Upper Tribunal
(Immigration and Asylum Chamber)

JA (human rights claim: serious harm) Nigeria [2021] UKUT 0097 (IAC)

THE IMMIGRATION ACTS

Heard at Field House by *Skype*	**Decision & Reasons Promulgated**
On 25 March 2021	**On 30 March 2021**
	....

Before

THE HON. MR JUSTICE LANE, PRESIDENT
MR C M G OCKELTON, VICE PRESIDENT

Between

JA – FIRST APPELLANT
DA – SECOND APPELLANT
JAD – THIRD APPELLANT

(ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellants: Mr C Ndubuisi, Solicitor, Drummond Miller (Edinburgh)
For the respondent: Ms S Cunha, Senior Home Office Presenting Officer

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(1) Where a human rights claim is made, in circumstances where the Secretary of State considers the nature of what is being alleged is such that the claim could also constitute a protection claim, it is appropriate for her to draw this to the attention of the person concerned, pointing out they may wish to make a protection claim. Indeed, so much would appear to be required, in the light of the Secretary of State's international obligations regarding refugees and those in need of humanitarian protection.

(2) There is no obligation on such a person to make a protection claim. The person concerned may decide to raise an alleged risk of serious harm, potentially falling within Article 3 of the ECHR, solely for the purpose of making an application for leave to remain in the United Kingdom that is centred on the private life aspects of Article 8, whether by reference to paragraph 276ADE(1)(vi) or outside the immigration rules. If so, the "serious harm" element of the claim falls to be considered in that context.

(3) This is not to say, however, that the failure of a person to make a protection claim, when the possibility of doing so is drawn to their attention by the Secretary of State, will never be relevant to the assessment by her and, on appeal, by the First-tier Tribunal of the "serious harm" element of a purely human rights appeal. Depending on the circumstances, the assessment may well be informed by a person's refusal to subject themselves to the procedures that are inherent in the consideration of a claim to refugee or humanitarian protection status. Such a person may have to accept that the Secretary of State and the Tribunal are entitled to approach this element of the claim with some scepticism, particularly if it is advanced only late in the day. That is so, whether or not the element constitutes a "new matter" for the purposes of section 85(5) of the Nationality, Immigration and Asylum Act 2002.

(4) On appeal against the refusal of a human rights claim, a person who has not made a protection claim will not be able to rely on the grounds set out in section 84(1) of the 2002 Act, but only on the ground specified in section 84(2).

DECISION AND REASONS

1. The appellants are citizens of Nigeria, born respectively in 1988, 1980 and 2012. The third appellant is the son of the first and second appellants. The second appellant entered the United Kingdom in 2013 as a student, securing further leave to remain in that capacity until 8 January 2019. The first and third appellants entered the United Kingdom in November 2013, as dependants of the second appellant. They too secured further leave, in line with that of the second appellant, until January 2019.

2. In December 2018, the first appellant submitted a family and private life application, whilst the second appellant submitted a family and private life

dependent spouse application; and the third appellant submitted a family and private life dependent child application.

3. In the application form, the first appellant raised the issue of the risk of kidnapping in Nigeria:-

> "My husband, [second appellant] lost his dad who was kidnapped and grotesquely murdered in Nigeria in 2017 while he was studying at the Glasgow University. The unfortunate incidence about my father-in-law happened in part to extort money from dependants (as is usually reoccurring prevalent cases in Nigeria). Though we initially thought he was randomly kidnapped in [second appellant's] dad's case, it became a lucrative venture for the assailants due to the discovery that their victim's son … is away in the UK with his family. In Nigeria, it is considered a source of wealth for people to have loved ones living abroad, such people are potential targets for high yields and are often preyed upon."

4. In an appendix to the application, the first appellant made reference to "the prevalent high cases of child kidnapping happening in almost everywhere in Nigeria, and the lacklustre efforts of the Nigerian government and agencies to be on top of the cases and protect the rights of its citizenry especially little children. In some instances, these agencies are even complicit".

5. Another appendix to the application raised the issue of the third appellant's position as potential custodian in the service of a family deity:-

> "Due to the prevailing threats and summons for me to ensure that my son [third appellant] is brought back home so that the proper rites can be performed for him to be groomed in preparation for taking over the custodianship of the service of a family deity, a family tradition for which my late father was the chief priest, [third appellant] my son will suffer adverse educational difficulties (western education). If returned to the country of his birth, integration in conformance with continuity of what he is currently privileged to be enjoying currently in the UK will be a herculean and daunting task for [third appellant] in Nigeria.
>
> I will not be able to protect him enough from the weight and force of these kind of traditions and customs. Now that there is the need to perpetuate an on-going family tradition, like in my case. The pressure is surmounting me and my Son. This way of life is a communal lifestyle that is unfortunately being practiced in my family tradition in Nigeria. Only civilization and modernity will gradually help in phasing this out. It is rather very unfortunate that I happened to be come from such a family where these traditions are deeply rooted and adhered to religiously. [Third appellant] cannot run and hide while he is in Nigeria, especially now that the so-called vacancy exists on the demise of my father, and by the line of succession (excluding women), my first son [third appellant] should be the next custodian.
>
> The process of initiation and preparation of the custodian-designate takes a long-time process on the child in question. Such child, and in this case, [third appellant] is expected to be educated traditionally since according to

> them he belongs to the gods, and not to the western education system. And that any western education he is seeking right now is only living on a borrowed time. If [third appellant] returns to Nigeria now, it will just be a matter of time for him to be identified and kick start the process which my father's kinsmen have identified that is the route for my own child. There will be no protection for him as such. We will be helpless in trying to stop him from being taken that route if he happens to be within the confines of the country at this his childhood age. Usually people don't fight this tradition, but I cannot live by idly and conform to a statute that I know is fetish and diabolical for my son."

6. On 4 June 2019, these applications were refused by the respondent. The respondent's decisions in each case constituted the refusal of a human rights claim. The refusal letter, addressed to each of the appellants, stated that the first and second appellants could not meet the requirements of paragraph 276ADE(1)(vi) of the Immigration Rules. Paragraph 276ADE contains the requirements to be met by an applicant for leave to remain on the grounds of private life. Sub-paragraph (1)(vi) contains a requirement that the applicant is 18 or over, has lived in the UK for less than 20 years and that "there will be very significant obstacles to the applicant's integration into the country to which he would have to go if required to leave the UK". Subject to restrictions not here relevant, a person who satisfies the requirement in sub-paragraph (1)(vi) is to be given leave to remain on the grounds of their private life.

7. The decision letter stated that the first and second appellants would not face "very significant obstacles to [their] integration into the country [Nigeria] to which [they] would have to go if required to leave the UK". Both the first and second appellants had resided in Nigeria into adulthood. Each would have retained knowledge of the life, language and culture of Nigeria. Both had already demonstrated an ability to adapt to life in another country; namely, the United Kingdom which, on arrival "was a completely new environment to you". It was considered that the first and second appellants would be able to reintegrate into the culture and way of life of Nigeria. The third appellant's application fell for refusal on the grounds of suitability, as he had not lived in the UK for at least twenty years; nor for at least seven years. It will be noted that the third appellant could not himself satisfy the requirement in sub-paragraph (1)(vi) by reason of his age.

8. Later in the refusal letter, under the heading "Exceptional Circumstances" we find the following:-

> "You [the first appellant] have told us that your father was chief priest and the custodian of the family deity "Okwu-Olusi". You stated your father passed away and by tradition you cannot be the heir due to being female, so this will fall to your eldest child [third appellant]. You state this is not a path you intend to define for your son as you do not want him to grow up in a messy toxic and unfavourable environment where his life will be grounded to traditionalism and fetish voodooism.

> You state that [third appellant] will suffer adverse educational difficulties if returned to Nigeria as he would be expected to be educated traditionally. You claim there has been growing efforts made by your fathers kinsman to ensure that you do not derail [third appellant] becoming the chief priest and that your son is brought to Nigeria for proper initiation rites.
>
> You also told us that your husband who is named as dependant spouse on this application lost his father who was kidnapped and murdered in Nigeria in 2017. You claim this happened in part to extort money from his dependants. You claim the assailants targeted your husband's father after discovering that your husband was in the UK. You state in Nigeria it is considered a source of wealth for people to have loved ones living abroad and are then preyed upon. You claim that you fear yourselves and children may be targeted if returned to Nigeria and are at risk of being kidnapped for ransom.
>
> You were offered the opportunity to make an Asylum claim on 21 May 2019. You chose to not make an asylum claim. We have therefore considered your claim under the private life route only."

9. The appellants appealed to the First-tier Tribunal against the refusal of their human rights claims. Their appeals were heard in Glasgow on 24 September 2019 by Judge J C Grant-Hutchinson. In a decision promulgated on 16 October 2019, she dismissed the appellants' appeals. Having noted that "very significant obstacles" was unlikely to be met by mere hardship, difficulty, hurdles, upheaval or inconvenience, even where multiplied, Judge Grant-Hutchinson analysed in detail the backgrounds and positions of the appellants. She noted that the first appellant had worked for the Inland Revenue in Nigeria and had been able to find work in the United Kingdom as a mortgage legal adviser and as a credit controller. These were transferrable skills, in the view of the First-tier Tribunal Judge. Although the first appellant suffered from hepatitis B, there was no evidence as to why she could not receive treatment for this condition in Nigeria. The appellants were members of the Glasgow City Church, and involved in the local community. Again, the First-tier Tribunal Judge found that there was no reason why they could not join a church in Nigeria to continue their faith.

10. The second appellant had grown up in Nigeria, being educated to degree level there. He was 33 when he came to the United Kingdom to study for a PhD in Civil Engineering. At paragraph 15, the judge made reference to the kidnapping in July 2017 of the second appellant's father and the latter's subsequent murder. The second appellant was diagnosed as having symptoms in line with post-traumatic stress. He had attended seven sessions of cognitive behavioural therapy and compassion-focus therapy, in order to address unresolved grief, anxiety and terror-related symptoms. Judge Grant-Hutchinson accepted that the second appellant had health difficulties but there was no evidence to show that he could not, as a result, continue with his studies or indeed work. There was no continuing duty on the United Kingdom to provide mental health treatment for the second appellant at public expense. Although it was unfortunate

that he might not be able to complete his PhD in the United Kingdom, the second appellant himself had said he would be able to get work as a civil engineer on return to Nigeria.

11. Judge Grant-Hutchinson then turned to the third appellant. She found that there was “no reason why he cannot continue his education in Nigeria as his parents have done” (paragraph 20). Although the third appellant had been diagnosed with dyspraxia, he had responded well to treatment. A speech and language therapy discharge report of 28 October 2016 noted that the writer was “delighted with his progress and recognise that he no longer require specialist support”. The judge accordingly found that there was no evidence that the third appellant required further treatment.

12. Beginning at paragraph 29, Judge Grant-Hutchinson addressed the issue of the third appellant’s position as someone whom family members wanted to be initiated into the cult of the family/communal deity.

13. At paragraph 30, Judge Grant-Hutchinson noted that the first and second appellants had not made protection claims. It is worth interposing here that at page G1 of the appeal bundle, there is an email dated 16 May 2019 from one of the respondent’s officials to a colleague, highlighting that the appellants’ applications relied “heavily on a fear of return” and specifying the issue relating to the third appellant. The colleague replied on 21 May 2019 to say she had spoken to the first appellant, who “does not want to claim asylum”.

14. In paragraph 30, Judge Grant-Hutchinson made it evident that “I am only concerned with these appellants’ private lives and the fact that they will be returning to Nigeria as one family unit to continue their family life there”. She continued:-

> “There is no reason why the Appellants cannot settle in another area of Nigeria away from the first Appellant’s family members. The Appellants have no such issue in relation to the second Appellant’s family members.”

15. Judge Grant-Hutchinson then explained that the family would be returning together to Nigeria; they speak English fluently; and had been financially independent since coming to the United Kingdom. There were no qualifying children, in terms of section 117B(6) of the Nationality, Immigration and Asylum Act 2002 and thus no need to consider whether it would be reasonable to expect such children to leave the United Kingdom. The judge accordingly dismissed the appeals.

16. The appellants applied for permission to appeal from the First-tier Tribunal. Paragraphs 3 and 4 of the grounds of application read as follows:-

> “3. The detailed basis of the claim is more particularly set out in the statements of the appellant’s supported by documentary evidence set out and contained in the appellant’s first and second inventory of productions particularly as it relates to the third appellant who will be

at risk of being separated from his family, compelled to undergo tormenting fetish initiation practice; condemned to a life of separation and servitude and deprived of his fundamental rights on return to the country of origin Nigeria. See paragraph 9 of the first appellant's statement and corroborating evidence i.e. items 31, 32, 33, 34 and 35 of the appellant's inventory of productions.

4. At the outset of the hearing, the FTT indicated that she will not consider the issues and that if the appellant wish to have matters addressed, it is for them to make a protection claim. See paragraph 30 of the determination. FTJ expressly refused to hear submission on this ground. Consequently, the FTT failed to and or refused to take into account the circumstances of the third appellant as referred to above and the corroborating evidence of the third appellant as referred to above and the corroborating evidence thereto as part of the paragraph 279ADE and the proportionality assessment. In failing/refusing to do so, the FTT significantly erred in law."

17. Paragraph 9 of the grounds submitted that the option to make a protection claim did not justify exclusion of a relevant fact, as it was entirely a matter for an appellant to decide whether to make a human rights claim or a protection claim. Home Office guidance suggested that factors relevant to a protection claim "can and will invariably have a bearing on whether there are very significant obstacle[s] to integration. It is therefore an error to reject a relevant fact on the grounds that it can form a basis for a protection claim".

18. The First-tier Tribunal refused permission to appeal. The appellants then applied to the Upper Tribunal for permission. They continued to rely upon the grounds put to the First-tier Tribunal. In addition, they submitted that the First-tier Tribunal in refusing permission to appeal had erred, by failing to take into account the circumstances of the third appellant as a relevant factor in assessing whether there were significant obstacles to integration. Reference was made to the case of HH v Secretary of State for the Home Department [2017] CSOH 11, in which Lord Bannatyne observed that there will be a degree of overlap in applying the test of serious harm and the test of significant obstacles to integration, even though they were separate questions. If there were a serious threat to a person's life on return, both tests would be met. However, there may be circumstances which would amount to very significant obstacles to integration, which would not amount to serious harm. We respectfully agree with all of this.

19. Permission to appeal was refused by the Upper Tribunal on 9 March 2020. The refusing judge considered that the First-tier Tribunal had taken "an entirely proper approach in finding that the appellant should raise her concerns about return to Nigeria as a protection claim in the prescribed manner rather than seeking to argue that claim in the guise of an article 8 application".

20. The appellants petitioned the Outer House of the Court of Session for reduction of the Upper Tribunal's decision to refuse permission to appeal.

Before the Outer House, the appellants and the respondent agreed that the Upper Tribunal had erred in law in finding that the appellant should raise her concerns about return to Nigeria as a protection claim, rather than seeking to argue that claim in the guise of an Article 8 application. The parties considered that the appellants were entitled to have the Article 8 claim considered, taking into account all the facts presented to the First-tier Tribunal, including those which could give rise to infringements of article 3 or constitute a basis for seeking refuge. The Outer House having reduced the Upper Tribunal's decision, permission to appeal was granted by the Upper Tribunal on 2 November 2020.

RELEVANT PRIMARY LEGSLATION

21. Section 82 (Right of Appeal to the Tribunal) of the Nationality, Immigration and Asylum Act 2002 creates rights of appeal against, respectively, a decision to refuse a protection claim, and a decision to refuse a human rights claim:-

> "**82. Right of appeal to the Tribunal**
>
> (1) A person ("P") may appeal to the Tribunal where—
>
> (a) the Secretary of State has decided to refuse a protection claim made by P,
>
> (b) the Secretary of State has decided to refuse a human rights claim made by P, or
>
> (c) the Secretary of State has decided to revoke P's protection status.
>
> (2) For the purposes of this Part—
>
> (a) a "protection claim" is a claim made by a person ("P") that removal of P from the United Kingdom—
>
> (i) would breach the United Kingdom's obligations under the Refugee Convention, or
>
> (ii) would breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;
>
> (b) P's protection claim is refused if the Secretary of State makes one or more of the following decisions—
>
> (i) that removal of P from the United Kingdom would not breach the United Kingdom's obligations under the Refugee Convention;
>
> (ii) that removal of P from the United Kingdom would not breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;

(c) a person has “protection status” if the person has been granted leave to enter or remain in the United Kingdom as a refugee or as a person eligible for a grant of humanitarian protection;

(d) “humanitarian protection” is to be construed in accordance with the immigration rules;

(e) “refugee” has the same meaning as in the Refugee Convention.

(3) The right of appeal under subsection (1) is subject to the exceptions and limitations specified in this Part.]”

22. Section 84 (Grounds of Appeal), so far as relevant, provides:-

“**84. Grounds of appeal**

(1) An appeal under section 82(1)(a) (refusal of protection claim) must be brought on one or more of the following grounds—

(a) that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention;

(b) that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;

(c) that removal of the appellant from the United Kingdom would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention).

(2) An appeal under section 82(1)(b) (refusal of human rights claim) must be brought on the ground that the decision is unlawful under section 6 of the Human Rights Act 1998.”

23. Section 85 (Matters to be considered) provides, so far as relevant:-

“ (4) On an appeal under section 82(1) ... against a decision [the Tribunal] may consider ... any matter which [it] thinks relevant to the substance of the decision, including ... a matter arising after the date of the decision.

(5) But the Tribunal must not consider a new matter unless the Secretary of State has given the Tribunal consent to do so.

(6) A matter is a ‘new matter’ if—

(a) it constitutes a ground of appeal of a kind listed in section 84, and

(b) the Secretary of State has not previously considered the matter in the context of—

(i) the decision mentioned in section 82(1), or

(ii) a statement made by the appellant under section 120.]"

DISCUSSION

24. In the present case, the appellants had made it plain that they did not wish to make a protection claim. As can be seen from section 82(2), a protection claim is one which necessarily involves the assertion that the person concerned is within the definition of a refugee in the 1951 Convention; that is to say, a person outside their country of nationality or habitual residence who has a well-founded fear of persecution on the grounds of race, religion, nationality, membership of a particular social group or political opinion and is unable or, owing to such fear, unwilling to avail themselves of the protection of that country. Such a person is, however, excluded from refugee protection if they fall within Article 1C, D, E or F.

25. Paragraph 339C of the Immigration Rules explains that a person will be granted humanitarian protection if the respondent is satisfied, *inter alia*, that the person concerned does not qualify as a refugee and substantial grounds have been shown for believing that, if returned to the country of return, they would face a real risk of suffering serious harm, being unable or, owing to such risk, unwilling to avail themselves of the protection of that country; and that they are not excluded from a grant of humanitarian protection. Again, it is evident from the history of the appeals that the appellants have not indicated any wish to be granted humanitarian protection. So far as the respondent is concerned, there is no indication that she considers the appellants, or any of them, to be a refugee or a person in need of humanitarian protection.

26. Where, as here, a human rights claim is made, in circumstances where the respondent considers the nature of what is being alleged is such that the claim could also constitute a protection claim, it is appropriate for the respondent to draw this to the attention of the person concerned, pointing out they may wish to make a protection claim. Indeed, so much would appear to be required of the respondent, in the light of her international obligations regarding refugees and those in need of humanitarian protection.

27. As Mr Ndubuisi pointed out, however, there is no obligation on such a person to make a protection claim. The person concerned may, as in the present case, decide to raise an alleged risk of serious harm, potentially falling within Article 3 of the ECHR, solely for the purpose of making an application for leave to remain in the United Kingdom that is centred on the private life aspects of Article 8, whether by reference to paragraph 276ADE(1)(vi) or outside the Rules. If so, then, as in the present case, the "serious harm" element of the claim falls to be considered in that context.

28. We also agree with Mr Ndubuisi that what we have just said is not affected by the procedures the respondent has for assessing protection claims,

including the need for a person making such a claim to be interviewed about it. Where, in the context of a human rights claim involving a “serious harm” element, the respondent considers it necessary to do so, she can make arrangements for the applicant to be interviewed about it.

29. This is not to say, however, that the failure of a person to make a protection claim, when the possibility of doing so is (as here) drawn to their attention by the respondent will never be relevant to the respondent’s and, on appeal, the First-tier Tribunal’s assessment of the “serious harm” element of a purely human rights appeal. Depending on the circumstances, the assessment may well be informed by the refusal to subject oneself to the procedures that are inherent in the consideration of a claim to refugee or humanitarian protection status. The appellant may have to accept that the respondent and the Tribunal are entitled to approach this element of the claim with some scepticism, particularly if it is advanced only late in the day. That is so, whether or not the element constitutes a “new matter” for the purposes of section 85(5) of the 2002 Act. On appeal, despite the potential overlap we have noted at paragraph 18 above, a person who has not made a protection claim will not be able to rely on the grounds set out in section 84(1), but only on the ground specified in section 84(2).

30. The decision letter in the present case was, therefore, correct to state that, in the absence of an “asylum claim” (which we can take for present purposes to be coterminous with a protection claim), the respondent would consider the human rights claim “under the private life route only”. But the decision letter did not, in fact, go on to consider the claims relating to the third appellant’s position regarding the family deity, or the issue of kidnapping, when addressing the issue of whether there would be significant obstacles to integration of the adult appellants in Nigeria.

31. That error was not, however, repeated by Judge Grant-Hutchinson. As we have seen, at paragraph 30 of her decision, she specifically engaged with the alleged threat to the third appellant from the family members of the first appellant. She held that there was no reason why the appellants could not settle in another area of Nigeria, away from the first appellant’s family members. When pressed by the Upper Tribunal on this matter at the hearing, Mr Ndubuisi had to accept there was nothing in the grounds of application for permission to appeal to the First-tier Tribunal or the Upper Tribunal that challenged this important finding. Although the judge did not, in terms, apply her finding to the issue of kidnapping, it is in our view manifest that her conclusion on internal relocation encompassed that issue as well. Were the appellants to relocate to a large city such as Lagos (well away from their previous place of abode), there was no evidence before the judge that began to show those who had kidnapped the second appellant’s father would come to know that the appellants had returned. In any event, the evidence was that the father had been kidnapped as a way of extorting money because the second appellant was known to be in the United Kingdom and, therefore, that the family was relatively well off.

This factor would, of course, disappear once the appellants were in Nigeria.

32. Mr Ndubuisi sought to argue that Judge Grant-Hutchinson had not brought all relevant matters to bear, including the medical evidence earlier mentioned, in the context of her finding that the family might need to relocate in Nigeria. There is no merit in this submission. It is plain that the judge considered all relevant matters in detail and collectively. So far as relocation is concerned, the respondent had, in the decision letter, cogently pointed out that the family had successfully relocated to the United Kingdom and that the first and second appellants have, by any standard, good transferrable skills.

33. The day after the hearing, the Upper Tribunal received a letter dated 26 March 2021 from Mr Ndubuisi. There is no indication that the letter has been copied to the respondent's presenting officer. In the letter, Mr Ndubuisi apologies "for having to write into the Panel post hearing to address matters which could reasonably have been addressed at the hearing yesterday". The letter makes reference to statements and other materials in the appellants' inventories of production, which it is said limit the appellants' ability to live in another part of Nigeria than that from which they come. The letter then submits that Judge Grant-Hutchinson failed to undertake the requisite "broad evaluative exercise … to be carried out on the merits".

34. It is inappropriate for a party, after the hearing, to seek to make submissions that could have been made at that hearing. In the circumstances, there is no requirement to consider the submissions contained in the letter. In any event, having considered the letter *de bene esse*, the passages in the inventories to which the letter draws attention add nothing material to the description of the alleged threats described in the application materials, as set out above. The inventories were, of course, before Judge Grant-Hutchinson, who would have had them in mind when making her findings, including those at paragraph 30 of her decision. The first appellant's claim at paragraph 9g of her first statement, that, if the third appellant were to be returned to Nigeria, "it will just be a matter of time for him to be identified (no matter how well we try to hide him or evade them)" and that the parents "will be helpless in trying to stop him being dragged down this route" is unsupported by any credible evidence.

35. The letter also makes reference to FCDO foreign travel advice for Nigeria, contained in the first inventory, which counsels against travel to the North East Zone and to "rivers in the South states", owing to insurgent activities and kidnapping; with only essential travel being recommended to most North West and North Central states. The cult of the first appellant's family deity is said to be located somewhere in the South East area of the country. None of this affects the point made to Mr Ndubuisi by the Tribunal at the hearing on 25 March; namely, that one obvious place for the family to live would be Lagos, which is in the South West of Nigeria and which would plainly be a suitable location for a professional engineer, such as

the second appellant, and someone with the work experience of the first appellant.

36. The letter references the judgment of the Court of Appeal in Secretary of State for the Home Department v Kamara [2016] EWCA Civ 813, which calls for a broad evaluative judgment of the ability of someone to reintegrate. That is what Judge Grant-Hutchinson undertook in the present case. The submission here is merely a belated attempt to mischaracterise a pure disagreement with her as an error of law on her part.

37. For these reasons, we find that there is no error of law in the decision of Judge Grant-Hutchinson, such as to make it appropriate to set that decision aside. These appeals are accordingly dismissed.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Mr Justice Lane

29 March 2021

The Hon. Mr Justice Lane
President of the Upper Tribunal
Immigration and Asylum Chamber