



IAC-AH-SC-V2

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

**Appeal Number: UI-2022-002602  
On appeal from PA/53271/2021  
(HU/15427/2019 & IA/08978/2021)**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On the 19 October 2022**

**Decision & Reasons Promulgated  
On the 23 November 2022**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON  
DEPUTY UPPER TRIBUNAL JUDGE METZER**

**Between**

**MWM  
(Anonymity order made)**

**Appellant**

**and**

**THE SECRETARY OF STATE FOR  
THE HOME DEPARTMENT**

**Respondent**

**Representation:**

For the Appellant: Mr Rashid Ahmed of Counsel, instructed by Mugo & Co,  
Legal Consultants (UK)

For the Respondent: Mr Stephen Walker, a Senior Home Office Presenting  
Officer

**DECISION AND REASONS**

1. The appellant appeals with permission against the decision of the First-tier Tribunal dismissing her appeal against the respondent's decisions on 10 September 2019 and 8 June 2021 to refuse her international protection pursuant to the Refugee Convention, humanitarian protection or leave to remain on human rights grounds. The Appellant is a citizen of Kenya.
2. **Anonymity order.** Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. **Failure to comply with this order could amount to a contempt of court.**

### **Background**

3. The Appellant came to the UK in 2007 on a valid student visa. She overstayed her visit visa. In 2009 she began a relationship with a man from Burundi who was granted status in 2010. The appellant made unsuccessful applications to regularise her estate from 2014 onwards on the basis of her private and family life. In 2017 the relationship broke down on the basis, amongst other things, of allegations by him of verbal abuse.
4. After her human rights application was refused in 2019 and removal directions were issued, the Appellant claimed asylum. She claimed that she would be at risk on return to Kenya on the basis of her fear of a particular tribe (the Mungiki) of which she was a former member, and her former partner who was still a member. She also claimed to be suffering from mental health issues which would make her reintegration into Kenya too difficult.
5. On 8 June 2020, the Appellant's application was rejected on all grounds.

### **Grounds of appeal**

6. The Appellant's appeal grounds claimed numerous errors of law. The most serious in our view were a failure to consider the relevant background material concerning the Appellant's home country of Kenya (erroneously stated to be Zimbabwe in the grant of permission to appeal) and with reference to background material concerning a different State, namely Iraq and incorrectly referring to the Appellant as male. There were also serious criticisms of the First-tier Tribunal's approach to the medical evidence.
7. The matter came before us to determine whether the First-tier Tribunal erred in law.

### **Upper Tribunal hearing**

8. At the outset of the hearing, Mr Walker properly and in our view correctly accepted that the Decision contained errors of law and the First-tier Tribunal decision could not stand.

9. We concur. The appeal will be remitted to the First tier Tribunal for the decision to be remade on all issues with no preserved findings of fact or credibility. Whilst we would encourage speedy decision-making, it clearly is imperative for the correct guidance to be considered and for the Judge to finally check the draft for such elemental errors including, as here also, the gender of the Appellant, before sending the decision for promulgation.

**Notice of Decision**

10. The decision of the First-tier Tribunal involved the making of material errors of law and is set aside.

Signed [Anthony Metzger KC](#)  
Deputy Upper Tribunal Judge Metzger

Date 20 October 2022