



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

Appeal Number: PA/12543/2017

THE IMMIGRATION ACTS

**Heard at Bradford
On 25th September 2018**

**Decision & Reasons Promulgated
On 18th January 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE KELLY

Between

[T N]

(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Dingley, Solicitor

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. In a decision promulgated on the 10th October 2018, I held that First-tier Tribunal Judge Bradshaw had erred in law by dismissing the appeal against refusal of the appellant's Protection Claim without adequately explaining why the appellant would not be at risk from her former trafficker (to whom she was still heavily indebted) even if she were to relocate to a different part of Vietnam. More specifically, I held that the judge had failed to deal with the question of whether there was a real risk that the trafficker would be able to trace her whereabouts through the Vietnamese 'Ho Khau' registration system. Having made that decision, I concluded that it was

necessary to hear further argument and (if the parties wished, further evidence) concerning the issue of the feasibility of relocation.

2. I previously noted that the First-tier Tribunal did not make an anonymity direction and I thus concluded that little purpose would be achieved by making one now.

The Primary Facts

3. The accepted facts are as follows. In October 2004, at the age of 23 years, the appellant married a builder ('[VT]) with whom she had a son ('[VB]) who was born in 2006. She left her husband in 2012 due to his drinking and infidelity and went with her son to live with her widowed mother. When it became clear that there was no prospect of the appellant becoming reconciled with her husband, she began to make enquiries about working abroad. A local man ('Cuong') agreed to arrange for her to obtain work with an electrical company in Iraq for a fee of 90,000 Dong. Having paid the fee with borrowed money, she flew to Iraq in August 2014. She was met at the airport and taken to a room where she fell asleep. Upon awakening, a woman called 'Hien' told her that there was no electrical company and that she would now be expected to offer the services of a prostitute. However, the other women had already planned their escape and so, whilst the 'boss' was drunk in celebration of his birthday, the appellant ran away with the other women. They travelled overland by lorry for a period of 4 months before crossing by ferry to the UK. The appellant became separated from Hien on arrival. She thereafter met a Vietnamese man called '[LT]' who took her back to his shared accommodation in London where he tried to find her employment without success. When in March 2015 she told him that she suspected she was pregnant with his child, he abandoned her. However, a woman ('[Q]') who resided in the next room arranged for her to work for a family in Leeds in return for 20 per cent of her wages. However, when [Q] telephoned the family to say that the appellant had confirmed that she was pregnant, they stated that they no longer wished to employ her. [Q] therefore abandoned her at Leeds Railway Station, where she was later taken in by another Vietnamese woman ('[V]'). [V] and the appellant's midwife referred her to a charitable organisation that in turn referred her to a lawyer with the result that she claimed asylum on the 23rd June 2015.
4. The appellant gave birth to a boy ('[K]') on the 12th October 2015. Her elder son ([VB]) is now aged 12 years and lives with his grandmother (the appellant's mother) in Vietnam. She fears that on return she will be forced by Cuong into prostitution or domestic servitude with a view to repaying the debt she owes him for arranging her travel to Iraq in August 2014.

The rival submissions

5. Mrs Pettersen drew attention to the fact that it had been the appellant's own evidence that Cuong had not pursued the matter with the appellant's mother after she had told him that she did not have the money to repay

her daughter's debt. Mrs Pettersen argued that this suggested that Cuong would not be strongly motivated to pursue the appellant for repayment should she return to Vietnam and relocate away from her home area. Moreover, the appellant's elder son ([VB]) would be able to visit his mother elsewhere in Vietnam without having to register his temporary residence during his absence from his grandmother's home. It is not therefore reasonably likely that Cuong would devote the necessary resources (by way of the payment of bribes) to trace the appellant through the Ho Kua registration system simply because he had noticed the temporary absence of the appellant's son from the village. Moreover, whilst the evidence suggests that it is due to be replaced with an online national database in 2020, the current system of registration is with the village or provincial administrator and is recorded in a "household registration book" [see the CPIN, "Vietnam: Victims of Trafficking", at 9.2.1]. It is thus difficult to see how Cuong would be able to trace the appellant without a pre-existing lead as to her general whereabouts.

6. Mr Dingley submitted that the concept of debt bondage related to the debtor rather than to family members. Accordingly, the trafficker's apparent indifference to pursuing the appellant's mother for repayment was without significance, and it was reasonably likely that his interest in pursuing the debt would be reignited upon the appellant's return to Vietnam. In answer to the argument that, as a local man, Cuong would be unaware of the appellant's return, Mr Dingley argued that he would be alerted to this fact by her elder son leaving his grandmother's house in to join his mother in a different part of Vietnam rather than merely to pay her a visit. Thus, even if he did not do so immediately, Cuong would be bound to notice [VB]'s absence sooner or later and take steps to trace her. The appellant would be bound to register her whereabouts to ensure her own survival and that of her children. Professor Christoph Bluth reports that "the endemic corruption means it is common for loan sharks, traffickers and other criminals to track their targets using household registration system" [paragraph 5.3.11 of his report].

Discussion

7. For the reasons summarised at paragraph 4 (above), I accept Ms Pettersen's argument that the evidence suggests the risk to the appellant from Cuong is more theoretical than real. Although Professor Bluth refers to traffickers using "posters" and "social media" to locate their victims, his opinion that the risk from Cuong is "substantial" is nevertheless based upon the premise that "the government has ensured that any person inside the country can be located" [5.3.18]. However, the evidence contained within the CPIN (above) suggests that the purpose of the Ho Kua registration system is to ensure an appropriate allocation of resources for public services rather than the provision of a centralised means for tracking the movements of particular individuals. Whilst I accept Professor Bluth's view that "traffickers are able to bribe the appropriate authorities" to obtain information, this appears to presuppose that the trafficker is already armed with sufficient information concerning the victim's general

whereabouts so as to enable him to identify the 'appropriate authority' in question. I am not therefore satisfied that Professor Bluth has sufficiently explained the mechanism whereby Cuong would be able to utilise the Ho Kua registration system to trace the appellant upon her relocation to a different area of Vietnam.

8. I am nevertheless satisfied, at a more general level, that it would be unduly harsh to expect the appellant to relocate within Vietnam. This is because I accept Professor Bluth's view that victims of a trafficking are a vulnerable group that typically lack financial resources, significant professional skills, or a family network. The appellant fits this profile save for the fact that she has a widowed mother whose whereabouts are known to both her husband and Cuong. Her lack of financial resources, combined with the fact that she is a single parent with a young child, means she would in my judgement be peculiarly susceptible to falling prey to organised crime, loan sharks, and migration brokers, and thus to the risk of further exploitation. She would also lack the local knowledge that would be necessary to navigate the perils of such a hostile environment [5.3.8 to 5.3.10, and 5.3.19 of his report]. I have therefore concluded that, on this basis, the appellant would be at risk of exploitation on return and that that risk would extend throughout the whole territory of Vietnam.

Notice of Decision

Having already set aside the decision to dismiss the appellant's appeal against refusal of her Protection Claim, I now substitute a decision to allow that appeal on the ground that her removal would be contrary to the obligations of the United Kingdom under the Refugee Convention.

Anonymity is not directed.

Signed

Date: 10th January 2018

Deputy Upper Tribunal Judge Kelly