



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2022-006531

First-tier Tribunal No: PA/55284/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

9<sup>th</sup> January 2024

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN**

**Between**

**HNN**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr. T. Bahja, Counsel instructed by Duncan Lewis Solicitors  
For the Respondent: Mr. S. Walker, Senior Home Office Presenting Officer

**Heard at Field House on 14 December 2023**

**Order Regarding Anonymity**

**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.**

**DECISION AND REASONS**

1. In a decision promulgated on 11 July 2023 I set aside the decision of the First-tier Tribunal to be remade.
2. I continue the anonymity order made at the previous hearing given that this is protection claim, and that children are involved.

### **The hearing**

3. The appellant attended the hearing. She had provided an updated witness statement. Mr. Walker stated that he had no questions to put to the appellant. I heard oral submissions from both representatives following which I reserved my decision.
4. I have taken into account the documents contained in the bundle prepared for the remaking (357 pages) which includes the Skeleton Argument.

### **Decision and reasons**

5. It is not necessary for me to set out here the appellant's case. It is set out in detail in the evidence in the bundle, and there is no dispute as to the core facts. There was no challenge to the evidence set out in the appellant's updated witness statement. The issue before me is a narrow one, whether or not the appellant and her daughter are at risk of having FGM performed on them if they return to Nigeria. The appellant's family members, including her daughter, are dependent on her appeal.
6. I have very carefully considered the submissions made in the Skeleton Argument. However, I find that it is not necessary for me to make a decision on the issue of the appellant's risk on return being due to her belief in voodoo. This is because it is accepted by the respondent that the appellant cannot return to her home area as set out at [15] of the First-tier Tribunal decision of Judge Zucker:

"Having heard the Appellant's evidence, Mr Eaton quite properly and professionally contended that the Respondent's position with respect to the appeal had altered and that the issue was one of internal relocation. It was accepted that the Appellant could not be expected to settle in her husband's home area nor that the Appellant could look to her own family for support for fear of her husband's family thereby becoming aware of the family's return."

For the avoidance of doubt, I preserved this in the error of law decision. As set out above, the respondent's position was that the appellant could internally relocate. However, I have expert evidence before me, which was not before the First-tier Tribunal, and which was not challenged by Mr. Walker, that the appellant cannot internally relocate in Nigeria. Having carefully considered this evidence, I find that the appellant's asylum appeal succeeds on the basis that there is no sufficiency of protection, and she cannot internally relocate.

### *Expert evidence*

7. The appellant provided an expert report from Dr. Imranali Panjwani (pages 48 to 88 of the bundle). He sets out his qualifications and experience (pages 50 and 51) and provides his CV (pages 89 to 93). He sets out the specific work he has done relating to Nigeria and FGM at 1.7. He is aware of his duty to the court (1.8, 2.3, 2.4). At 2.2 he sets out the documents he has read prior to completing his report. His report is detailed and thorough. As stated above, there was no

challenge to this report from Mr. Walker, either to the ability of Dr. Panjwani to produce such a report, or to its contents. I find that I can rely on the evidence of Dr. Panjwani.

8. At Part 6 of his report Dr. Panjwani addresses “the likelihood of the extended family discovering [the appellant’s] return and problems of internal relocation. At 6.2 he states:

“[The appellant’s] extended family could trace her whereabouts in Nigeria through tribal and communal networks. Firstly, it is common for extended families to use either three methods to trace someone - 1) through a pyramid or hierarchy usually head by a criminal or secret society elite; 2) second, through a flexible tribal or familial network and 3) third, a self-contained cell where individuals are appointed with specific responsibilities to carry out certain tasks. Given the fact that criminal or secret society links are not relevant to this case, methods 2 and 3 are could plausibly be used by [the appellant’s] husband’s family to trace her and her daughter. Her extended family could use tribal and familial networks to find the whereabouts of her daughter in Nigeria if they were to return to the country and/or appoint someone within their family to carry out a particular task such as kidnapping which is used to take a young female away from her parents or school so that a traditional cutter can enforce FGM on her. What gives tribal networks their strength is the loyalty to their ethnicity.”

He then cites reports to substantiate his analysis. At 6.2 he states:

“During 6th - 9th September 2021, I spoke to my Nigerian contact in the UK who himself (as well as his wife) are Yoruba. He also spoke to his colleagues in Nigeria about the manner in which a family member can be found through tribal networks. He stated that generally it’s possible and easy for extended family to trace/locate one of their members who recently returned to any part of Nigeria. This is achieved through a complex network of connections of tribal members who have strong links with heads of families. Ethnicity and tribal affiliations have considerable influence on access to opportunities in Nigeria, hence tribes tend to gravitate towards one another. Such links become a useful support for the individual but also a means for keeping track of individual progress with the view of improving the collective being. In most cases, heads of families have direct communications with most senior members in other states so as to facilitate community development as members are required to make remittance home. These connections form a means by which heads of families are able to enforce custom and tradition. It is therefore plausible that [the appellant], her daughter and family can be found through the aforementioned tribal networks regardless of location.”

9. Sufficiency of protection is addressed at part 7 of the report - “Protection from police authorities in Nigeria and issues of legal enforcement of FGM”. At 7.1 Dr. Panjwani states:

“It is also important to note that state protection for victims of FGM in Nigeria is ineffective. Police in Nigeria essentially treat domestic violence and FGM as a family or community matter rather than a state one. Even if [the appellant] were to lodge a formal complaint that members of her extended family intend to carry out FGM upon herself or her daughter, the police generally do not interfere in a tribe’s or family’s practice of FGM. This puts [the appellant] and her daughter at immediate risk if they were removed to Nigeria as per the UK’s own country policy and information note:

“Police are also reported to treat the practice as a family or community affair, who [police] may also respect the tradition themselves, and may not intervene at all.”<sup>52</sup>

And,

“DFAT assesses as credible advice from local sources that it remains extremely difficult for women and girls to obtain protection from FGM. Despite an increase in reports received by the Nigerian Police Force (NPF) and the National Human Rights Commission (NHRC), strong community support for the practice and traditional attitudes of police suggest FGM is likely to continue.”

10. At 7.2 of the report Dr. Panjwani talks about the lack of enforcement of the law prohibiting FGM. At 7.3 he discusses the fact that FGM is not always reported, and the low prosecution rates even when it is. At 7.5 he states that the Nigerian Police Force “suffers from low capacity, insufficient training and corruption which means [the appellant] and her children may not be fully protected or guaranteed security as Nigerian citizens regardless of location”. Corruption is covered in more detail at 7.7 and 7.8:

“Corruption inside the government and police has resulted in people taking justice in their own hands and resorting to bribery either in order to escape the justice system or to take their matter forward with the police. It is plausible that [the appellant] would have to bribe police officers in order for the threat of FGM on her daughter to be taken seriously and even if the matter is taken forward by the police, there is little guarantee that her extended family will be held accountable as they also can bribe police officers and government officials.”

11. At 7.9 he states “There is also evidence to suggest that corruption has spread inside the Nigerian judiciary. Even if [the appellant] reports that her extended family intend to force FGM upon her daughter, evidence indicates that senior officials are rarely punished for corruption and cases make little progress in courts”.

12. Dr. Panjwani concludes at 8.9 and 8.10:

“State protection for victims of FGM is ineffective. Police in Nigeria essentially treat FGM as a family or community matter rather than a state one. Even if [the appellant] were to lodge a formal complaint that members of her extended family intend to carry out FGM upon her daughter, the police generally do not interfere in a tribe’s or family’s practice of FGM.

The Nigerian Police Force also suffer from low capacity, insufficient training and corruption which means [the appellant] and her children may not be fully protected or guaranteed security as Nigerian citizens regardless of location.”

13. Finally he states:

“There is a lack of protection for victims of FGM in Nigeria and it is regarded as a tribal and communal issue which puts [the appellant], her daughter and family at a plausible risk of persecution by her husband’s family if they were removed to the country.”

14. Taking all of the above into account, I find that the respondent accepts that the appellant and her daughter are at risk of FGM being carried out by her husband’s family. I find that it is accepted by the respondent that the appellant cannot return to her husband’s home area. It is accepted that she cannot turn to her own family for support due to the risk of her husband’s family becoming aware of her presence in Nigeria. Mr. Walker submitted that the respondent’s position remained the same, and that the appellant could internally relocate. However, the evidence from Dr. Panjwani is that the appellant’s husband’s family will be

able to find her wherever she is in Nigeria using tribal and communal networks. I find that her husband's family will be able to find her not only through her own family, but through wider networks in Nigeria. I therefore find that the appellant and her daughter are at risk from her husband's family throughout Nigeria, and that they cannot internally relocate.

15. Further, I find that there is no sufficiency of protection in Nigeria for the appellant and her daughter for the reasons set out in detail by Dr. Panjwani in his report, which were not challenged by the respondent.
16. I find that the appellant has shown that she and her daughter are at real risk of having FGM performed on them if they return to Nigeria. I find that there will not be a sufficiency of protection from the authorities, and that the appellant and her daughter will not be able to internally relocate to avoid the risk.

### **Conclusions in relation to refugee protection, humanitarian protection and Articles 2 and 3**

17. Considering all the above, I find the appellant's claim to be a genuine refugee in need of international protection to be well founded. I find that there is a real risk that she will suffer persecution on return to Nigeria, and so her claim succeeds on asylum grounds. As I have allowed her claim on asylum grounds I do not need to consider her claim to humanitarian protection. I find that returning her to Nigeria would cause the United Kingdom to be in breach of its obligations under Articles 2 and 3 of the ECHR.
18. As I have allowed the appeal on asylum grounds, I do not need to consider the appeal on Article 8 grounds. I note only that it was acknowledged by Mr. Walker that the appellant's eldest child, who was born in the United Kingdom, will be 10 years old in November 2024.

### **Notice of Decision**

19. The appeal is allowed on asylum grounds.
20. The appeal is allowed on human rights grounds.

**Kate  
Chamberlain**

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
30 December 2023