Upper Tribunal
(Immigration and Asylum Chamber)Appeal Number: PA/10904/2019 (V)

THE IMMIGRATION ACTS

Heard at Cardiff Civil Justice Centre	**Decision & Reasons Promulgated**
Working Remotely by Skype	**On 07 June 2021**
On 20 May 2021	

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

M R
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr P Lewis instructed by Latitude Law
For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) I make an anonymity order. Unless the Upper Tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the appellant. This direction applies to both the appellant and to the respondent and a failure to comply with this direction could lead to contempt of court proceedings.

Introduction

2. The appellant is a citizen of Bangladesh who was born on 10 February 1987.

3. The appellant first came to the United Kingdom on 14 October 2006 as a student after which the appellant was granted further leave on a number of occasions until 21 September 2015. On 12 May 2015, he made an application for further leave to remain based upon his family life but this was rejected on 25 August 2015. He then made a further application under Art 8 of the ECHR on 2 September 2015 and that again was rejected on 18 December 2015. A final application for leave based on his family life was made on 24 September 2015 and refused on 21 December 2015.

4. On 10 March 2016, the appellant claimed asylum. That application was refused on 21 April 2016 and his subsequent appeal to the First-tier Tribunal (Judge Frankish) was dismissed on 19 July 2017. He was subsequently refused permission to appeal by both the First-tier Tribunal and the Upper Tribunal and became appeal rights exhausted on 17 May 2018.

5. On 14 February 2019, the appellant lodged further submissions but these were rejected on 28 March 2019.

6. On 27 August 2019, the appellant lodged further submissions. In a decision dated 23 October 2019, the Secretary of State refused the appellant's claims for asylum, humanitarian protection and under the European Convention on Human Rights.

7. The appellant again appealed to the First-tier Tribunal. In a determination sent on 15 January 2020, Judge Shergill dismissed the appellant's appeal on all grounds. In particular, the judge made an adverse credibility finding and rejected the appellant's claim to be at risk on return to Bangladesh because of his, and his father's, political activities for the BNP.

The Appeal to the Upper Tribunal

8. The appellant sought permission to appeal to the Upper Tribunal on the basis that the judge had failed properly to consider an expert report prepared by Dr Inge Amundsen, a Senior Researcher based in Norway.

9. Permission to appeal was initially refused by the First-tier Tribunal but, on 12 March 2020, the Upper Tribunal (UTJ O'Callaghan) granted the appellant permission to appeal on the basis that the judge arguably erred in law in his consideration and assessment of the evidence of Dr Amundsen.

10. Following directions issued by the Upper Tribunal, both the appellant and respondent filed written submissions dated 19 May 2020 and 28 May 2020 respectively. The appellant also filed a response to the respondent's written submissions dated 4 June 2020.

11. The appeal was listed for hearing at the Cardiff Civil Justice Centre sitting remotely. I was based as the Cardiff Civil Justice Centre and Mr Lewis, who represented the appellant, and Mr Bates, who represented the Secretary of State, joined the hearing remotely by Skype.

12. Mr Lewis, on behalf of the appellant, relied upon the grounds and a further Skeleton Argument dated 19 May 2021 prepared for the hearing. I heard oral submissions from Mr Lewis and from Mr Bates.

The Submissions

13. In her decision, Judge Shergill applied the decision in Devaseelan [2003] Imm AR 1. The appellant's claim was materially the same as that which had been rejected by Judge Frankish in the earlier appeal. Judge Frankish had made an adverse credibility finding. Before Judge Shergill, the appellant relied upon further documents to support his claim. In particular, in order to establish his claim that both he and his father had been targeted by the Awami League, as political opponents, in Bangladesh. The appellant relied upon a number of police or court documents, including an FIR, an Ejahar (a form of complaint), remand request, order sheets, a charge sheet and an arrest warrant. The appellant relied upon Dr Amundsen's report who found that those documents were probably genuine. In addition, Dr Amundsen's report sought to engage with criticisms made by Judge Frankish (and relied upon him) in concluding that the documents were not genuine documents in the earlier appeal. For example, the fact that such documents, even if genuine, might be "replete with anomalies", be lacking various detail and may contain holy fabricated trumped up charges. In her determination, Judge Shergill concluded that Dr Amundsen was not an expert in document verification and, as a consequence, attached no weight to his expert evidence (see paras 7 – 18 of the determination).

14. Mr Lewis submitted that the judge had erred in-law in two principal regards.

15. First, Mr Lewis submitted that the judge had wholly failed to take into account opinions in Dr Amundsen's report that fell within his accepted expertise and which engaged with some of the issues relied upon by Judge Frankish in the earlier appeal when the judge concluded that the documents were not genuine. In applying Devaseelan, Mr Lewis submitted, the judge had failed to grapple with this expert evidence and whether it was, therefore, not only appropriate to take Judge Frankish's findings as the "starting point" but also to conclude, for herself, that the documents could not be relied upon. Mr Lewis particularly developed this line of argument in his oral submissions based upon his written Skeleton Argument dated 19th May 2021. His argument is set out at paras 4 – 5 as follows:

> "4. However, in addition to the document verification evidence, Dr Amundsen provided some important evidence as to the general state of court documents in Bangladesh (Appellant's Bundle pages D89-

D90). He explained that Bangladeshi court documents are often of poor quality and full of anomalies, and that the level of precision in these documents is often "astoundingly low". He explained that court documents of this kind were based on the "Ejahar" provided by the complainant and recorded by the police, and that the police and courts were politicised. He also explained that trumped-up, politically motivated charges were common and that the charges against the Appellant were consistent with that. The picture that emerged from Dr Amundsen's report, therefore, was that we should not necessarily expect genuine police and court documents to be rigorous, factually accurate or internally consistent. If Judge Shergill considered this evidence not to be credible, he needed to engage with it and to say why – given that it appears that he accepted that Dr Amundsen had expertise in Bangladesh generally ([8]-[9]).

5. It was incumbent on Judge Shergill, in deciding whether to depart from Judge Frankish's findings, to grapple with the potential relevance of Dr Amundsen's country evidence (as distinct from his document verification evidence) to those findings. The principal reasons given by Judge Frankish were potentially undercut by Dr Amundsen's evidence:

a. At [32] Judge Frankish relied on the fact that the court documents did not reflect the Appellant's account of being involved in a land dispute or bazaar dispute. However, this was, on the face of it, readily explained by Dr Amundsen's report – the court documents were based on the police report, inaccuracies were common in police reports, and politically motivated, trumped-up charges were common. Against this backdrop it was not surprising that the court documents contained a fabricated story instead of the real cause of the Appellant's problems.

b. At [34] Judge Frankish relied on the poor quality of the documents, saying that they are "replete with anomalies" and missing various details. This was squarely explained by Dr Amundsen's evidence that it was common for Bangladeshi court documents to be "replete with anomalies" and to have "astoundingly low" levels of precision.

c. At [35] Judge Frankish claimed that the Appellant and his father were "the only two defendants ever to receive a mention in the court orders themselves". It is not entirely clear what Judge Frankish meant here – the judgment of the court sentencing the Appellant and his father to life imprisonment also dealt with the other named defendants, with some receiving life imprisonment, some receiving 7 years' imprisonment, and some being acquitted for lack of evidence (Appellant's Bundle at D151-152). It is open to the second tribunal to depart from the first tribunal's determination where the first tribunal has misstated the evidence before it (this was precisely the situation in *BK (Afghanistan)* [2019] EWCA Civ 1358 at [42]-[50]). But even if Judge Frankish was right, Dr Amundsen's evidence was capable of explaining it. This could be explained by Dr Amundsen's evidence about the poor quality and lack of rigour in Bangladeshi court documents, coupled with the

likely political motivation for the charges (in which the Appellant and his father may have been the principal targets).

d. At [36] Judge Frankish appears to be saying that the court documents were inconsistent as to whether the Appellant's father [] had been an absconder. It was recorded in 2011 that all the accused had absconded except [the appellant's father], who had appeared before the Court (Appellant's Bundle at D142). Judge Frankish contrasts this with the 2015 decision on sentence, which records *"Whereas the convicted are absconded so that their punishment will be effected form* [sic] *the date of their arrest but the accused [the appellant's father] presented today before learned Court, thus sent him jail cusdoy* [sic] *from this date"* (Appellant's Bundle at D153). It is not wholly clear why Judge Frankish regarded this as an inconsistency – both appear to be saying the same thing (albeit in infelicitous language), namely that all the accused had absconded except [the appellant's father]. But again, even if he was right, it was squarely explained by Dr Amundsen's evidence that it is normal for court documents to be replete with anomalies."

16. In addition, Mr Lewis relied upon Dr Amundsen's report to demonstrate that Judge Shergill had been wrong at para 27 of her determination to consider that the appellant had given inconsistent evidence when he had said that the documents "are genuine, but contain false information". Dr Amundsen's evidence was that even genuine documents could contain false allegations.

17. Secondly, although Mr Lewis did not specifically address in any detail the original grounds in his oral submissions, he submitted that the judge had been wrong to conclude that Dr Amundsen was not an expert for the purposes of document verification. Dr Amundsen had engaged in document verification in a number of other cases, he had been accepted as an expert in that regard. Judge Shergill had been wrong, as she was not in a position to do so, to question the methodology of Dr Amundsen which was clearly set out in his report at pages 2 – 3 (pages 79 – 80 of the appellant's bundle).

18. In response, Mr Bates submitted that whilst Dr Amundsen was accepted (both by the respondent and the judge) as a country expert, he was not an expert on document verification. Further, Mr Bates pointed out that Dr Amundsen had only seen copies of the documents and not the original documents. The judge was, in those circumstances properly entitled to give Dr Amundsen's opinion as to the genuineness of the documents "little weight".

19. Further, Mr Bates submitted that, in fact, the judge had given a number of reasons why the appellant was not credible and, taking the evidence as a whole in the round, had applied Tanveer Ahmed, and had reached a sustainable finding that the appellant's account was not credible.

Discussion

20. It was accepted before the judge that Dr Amundsen was a country expert. It was not, however, accepted that he was an expert in document verification. His report, however, contained not only his opinion as to the genuineness of the documents relied upon to sustain an argument that the appellant's credibility should be accepted but, on the basis of this new evidence, that Judge Frankish's earlier finding should be departed from. In that regard, whether or not Dr Amundsen should be considered to be an expert in document verification, he was an expert in relation to the background circumstances in Bangladesh. Mr Lewis helpfully set out the argument in paras 4 – 5 of his written Skeleton Argument which I have set out above. At pages 1 – 2 of his report (pages 78 – 79 of the appellant's bundle) under the heading "Background", Dr Amundsen sets out the following:

> "The very high level of corruption in Bangladesh seriously weakens the integrity and credibility of any Bangladeshi document. Plenty of forged documents are fabricated and, in practice, any document can be produced and sold by a 'secretary' in many a Dhaka backstreet. Some notary publics also certified falsified documents, helped along by unscrupulous lawyers. They can prepared forged deeds and prepare documents to establish their client's claims.
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> The high level of corruption also makes it possible to have fabricated information in documents issued by the correct authorities using proper official paper, genuine certification, stamps, signatures, etc. Therefore, please be aware that documents found to be genuine (that is, properly issued by the purported author) can still have low credibility and include content that is incorrect for instance,
>
> > 'Several human rights activists and lawyers are told the FIDH that naming a person in an FIR is often a way for people to strike back at their enemies or perpetuate neighbourly squabbles. This practise of false, vengeful reporting is particularly common in acid throwing cases and other cases falling under the laws protecting women and children […]. The nature of the FIR and their accompanying improper police practices allow citizens to 'manipulate' the justice system and to involve it in private conflict. (FIDH 210: 16).'"

21. At page 12 of his report (page 89 of the appellant's bundle), Dr Amundsen states that:

> "Falsification. A large number of false accusations originally made against the political opposition and rivals in Bangladesh. This is known from reports from several human rights organisations and international observers. I believe that to avoid this politically sensitive and onerous issue to be further exposed. Bangladeshi authority will sometimes try to hold back documents that lawyers and the accused individuals are entitled to."

22. The report continues:

> "**The Charges**

> In my experience Bangladeshi court documents are based on an initial complaint or petition (Ejhar), that anybody can file with the police against anybody, for whatever reason. The police officer receiving the complaint formulises in typewriting. The text is therefore often 'replete with anomalies' as the level of knowledge of procedure and law is only rudimentary among the broader public as well as among lower – and mid-level police officers. Even writing and reading skills can be rudimentary.
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> The next step is the First Information Report (FIR), which is based on the Ejhar (by copying in the text describing the 'crime' with the 'action' that the police has taken on the case (witness statements, police investigations, collection of evidence) and references to the presumably broken laws. Again, the text is often 'replete with anomalies' as the level of knowledge and procedure and law is only rudimentary amongst the lower – and mid-level police officers.
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> Thirdly, based on the previous, the police will issue a Charge Sheet, which is a submission and preparation document for the court or Tribunal, and fourthly, the court or Tribunal will issue a Court Order and/or Arrest Warrant, which orders the police to arrest and detain the accused. Usually, the final core verdict will be of somewhat better quality (with fewer 'anomalies').
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> The level of precision in Bangladeshi court documents can therefore be astonishingly low.
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> Dr Amundsen then goes on to state that the 'police and courts are politicised in Bangladesh' and continues: 'thus, making false accusations a widely used political tool used against outside as well as inside rivals. Corruption charges, criminal charges, charges publishing 'false information', pornography, and instigating violence and 'vandalism' are the most widely trumped-up charges used against political opponents.
>
> In my opinion, the charges as consistent with politically motivated charges in Bangladesh.'"

23. Dr Amundsen then, under the heading 'Summary' and based upon his application of the verification criteria at pages 3 – 11 of his report, concludes that the documents are most probably genuine.

24. I accept Mr Lewis' submissions that in determining whether the documents relied upon by the appellant were reliable and, in particular whether Devaseelan applied to Judge Frankish's findings in regard to the documents, the judge failed to take into account Dr Amundsen's opinion falling, as was accepted before me, within his professional expertise concerning the circumstances in Bangladesh.

25. What the judge did in this appeal was conclude that Dr Amundsen was not an expert for the purposes of document verification and then for all purposes concluded that he would give "no weight" to that expert evidence. In the matters to which I have referred concerning the background to the police and judicial process in Bangladesh, and the context of documents produced by the authorities, unlike before Judge

Frankish, there was evidence before Judge Shergill that was capable of providing an explanation for anomalies which Judge Frankish took into account in concluding that the documents were not genuine and could not be relied upon. Before following, on a Devaseelan basis, Judge Frankish's findings, I accept Mr Lewis' submission that Judge Shergill had to grapple with the evidence of Dr Amundsen relevant to the reliability of those documents. That is the case even if the judge was entitled to disregard his expert evidence as a document verifier.

26. I do not accept Mr Bates' submission that the error was not material to the judge's adverse findings. I accept that the judge did give other reasons why he did not accept the credibility of the appellant's claim. However, plainly his view as to the reliability of the documents was affected by his failure to grapple with the expert evidence concerning their content and the "anomalies" which Judge Frankish had found persuasive of their lacking authenticity. Only if I were satisfied that the judge's finding would inevitably have been the same had he not fallen into legal error by failing to grapple with Dr Amundsen's evidence, can I conclude that the error was immaterial. Judge Shergill herself stated that:

> "The appellant's claims are overshadowed by the previous findings from which I do not consider there are very good reasons to depart from." (at [34]).

27. That, in my judgment, demonstrates that the application of Devaseelan, which was flawed without consideration of Dr Amundsen's opinions, was a significant feature in Judge Shergill's reasoning leading to her adverse credibility finding.

28. It follows, for that reason, that the judge materially erred in law in reaching her adverse credibility finding.

29. Strictly, therefore, it is unnecessary to consider whether the judge further erred in law in discounting Dr Amundsen's evidence as an expert in document verification. The report is, however, likely to be a relevant part of the appellant's case when the decision is remade by the First-tier Tribunal. In the light of that, I will express my views and conclusion on the issue of whether Dr Amundsen's report should be, in effect, disregarded on the issue of document verification.

30. It is important to note that in the context of proceedings in the IAC Chambers, unlike in the Criminal, Civil or Family Courts, whether or not opinion is properly characterised as "expert opinion" does not affect the admissibility of that evidence. That is because the IAC Chambers are not bound by the strict rules of evidence. Of course, whether opinion is expressed by an expert, on a matter within that individual's expertise, does go to the weight which a judge is likely to give that opinion. The point was made in Kapella v SSHD [1998] Imm AR 274 by the Immigration Appeal Tribunal at p.301 as follows:

> "The question whether or not to classify Mr Somerville as a 'expert' is not in point: that is a question which arises only in proceedings bound

> by the strict rules of evidence, where an 'expert' may give evidence (chiefly here say an opinion) which would be inadmissible if it came from anybody else. In our proceedings the evidence is undoubtedly admissible. The question is whether, in the context of all the evidence in the case, it is this evidence which is to be preferred. This must be a matter for the individuals finders of facts".

The point that expertise goes to 'weight' rather than admissibility was also made in AAW (expert evidence – weight) Somalia [2015] UKUT 673 (IAC) at [25]. What weight is appropriately given to an expert or indeed any evidence is primarily a matter for the trial judge subject to perversity and irrationality (see SS (Sri Lanka) v SSHD [2012] EWCA Civ 155 at [21]).

31. Of course, in this appeal Judge Shergill did not decide that Dr Amundsen's evidence was not admissible on the issue of document verification but rather that she should give it "no weight".

32. However, in my judgment Judge Shergill has focused exclusively upon the issue of "expertise" derived from formal training rather than excluding appropriate experience and, in addition, has engaged in an assessment of Dr Amundsen's methodology which the judge was not entitled to conclude was "perverse". The judge's reasoning is somewhat lengthy at paras 8 – 14 where the judge said this:

> "8. The appellant relies on a report from Dr Amundsen, based in Norway. The respondent accepts that he is an expert on Bangladesh and has provided many reports in respect of asylum claims. I take no issue with that but I agree with the point taken in para 20 that he has no specific qualifications relating to him being an expert in verifying documents from Bangladesh.
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> 9. Whilst the expertise has been accepted by the respondent, I am not clear as to many case the expert has been put forward with regards to the specific skill set of being an expert on Bangladeshi document verification. Being an expert on a country does not automatically qualify you to be held out as an expert on all aspects relating to that country. I have set out my concerns about the skill set below and I find it difficult to accept that my concerns are novel. If he had been put forward in IAT cases as a document expert before then the expert has failed to tell me how many cases this has happened in and any cases that he has not been accepted as an expert in document verification. The Tribunal was entitled to be informed of this as any adverse treatment may have been material to properly assess the report.
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> 10. **Self-taught expert:** The expert says he is a registered Country of Origin Expert but there is nothing in his CV which suggests he has any qualifications in legal related field. His professional expertise is predominantly in political science. He does not have any specific practical experience of judicial issues in Bangladesh (the two projects he lists relate to politics). His select publications list as they relate to Bangladesh are all of a political favour. There is nothing obviously that indicates that he has formally been inducted or had professional expert experience on the ground

when dealing with judicial or legal matters in Bangladesh. He has indicated at page 95 that he is self-taught in the area of assessing the authenticity of documents. I do not know what international literacy is consulted on the document authenticity assessment methods or whether it is a satisfactory means of establishing expertise. He has no obvious academic or practical background to give a footing in how to verify documents in any other way that would have allowed him to build on other relevant knowledge. There is nothing disclosed in his expertise that gives me any confidence he was in a position to treat himself document verification methodology to a satisfactory standard he could call himself an expert in this field.

11. **Methodology:** The verification methods he set out at page 79 are devoid of any proper explanation as to how much of this is settled, internationally or professionally recognised practise in this area; or how much of it is his own construct. The footnotes do not assist me because number 7 says that the information set out in the body of that part of the report 'is partly based on three listed documents. I do not know how, after consulting those documents, the expert was a able to partly base his assessment methodology on those sources. Particularly, as he has no relevant previous background in this field. I do not know how he was able to exercise those parts he considered relevant for his methodology and why he was in a position to evaluate those sources to structure his own methodology, absent any obvious professional or practical foundation in document verification. I had similar concerns as regards the other footnotes which are, as I understand it, cited to give credibility to his methodology. I do not find this methodology basis to be appropriate.

12. It is unclear why the expert claims that there are no courses available in this field and why he considers himself an expert on Bangladeshi document verification absent any specific references as to the practical professional experience, courses or training. I am aware that a Document Verification Report prepared by the Respondent would contain such detail. Furthermore, I find his claimed methodology relating to '3. authenticity verification' and '4. content assessment' as questionable. I do not know to what extent this methodology is widely accepted by document verification experts; or whether any recognised standards have to be tempered when dealing with countries with high levels of document fraud (i.e. 'high risk'). As I understand it the expert has confined himself to open sources verification and also checking the content and narrative consistency with the asylum seeker's account. I have no idea if that is acceptable methodology which is widely recognised or whether it is one that comes with caveats. This sort of methodology, particularly in relation to high-risk countries like Bangladesh strikes he as perverse (see below).

13. I say perverse because the bullet points and the verification criteria on page 11 (bar the very first one seemingly falls under the first heading) all indicate open sources that would be checked. If the expert has based his assessment and report 'on the above criteria' then it is of real concern. Those six bullet points are all matters which could lead to a genuine document being verified, or

likewise someone wanting to falsify a document to complete it with genuine information. He cannot go beyond the wit of a moderately educated appellant or overseas based fraudster to utilise details of actual people, courts and events and any documents. It is difficult to understand that in a country with a high risk of fraud that these sorts of issues are not thought be forgers. The use of a news article saying something happened and spinning a fabricated account off that may be more persuasive to the lower standard; relatively easy to do. If it was not, and this is an obvious point, the expert fails to explain how he is mitigated against simply being past false documents with real information in them. The risk of that happening is only amplified in this case because the appellant is a highly educated individual and one who has already been through the hearing process with a bundle of documents found to be 'wholly fabricated to support his claim'.

14. I find it extraordinary that the expert considers simply checking off documents against open sources as a reliable means of verification. That is only made worse by Though I note he seems to distance himself from the ability to approach this through '1. authenticity verification by forensic testing' or '2 authenticity verification by country method' due to not having 'the technical and practical capacity' (page 80). I would have expected document verification to require some form of physical examination of the document and to the extent it is permissible to confirm 'authenticity' without such physical examination, then the expert has failed to explain how the methodology he uses could be viewed as compared to other methods (for example the margins of error and reliability of results that can be attained by using different methods etc). That was a bearing on weight as well, particularly when contrary to what he appears to set out at the start of his process at page 80 (i.e. not undertaking forensic testing) he goes on to comment on a number of forensic type issues. These include variously: document format and yellowish paper; position of text; the types of stamp; the signature; lack of court stamp; standard format and official document identification, marks etc on various documents he refers to. All of this commented upon without ever physically examining the copy. His methodology as it relates to a high-risk country, and in particular, this appellant given his background, strikes me as one that it open to abuse or manipulation. I have seen nothing in the report which satisfies me that this risk has been properly identified or mitigated against."

33. The judge then went on in paras 15 – 16 to consider the contents of the documents and at para 17 the report's conclusions before stating in para 18 that:

"I am not satisfied that Dr Amundsen has the requisite expertise to give an expert opinion on these documents and his methodology is flawed. There are serious omissions in the way this material has been assessed. Therefore, given the serious concerns I have, I attach no weight to the expert evidence. The report fails to rebut the related issues in the refusal. The source documents commented on by the

> expert will be considered, absent reliance on the expert opinion, in the round with the other evidence in line with *Tanveer Ahmed*."

34. Whilst there are aspects of this reasoning which, undoubtedly, the judge was entitled to take into account in considering what weight to give the evidence - such as the fact that Dr Amundsen had not seen the original documents - the judge's assessment of his methodology as being perverse was, in my judgment, unsustainable. The judge became focused on establishing whether Dr Amundsen was a "expert" in document verification when Dr Amundsen has, as a country expert, expressed views concerning the likelihood of the documents being genuine by reference to assessment against 'open sources'. In his report at pages 2 – 3, Dr Amundsen, as the judge recognised, specifically accepted that he did not have the 'technical or practical capacity' to engage in forensic testing of the documents (which might well reflect a DVR produced by the respondent) or based upon "in-country methods" by checking with authorities in that country or through embassies and high commissions (which again might well be reflected in DVR produced by the respondent). There was, however, no basis in my judgment for the judge simply to discount Dr Amundsen's evidence, whether properly described as the evidence of a document verification expert or not, based upon his knowledge of Bangladesh and his experience of assessing documents against "open sources" and their contents. What weight his opinion should be given, whilst a matter for the judge, had to be assessed on its contents rather than by an *a priori* categorisation of him being an expert or not. Despite what the judge said, Dr Amundsen was undoubtedly knowledgeable, and he gave examples of prior work in this field. I accept that the judge did, in part, engage with the substance of Dr Amundsen's report and, for example, had regard to the fact that he had only seen copies of the report.

35. However, overall I am left with the impression that the judge failed fully to engage with Dr Amundsen's opinions as to the authenticity of the documents significantly because the judge – without any evidential basis for doing so – doubted his methodology which, although perhaps not falling within the most rigorous categories which Dr Amundsen professed no expertise in, it is difficult to categorise as being improper and uninformed.

36. It will be for the judge remaking the decision to assess more broadly the views of Dr Amundsen, if his report continues to be relied upon by the appellant, without focussing exclusively upon whether or not he is an 'expert' in document verification rather than an expert in the background circumstances in Bangladesh including assessing police and court documents against background material within his knowledge.

37. For these reasons, therefore, the judge materially erred in law in reaching her adverse credibility finding. The decision to dismiss the appellant's appeal involved the making of an error of law and cannot stand.

Decision

38. For the above reasons, the decision of the First-tier Tribunal to dismiss the appellant's appeal involved the making of an error of law. That decision cannot stand and is set aside.

39. It was common ground between the representatives that if the material error of law was established, the proper disposal of this appeal was to remit it to the First-tier Tribunal for a fresh re-hearing.

40. I agree. Having regard to the nature and extent of fact-finding required, and having regard to para 7.2 of the Senior President's Practice Statement, the proper disposal of this appeal is to remit it to the First-tier Tribunal for a *de novo* re-hearing (not before either Judge Frankish or Judge Shergill). No findings of Judge Shergill are preserved.

Signed

Andrew Grubb

Judge of the Upper Tribunal
25 May 2021