the Appellant in relating to the possible sexual abuse. The foster carers who were looking after the Appellant at the date of the assessment reportedly thought her to be about 19 years old. The carer reported that she had had conversations with the Appellant which indicated

that she was older than her claimed age of 15; for instance she had told the carer that she wanted to have a white partner so that her children would be light skinned. She had weaves in her hair which she advised social workers she had done herself, learning from the internet. Foster carers reported that the Appellant has never had any concerns with self-care. She was provided with sanitary towels, waxing beauty and skin care products, all of which she was able to use independently without guidance. She was able to dye her hair herself. She had denied having ever had access to any of these products in Angola.

33. In respect of her education the report notes that there was some discrepancy in the Appellant's evidence. She had consistently denied having any sort of formal education. She said that her father had taught her at home, for instance to read the Bible, but then said that he had not been to school himself. He spoke only Kimbomdo and Portuguese. Then at one point she mentioned having gone to school; she retracted this and said that she was talking about a friend having been at school. She became agitated when challenged about this. The Appellant consistently stated that she had never heard English before she arrived in this country (in late November 2014). Social workers observed however that the Appellant demonstrated her ability in the English language throughout the age assessment process. She corrected the interpreter and was able to confidently write down names in English. She replied in English when asked whether she wanted a break or a drink. Their observations accorded with information provided by the foster carers, who reported that the Appellant was able to communicate very competently in English within two hours of her arrival in their home in January 2015. On the 13th January 2015 she had been assessed for entry into an ESOL class as being at levels 2-3. That means that she is judged to be able to hold a conversation in English.

34. The Appellant told the social workers that she had lived with her mother, brother and father until she was about 8 years old. She remembers her house being on fire. She says that her mother rescued her and then when she returned to save her brother, they were both killed. Her father rebuilt their home from galvanised steel. There were no utilities or sanitation in the whole village. After her father had disappeared she just wanted to wait for him to come home. When Joao offered her a way out she believed that he would help her to find her father. She went with him to the house in Luanda where she stayed for 6 months. There were a family in the house but she was not allowed to interact with them. She denied knowing the names of the two adults and five children who lived in the house. She stayed in her room and would be provided with food. She later stated that she had watched television with the children and that was how she had learned to use a television.

35. Foster carers advised that the Appellant was “very competent” at using a computer, the iPad and mobile telephone, and required no support in using these things. It is noted that the Appellant had consistently denied having used any of these technologies before her arrival in the UK. On the 14th February 2015 it came to social workers’ attention that the Appellant had set up her own YouTube channel, and had posted a film where she commented on issues surrounding skin colour. It was called “Light Skin and Dark Skin” and she could be seen speaking in English about whether the colour of skin can determine a person’s ethnicity. The video was removed from YouTube after social workers told the Appellant that they had seen it. When she was asked about it she “reacted by smiling” and saying nothing. When asked by Surjan Sharma why she had denied being able to speak English the Appellant had replied “I don’t need to answer this”. The Appellant also commented on someone else’s film on YouTube. Her comments were in English and again related to skin colour.

My Findings

36. I deal first with the Appellant’s age. I am satisfied that the age assessment report now produced is detailed, lengthy and *Merton* compliant. The Appellant was clearly aware of what the process was for, and she was given an opportunity to provide relevant evidence. She was put on notice that the social workers doubted her claimed age. She was asked about her background, her family circumstances and history and her ethnic/cultural origins were considered. The social workers probed her credibility because they had reason to believe that she was not a child as claimed: those reasons were the lack of documentation and their assessment that her appearance strongly suggested that she was over 20. A number of reasons are given for why they do not accept that she is a child. These are:

- a) her appearance;
- b) the discrepancies in her evidence about her background;
- c) the discrepancies in her evidence about her journey to the UK;
- d) the fact that all other professionals who have interacted with her agree that she seems to be an adult. These include the police officer who investigated her allegations of sexual abuse by Joao, and two sets of foster carers.

37. Before me the Appellant gave evidence to the effect that the

social workers had behaved badly, and that she had been laughed at and intimidated throughout the assessment. I place no weight on that evidence. I note that the Appellant has been represented throughout this process. There is no evidence before me that she made any complaint as she now alleges. Ms Johnrose was aware of no steps being taken in the past to address the matters now raised by the Appellant.

38. Some of the 'discrepancies' that arise from the age assessment attract little weight. I am not for instance minded to attach any weight to the allegation that the man who found the Appellant in Leicester train station denied that he spoke Portuguese, as she had claimed. No evidence is produced that he had given social workers that information. Nor do I consider that there is any inconsistency in the Appellant stating on one hand that she came to the UK to find her father, and on the other that she wanted to claim asylum.
39. There are however matters recorded in the age assessment that seriously damage the Appellant's credibility, including her claim to have been born in 1999.
40. First amongst these are the discrepancies in respect of her ability to communicate in English, and her skills in using modern technology. The Appellant told the social workers that she lived in a home constructed out of galvanised steel which had no running water, electricity or sanitation. She had never been to school (a statement to the contrary was retracted) and nor had her father. She had never heard English, nor used the internet, before she arrived in this country. She claims to have arrived in the UK at the end of November 2014 and yet was observed by her foster carers to have been able to communicate effectively in English within hours of being in their home in mid-January 2015. They said that she was "very competent" in using a mobile phone that she had purchased herself, a laptop and an iPad. She did not require any assistance in using any of these technologies. I agree with Mr Harrison that it is wholly improbable that a girl who has grown up in very basic circumstances with no education at all and no exposure to modern technologies would be able, within six weeks of her arrival in this country, to communicate effectively in English and use the internet to such a degree of proficiency. The evidence about the YouTube film, and the comments posted by the Appellant on another film, are particularly striking. I do not believe that someone from the Appellant's claimed background would even think of posting social commentary like that on the internet within weeks of her arrival in a new country, never mind having the ability to do so.
41. The social workers also noted that the Appellant was able to use various beauty products, including putting weaves in her own hair and

using coloured dyes. That in itself would be unremarkable for a teenage girl, but when set in the context in which the Appellant places herself, is wholly incongruous. The Appellant claims to have lived with her father in the most basic of circumstances and denied ever having had access to any of these products before, yet within weeks of her arrival was able to construct “elaborate” hairstyles, use waxing strips, weaves, and skin care products. Again, it seems very unlikely that the Appellant would be able to use these products with such proficiency had she not had access to them before. This must cast doubt on her claim that she had spent all of her previous years living in a galvanised steel shelter with no running water or electricity.

42. The report further reveals discrepancies in the evidence that go to the chronology. In her witness statement the Appellant said that when Joao took her to Luanda they had stayed in a house for 3 days; she told social workers that she was there for 6 months. She claimed to have slept rough at Leicester railway station for 5 nights; the police could find no trace of her on CCTV.

43. Having considered the report in detail, and in particular the views expressed by the Appellant’s foster carers, I am satisfied on the balance of probability that her year of birth is considerably earlier than 1999. The Appellant has provided inconsistent evidence about her childhood and journey to the UK. She has exhibited behaviours consistent with her being an adult. All of the professionals that she has had interaction with since her arrival believe her to be an adult; the opinion of the foster carers, police officer and social workers is based on her behaviour as well as her appearance and demeanour.

44. I am unable to conclude, even to the lower standard, that the Appellant has given a truthful account of her childhood and the reasons why she came here. At the centre of her account is a fire that destroyed the family home, and killed her mother and brother. In her statement the Appellant says that she was getting ready for bed when it happened. All she can remember is hearing people screaming and being put outside by her mother. She says that a few days later she “found out” that there had been a fire. It may, in view of the trauma involved, be plausible that a victim of such an event would ‘block out’ her memories. The evidence in the statement is however to be contrasted with what the Appellant told social workers: “[She] remembers her house being on fire with her mother and brother in it. [She] explained that her mother did manage to rescue her but when she returned back into the house to get her brother they were both trapped and died”. I note that in her asylum interview a further discrepancy arises in that the Appellant told the interviewing officer that she and her family were all asleep when the fire started. She was able to recall being on fire herself.

45. On the lower standard of proof I do not accept that the events that the Appellant described in her childhood took place, that she was brought from Cabinda by an old friend of her father, that she was a child upon her arrival in this country, that she was left in Leicester train station for 5 days or that she in fact arrived in this country when she claims to have done. On the evidence before me I find it to be more likely that she came to this country as an adult, and that she was in the UK for a considerable amount of time before she came to the attention of the authorities.
46. I cannot rule out the possibility that the Appellant has suffered some trauma in her life. The social workers, and indeed the immigration officer who conducted her asylum interview, noted that she became tearful when talking about her father, and about being forced to have sex in order to leave Angola. I saw the same emotional reaction for myself when she gave her oral evidence. I have seen the colour photographs which do appear to show that the Appellant does have extensive scarring, in particular to her feet. There is a possibility that she is a victim of persecution and/or trafficking, albeit not in the manner that she has described. In the absence of any credible evidence about what the true account might actually be, I am unable to find that the Appellant is at risk today. To do so would be impermissible speculation.
47. The protection claim must accordingly be dismissed. Ms Johnrose did not pursue a discrete human rights claim before me, conceding that any private life case would stand and fall with the protection issues.

Decisions

48. The determination of the First-tier Tribunal contains errors of law and it is set aside.
49. The decision is remade as follows:
“the appeal is dismissed on protection and human rights grounds”.
50. There is an order for anonymity.

Upper Tribunal Judge Bruce
10th June

2017