



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

QC (verification of documents; Mibangaduty) China [2021] UKUT 00033 (IAC)

**THE IMMIGRATION ACTS**

Heard at Field House by Skype

Decision & Reasons Promulgated

**On 15 December 2020**

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**Before**

**THE HON. MR JUSTICE LANE, PRESIDENT**

**MR C M G OCKELTON, VICE PRESIDENT**

**Between**

**QC**

(ANONYMITY DIRECTION MADE)

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr S Winter, Advocate, instructed by Katani & Co Solicitors

For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

**Verification of documents**

(1) The decision of the Immigration Appeal Tribunal in Tanveer Ahmed [2002] UKIAT 00439 remains good law as regards the correct approach to documents adduced in immigration appeals. The overarching question for the judicial fact-finder will be whether the document in question can be regarded as reliable. An obligation on the respondent to take steps to verify the authenticity of the document relied on by an appellant will arise only exceptionally (in the sense of rarely). This will be where the document is central to the claim; can easily be authenticated; and where (as in Singh v Belgium (Application No. 33210/11)), authentication is unlikely to leave any “live” issue as to the reliability of its contents. It is for the tribunal to decide, in all the circumstances of the case, whether the obligation arises. If the respondent does not fulfil the obligation, the respondent cannot challenge the authenticity of the document in the proceedings; but that does not necessarily mean the respondent cannot question the reliability of what the document says. In all cases, it remains the task

of the judicial fact-finder to assess the document's relevance to the claim in the light of, and by reference to, the rest of the evidence.

### **The Mibanga duty**

(2) Credibility is not necessarily an essential component of a successful claim to be in need of international protection. Where credibility has a role to play, its relevance to the overall outcome will vary, depending on the nature of the case. What that relevance is to a particular claim needs to be established with some care by the judicial fact-finder. It is only once this is done that the practical application of the "Mibanga duty" to consider credibility "in the round" can be understood (Francois Mibanga v Secretary of State for the Home Department [2005] EWCA Civ 367). The significance of a piece of evidence that emanates from a third party source may well depend upon what is at stake in terms of the individual's credibility.

(3) What the case law reveals is that the judicial fact-finder has a duty to make his or her decision by reference to all the relevant evidence and needs to show in their decision that they have done so. The actual way in which the fact-finder goes about this task is a matter for them. As has been pointed out, one has to start somewhere. At the end of the day, what matters is whether the decision contains legally adequate reasons for the outcome. The greater the apparent cogency and relevance of a particular piece of evidence, the greater is the need for the judicial fact-finder to show that they have had due regard to that evidence; and, if the fact-finder's overall conclusion is contrary to the apparent thrust of that evidence, the greater is the need to explain why that evidence has not brought about a different outcome.

## **DECISION AND REASONS**

### **A. THE ISSUES**

1.

This case concerns two related issues. The first is about the circumstances in which the Secretary of State may have an obligation to make enquiry in order to verify the authenticity and reliability of a document; and the consequences of her not doing so. The second issue is the nature of the obligation on judicial fact-finders to consider the evidence before them "in the round".

### **B. THE APPELLANT AND HIS CLAIM**

2.

The appellant is a citizen of China, born in 1979. He arrived in the United Kingdom in February 2014 but did not claim asylum until October 2018, following his arrest. On 19 March 2019, the respondent refused the appellant's protection claim. The appellant exercised his right of appeal to the First-tier Tribunal and his appeal was heard in Glasgow on 17 July 2019 by First-tier Tribunal Judge Doyle.

3.

Before the First-tier Tribunal Judge, the appellant advanced two discrete reasons to be in need of international protection. His family home had been demolished in 2009 by the Chinese authorities, in order to build a new road. The appellant and his father were beaten when they sought to resist the acquisition of their property. The father suffered a heart attack and died, following which the appellant's mother committed suicide. The appellant sought compensation from the authorities but was beaten by them and his collar bone broken.

4.

In April 2010, the appellant was living in another area of China. There he said he was introduced to Tibetan Buddhism. He attended public events recounting the cruel treatment and injustice meted out to the Tibetan people by the Chinese authorities. When those authorities raided the premises in which the appellant was living, they arrested his friend but the appellant managed to hide himself. The appellant said that the Chinese authorities were now aware that he is a Tibetan Buddhist. He fled China because he feared what might happen to him as a Tibetan Buddhist who supports Tibetan independence.

### **C. THE FIRST-TIER TRIBUNAL'S DECISION**

5.

Having set out the background evidence, so far as it related to these two claims, the First-tier Tribunal Judge's decision noted the appellant's oral evidence. The judge also had regard to a medical report, which described a healed fracture to the appellant's left clavicle. Whilst the doctor concluded that the appellant's injuries were consistent with the explanation given for them, it was not possible to exclude other injury mechanisms. The appellant's account of receiving twenty days' hospital treatment was regarded by the doctor as "excessive for this type of injury", were the appellant to have been treated in the United Kingdom.

6.

At his screening interview in October 2018, the appellant was asked about his religion, to which he replied "Just with Balai [sic] organisation". Asked why he had come to the United Kingdom, the appellant replied "House in China taken down. Chinese government are going to kill me". There was no reference made in this interview to the appellant's involvement with Tibetan Buddhism or support for Tibetan independence.

7.

In his witness statement of 25 January 2019, the appellant stated "I am a Tibetan Buddhist". Shortly thereafter, the appellant underwent a substantive asylum interview. At Q 109, the appellant was unable to answer questions about Tibetan prayer flags, confusing a central Tibetan Buddhism method of meditation with the colours of the Tibetan flag. In answer to Q 116, the appellant said he did not use water but prayed to the flag. According to the judge, this provided "No knowledge at all about the spiritual significance of water in Tibetan Buddhism". Furthermore, taking the appellant's answers together, the judge considered that the appellant demonstrated that he "does not recognise Tibetan prayer flags, but prays to a symbol of Tibetan nationality. The appellant demonstrates an inability to distinguish the spiritual from the temporal".

8.

Paragraph 12 of the First-tier Tribunal Judge's decision continues as follows:-

"(h) The appellant arrived in the UK in 2014. On his own evidence, he has not practised Tibetan Buddhism in the UK. In answer to question 104, the appellant says that there is no Buddhism in the UK. The appellant could not be more wrong. The appellant has lived in Glasgow for years. Glasgow has a Tibetan Buddhist meditation centre. If the appellant was truly a Tibetan Buddhist, then the practice of his faith would have driven him to find his local Tibetan Buddhist meditation centre. The appellant claims that he is a renowned Tibetan Buddhist in China, yet he is not even known to the Tibetan Buddhists in Glasgow, where he has lived for the last 5 years.

(i)

The appellant's third inventory of productions contains photographs intended to demonstrate that the appellant worships at a Buddhist Centre in Glasgow. At paragraph 43 of his witness statement, the appellant claims to have started his search for an Buddhist Centre in 2017 - but it took him until April 2019 to find a Tibetan Buddhist centre in Glasgow. His evidence must be viewed against the appellant's answer to question 14 of the asylum interview (which took place in March 2019). In March 2019 the appellant said that there is no Buddhism in the UK. He can't have it both ways. He cannot have been worshipping at a Buddhist Centre since 2017 when he says in asylum interview in March 2019 that such a place does not exist.

(j) The appellant was asked to identify the photographs now produced. He said that they were taken earlier this year, but he could only name one person in the photographs. He said that none of the people depicted in the photographs could come to give evidence to support him because none of them have identification documents in the UK. The appellant was unable to specify the address of the Buddhist centre that he claims he goes to every week.

(k) Because of the inconsistent account that the appellant gives & because the appellant is not able to demonstrate a fundamental knowledge of the tenets of Tibetan Buddhism, I find that the appellant fails to establish that he is a Tibetan Buddhist. That finding wholly undermines the appellant's claim to have concealed himself in a flat whilst his friend he was arrested; it wholly undermined the appellant's claim that he is wanted by the authorities because he is a Tibetan Buddhist.

(l) The second inventory of productions for the appellant contains a number of translated documents, including an item which bears to be an arrest warrant issued in March 2014. The second inventory also contains a statement from Liwen Zhang which speaks to an arrest warrant being issued and provides details of the political movement the appellant claims he became involved in. I remind myself of Tanveer Ahmed (Starred)2002 UKIAT 00439 when considering the documentary evidence. The arrest warrant is clearly designed to corroborate the appellant's account. As I find that his account is so fundamentally flawed (because I find he was not involved with Tibetan Buddhism) I find that there is the arrest warrant is evidentially neutral."

9.

At paragraph 12(m), the judge said that, although the appellant said he was involved in the movement for an independent Tibet,

"the fulcrum of this aspect of the appellant's asylum claim is that he became involved in a religion and the practice of that religion led towards advocating independence for Tibet. The dearth of evidence of the practice of religion undermines the appellant's claim to have been politically involved in an independence movement. On the facts as I find them to be, the appellant fails to demonstrate that he has had any involvement with Tibetan Buddhism. As the appellant claims ... that it was Tibetan Buddhism that led him to his political opinion and advocating an independent nation, then, by analogy, I find that the appellant was not involved with publicly advocating independence for Tibet."

10.

At paragraph 12(n) to (s), the judge gave his reasons why he did not find that the appellant's account of being involved in a land dispute with the Chinese authorities was credible. At paragraph 12(f), the judge noted that the appellant had waited four and a half years before claiming asylum. He had also travelled through Germany, without claiming asylum there. This conduct damaged the appellant's overall credibility.

11.

In the light of these findings, at paragraph 13 the First-tier Tribunal Judge stated that the appellant had not discharged the burden of proof to establish that he was a refugee. At paragraphs 15 to 17, the judge gave his reasons why the appellant was not entitled to humanitarian protection. At paragraphs 18 to 23, the judge considered the appellant's position by reference to Articles 2 and 3 of the Human Rights Convention. The judge found that those articles were not engaged, given the findings he had made. The judge ended his decision by giving his reasons why the appellant's removal would not breach the latter's right to respect for private and family life under Article 8 of the ECHR.

#### **D. THE GROUNDS OF APPEAL**

12.

The grounds of appeal reads as follows:-

##### **Ground 1 - errors of law in relation to the documentary evidence**

2. The FTT erred in law when assessing the documentary evidence, at paragraph 12(l), for the following reasons:

(i) By misapplying the law and failing to recognise that as the respondent had not carried out any verification checks on the arrest warrant, it was not open to the respondent, or the FTT, to impugn such a document. The document was central to the claim and it was not said it was not easily verifiable (PJ (Sri Lanka) v Secretary of State for the Home Department [2015] 1 WLR 1322 at paragraphs 30 and 31; AR [2017] CSIH 52 at paragraph 35). Separatim the FTT erred where the respondent had failed to consider routes which the document could be verified. Although the document is an arrest warrant, that does not prohibit discrete investigation. In AR, *supra* the respondent was able to carry out verification checks on the FIR at a police station in Pakistan. Such errors are material where if the document can be relied upon, the adverse credibility findings are otiose;

(ii) further the FTT has allowed the adverse credibility findings to sway the assessment of the arrest warrant. As such this is a misapplication of the law and is a material error of law (TF & MA 2019 SC 81 at paragraph 49 per Lord Glennie);

(iii) separatim the FTT erred by failing to be slow, at paragraph 12(e), to draw adverse inferences from omissions/inconsistencies arising from the screening interview (Kavungu [2002] UKIAT 00243; YL (rely on SEF) China [2004] UKIAT 00145 at paragraph 19)."

#### **E. VERIFICATION OF DOCUMENTS**

13.

The leading Tribunal authority on the proper approach to documents of the kind with which we are concerned is Ahmed (Documents unreliable and forged) Pakistan\*[2002] UKIAT 00439 (hereafter "Tanveer Ahmed"). In that case, a senior panel of the Immigration Appeal Tribunal gave authoritative guidance on the approach to such documents. It is instructive to return to the actual terms of the Tribunal's decision in Tanveer Ahmed, approved as it has been on numerous subsequent occasions in the higher courts.

14.

At paragraph 31, the Tribunal said:-

"31. It is trite immigration and asylum law that we must not judge what is or is not likely to happen in other countries by reference to our perception of what is normal within the United Kingdom. The

principle applies as much to documents as to any other form of evidence. We know from experience and country information that there are countries where it is easy and often relatively inexpensive to obtain "forged" documents. Some of them are false in that they are not made by whoever purports to be the author and the information they contain is wholly or partially untrue. Some are "genuine" to the extent that they emanate from a proper source, in the proper form, on the proper paper, with the proper seals, but the information they contain is wholly or partially untrue. Examples are birth, death and marriage certificates from certain countries, which can be obtained from the proper source for a "fee", but contain information which is wholly or partially untrue. The permutations of truth, untruth, validity and "genuineness" are enormous. At its simplest we need to differentiate between form and content; that is whether a document is properly issued by the purported author and whether the contents are true. They are separate questions. It is a dangerous oversimplification merely to ask whether a document is "forged" or even "not genuine". It is necessary to shake off any preconception that official looking documents are genuine, based on experience of documents in the United Kingdom, and to approach them with an open mind".

15.

In light of the more recent decisions of the Court of Appeal and the Court of Session, to which we shall turn, what the Tribunal said in paragraph 31 is instructive. What appears to be an official document, emanating from some authority abroad, may not, in truth, emanate from that authority. But, even if it does, what the document says (for example, about the person seeking international protection) may not be reliable. Unlike the position in the United Kingdom where, happily, instances of corrupt officialdom are relatively rare, it is possible that the foreign official who produced the document may have been suborned. This explains the Tribunal's exhortation that one should approach such documents "with an open mind".

16.

At paragraphs 34 to 36, the Tribunal in Tanveer Ahmed addressed the issue of the respondent's obligations in respect of such documents:-

"34. It is sometimes argued before Adjudicators or the Tribunal that if the Home Office alleges that a document relied on by an individual claimant is a forgery and the Home Office fails to establish this on the balance of probabilities, or even to the higher criminal standard, then the individual claimant has established the validity and truth of the document and its contents. There is no legal justification for such an argument, which is manifestly incorrect, given that whether the document is a forgery is not the question at issue. The only question is whether the document is one upon which reliance should properly be placed.

35. In almost all cases it would be an error to concentrate on whether a document is a forgery. In most cases where forgery is alleged it will be of no great importance whether this is or is not made out to the required higher civil standard. In all cases where there is a material document it should be assessed in the same way as any other piece of evidence. A document should not be viewed in isolation. The decision maker should look at the evidence as a whole or in the round (which is the same thing).

36. There is no obligation on the Home Office to make detailed enquiries about documents produced by individual claimants. Doubtless there are cost and logistical difficulties in the light of the number of documents submitted by many asylum claimants. In the absence of a particular reason on the facts of an individual case a decision by the Home Office not to make inquiries, produce in-country evidence

relating to a particular document or scientific evidence should not give rise to any presumption in favour of an individual claimant or against the Home Office.”

17.

The leading Court of Appeal case on the nature of the respondent’s “verification” obligations is PJ (Sri Lanka) v Secretary of State for the Home Department [2014] EWCA Civ 1011. The facts of this case are important for a proper understanding of what the court held. As appears from the headnote in [2015] 1 WLR 1322, PJ contended that he would face serious harm if returned to Sri Lanka because of perception of the authorities there as to his political opinion. In support of his asylum application, PJ submitted certified copies of court documents which had been obtained on his behalf by a Sri Lankan lawyer. These included a police report, which revealed that PJ was to be arrested on arrival in Sri Lanka in connection with a bombing; and also a warrant for his arrest. The respondent refused PJ’s claim, finding that, given the ease with which it was possible to obtain forged documents in Sri Lanka, the respondent could not be satisfied that the documents were genuine. PJ’s solicitors then instructed a second Sri Lankan lawyer who, through his junior, obtained a complete certified copy of the documents, which matched those produced by the first lawyer.

18.

The First-tier Tribunal dismissed PJ’s appeal, concluding that no weight could be placed on the documents. The Upper Tribunal dismissed PJ’s further appeal. PJ appealed, contending that where court documents were obtained and provided by foreign lawyers, they were to be presumed to be genuine unless the respondent proved otherwise; and that the respondent bore the responsibility of investigating the reliability of such documents unless such an investigation was not feasible.

19.

One of the tasks undertaken by the Court of Appeal in PJ was to consider Tanveer Ahmed in the light of the decision of the European Court of Human Rights in Singh v Belgium (Application No. 33210/11), given on 2 October 2012. In Singh, Sikhs who had fled Afghanistan claimed refugee status in Belgium. Their claim was rejected because they had failed to prove their Afghan nationality. On appeal, they provided new documents, comprising emails between their lawyer and a representative of the Belgium Committee for the Support of Refugees. This committee was a partner of the High Commission of the United Nations for Refugees (“UNHCR”). A UNHCR representative in India had furnished, by way of attachments to the emails, “attestations” which indicated that the petitioners had been recorded as refugees under the UNHCR mandate and that one of them had requested naturalisation in India. Notwithstanding this documentation, it was held on appeal that the petitioners had failed to prove their Afghan nationality and that the documents were of no convincing value, since they were of a type that was easy to falsify and the petitioners had failed to produce the original copies of the documents.

20.

The ECtHR held that, since the possible consequences for the petitioners were significant, there was an obligation on the state to show that it had been as rigorous as possible and had carried out a careful “examination” (in fact, a “review”) of the grounds of appeal. Since the documents were at the heart of the request for protection, rejecting them without checking their authenticity fell short of the careful and rigorous investigation that was expected of national authorities in order to protect individuals from treatment contrary to Article 3 of the ECHR, when a simple process of enquiry would have resolved conclusively whether the documents were authentic and reliable.

21.

In MJ v Secretary of State for the Home Department[2013] Imm AR 799, the Upper Tribunal considered whether Singh was compatible with Tanveer Ahmed. The panel concluded that it was:-

"50. It is relevant, however, to consider (the decision in Ahmed's case) in the context of what was said in Singh v Belgium. On consideration we do not think that what was said in Singh's case is inconsistent with the quotation we have set out above from para 35 of Ahmed's case. Ahmed's case does not entirely preclude the existence of an obligation on the Home Office to make enquiries. It envisages, as can be seen, the existence of particular cases where it may be appropriate for inquiries to be made. Clearly on its facts Singh's case can properly be regarded as such a particular case. The documentation in that case was clearly of a nature where verification would be easy, and the documentation came from an unimpeachable source. We do not think that (counsel) has entirely correctly characterised what was said in Singh's case in suggesting that in any case where evidence was verifiable there was an obligation on the decision maker to seek to verify. What is said at paragraph 104 is rather in terms of a case where documents are at the heart of the request for protection where it would have been easy to check their authenticity as in that case with the UNHCR. ... We do not think that what is said in Singh v Belgium in any sense justifies or requires any departure from the guidance in Ahmed's case which is binding on us and which we consider to remain entirely sound. "

22.

We can now return to PJ. Giving the judgment of the court, Fulford LJ held:-

"29. In my judgment, there is no basis in domestic or European Court of Human Rights jurisprudence for the general approach that Mr Martin submitted ought to be adopted whenever local lawyers obtain relevant documents from a domestic court, and thereafter transmit them directly to lawyers in the United Kingdom. The involvement of lawyers does not create the rebuttable presumption that the documents they produce in this situation are reliable. Instead, the jurisprudence referred to above does no more than indicate that the circumstances of particular cases may exceptionally necessitate an element of investigation by the national authorities, in order to provide effective protection against mistreatment under article 3 Convention. It is important to stress, however, that this step will frequently not be feasible or it may be unjustified or disproportionate. In Ahmed's case [2002] Imm AR 318 the court highlighted the cost and logistical difficulties that may be involved, for instance because of the number of documents submitted by some asylum claimants. The inquiries may put the applicant or his family at risk, they may be impossible to undertake because of the prevailing local situation or they may place the United Kingdom authorities in the difficult position of making covert local enquiries without the permission of the relevant authorities. Furthermore, given the uncertainties that frequently remain following attempts to establish the reliability of documents, if the outcome of any enquiry is likely to be inconclusive this is a highly relevant factor. As the court in Ahmed's case observed, documents should not be viewed in isolation and the evidence needs to be considered in its entirety.

30. Therefore, simply because a relevant document is potentially capable of being verified does not mean that the national authorities have an obligation to take this step. Instead, it may be necessary to make an inquiry in order to verify the authenticity and reliability of a document - depending always on the particular facts of the case - when it is at the centre of the request for protection, and when a simple process of inquiry will conclusively resolve its authenticity and reliability: see Singh v Belgium given 2 October 2012, paras 101 - 105. I do not consider that there is any material difference in approach between the decisions in Ahmed's case and Singh v Belgium, in that in the latter case the



Strasbourg court simply addressed one of the exceptional situations when national authorities should undertake a process of verification.

31. In my view, the consequence of a decision that the national authorities are in breach of their obligations to undertake a proper process of verification is that the Secretary of State is unable thereafter to mount an argument challenging the authenticity of the relevant documents unless and until the breach is rectified by a proper inquiry. It follows that if a decision of the Secretary of State is overturned on appeal on this basis, absent a suitable investigation it will not open to her to suggest that the document or documents are forged or otherwise are not authentic.

32. Finally, in this context it is to be emphasised that the courts are not required to order the Secretary of State to investigate particular areas of evidence or otherwise to direct her inquiries. Instead, on an appeal from a decision of the Secretary of State it is for the court to decide whether there was an obligation on her to undertake particular inquiries, and if the court concludes this requirement existed, it will resolve whether the Secretary of State sustainably discharged her obligation: see *NA v Secretary of State for the Home Department* [2014] UKUT 205 (IAC). If court finds there was such an obligation and that it was not discharged, it must assess the consequences for the case.”

23.

Several matters arising from paragraphs 29 to 32 of PJ need to be emphasised. First, the fact that lawyers have been involved does not mean the documents they produce are for that reason reliable. Secondly, the sort of exercise required by the ECtHR in *Singh v Belgium* will only arise exceptionally (treating that word as an indicator of frequency, rather than as a legal test). Thirdly, *Tanveer Ahmed* was clearly regarded by Fulford LJ as being compatible with *Singh v Belgium*, as the Upper Tribunal had found in *MJ*. In particular, Fulford LJ stressed the point made in *Tanveer Ahmed*, that issues of cost and logistical difficulty, owing to the sheer number of documents submitted in asylum claims, will be a relevant consideration in determining whether, in the particular circumstances, an obligation on the respondent arises. The point made in *Tanveer Ahmed* that documents should not be viewed in isolation but considered in their entirety in connection with the rest of the evidence, was also approved.

24.

As we can see from paragraph 30, in order to engage the obligation, the document in question needs to be at the centre of the request for protection. Even then, there should be a simple process of inquiry that will conclusively resolve both authenticity and reliability. Given the status of the body that had produced the documents in *Singh v Belgium*, there could be little doubt that, if authentic, what the documents said could also be assumed to be reliable. But, as the Tribunal pointed out in *Tanveer Ahmed*, in other cases involving foreign documentation, the discovery that the document emanates from a genuine official source may have little or nothing to say about the reliability of its contents.

25.

This is relevant to an understanding of paragraph 31 of PJ, where Fulford LJ addressed the consequence of the respondent not undertaking a proper process of verification, where the obligation is found to exist. Fulford LJ held that, in such a scenario, the respondent would be “unable thereafter to mount an argument challenging the authenticity of the relevant documents unless and until the breach is rectified by a proper enquiry”. It would, in other words, not be open to the respondent “to suggest that the document or documents are forged or otherwise are not authentic”. It is apparent that, in paragraph 31, Fulford LJ was deliberately restricting his description of the effects of failing to

discharge the obligation, so as to preclude the respondent from challenging the authenticity, as opposed to the reliability, of a document.

26.

Paragraph 32 makes it evident that courts and tribunals cannot require the respondent to investigate particular areas of evidence. It will be for the court or tribunal to decide whether the obligation to undertake particular enquiries arises, with the consequences for the respondent that Fulford LJ had described.

27.

The final sentence of paragraph 32 is of particular significance. If a tribunal concludes that the respondent has, exceptionally, become subject to an obligation to verify, but has not done so, the consequence for her will be that she is unable to contend that the document is not authentic. It will, nevertheless, be for the judicial fact-finder to decide, in all the circumstances of the case, and by reference to the totality of the evidence, whether the document is "reliable" as to both its provenance and contents. If the judicial fact-finder is so satisfied, this may, of course, prove to be determinative of the claim to international protection. But such a result will not necessarily follow. It all depends on the nature of the case being advanced and the fact-finder's conclusions on the entirety of the evidence.

28.

It is instructive to see how the court in *PJ* reached its conclusion to allow the appeal and remit the matter to the Upper Tribunal. At paragraph 41, Fulford LJ found that the First-tier Tribunal Judge had doubted the validity of the documents disclosed by the lawyers "on a significantly false basis". The fact that two independent lawyers had turned up the same material from the Magistrates' Court clearly struck Fulford LJ as very significant. Once it had been established that the documents originated from a Sri Lankan court, "a sufficient justification was required for the conclusion that the claimant does not have a well-founded fear of persecution". It was, furthermore, "difficult to understand how the claimant could have falsified a letter from the Magistrate of the relevant court to the Controller of Immigration and Emigration ordering the claimant's arrest which he then placed in the court record so it could later be retrieved by two separate lawyers". Fulford LJ held that, at the very least, this evidence required "detailed analysis and explanation".

29.

At the end of the day, therefore, the issue of the respondent's duty in reality played little or no part in the court's reasoning in *PJ*. Both the First-tier Tribunal and the Upper Tribunal had, in effect, failed to give legally sufficient reasons for concluding that *PJ* was not at real risk on return to Sri Lanka, in the light of all the evidence.

30.

In *AR v the Secretary of State for the Home Department*[2017] CSIH 52, the Inner House was concerned with an appeal from the Upper Tribunal against a decision to dismiss *AR*'s appeal against the First-tier Tribunal, which had dismissed his appeal against the respondent's decision that *AR* was not at real risk in Pakistan as a gay man. The First-tier Tribunal had before it a copy First Information Report, which narrated that the father of the individual with whom *AR* was said to have committed an act of sodomy had reported the matter to the police. The Tribunal also had a newspaper article of 31 March 2003, in which the father was reported as saying that his son's friend had taken the son from his house and sodomised him against his will. Although it is unclear, it appears that a second "official" document before the judge was a record of the police notifying local police stations of the appellant's escape from custody.

31.

At paragraph 30, the Inner House (per Lord Malcolm) noted that:-

“the evidence consists of the petitioner’s account, which in its essential elements is supported by a number of documents, two of them of an official nature, and all easily verifiable. To our eyes at least, they have the hallmarks of valid documents, albeit no doubt there is at least a possibility that they were fabricated, although, if they were, why would there be internal inconsistencies on points of detail?”.

32.

Beginning at paragraph 33, Lord Malcolm has this to say:-

“33. The appeal in this court focussed on two matters, namely (a) the treatment of the documents and (b) the evidence of the supporting witness. So far as the documents are concerned, we have mentioned that, on their face, they appear to be valid and authentic, for example, where applicable, being duly stamped and signed. They are supportive of the essentials of the petitioner’s account of the events which led him to leave his family and homeland. Judge Macleman ruled that the authorities were under no obligation to verify the documents. Be that as it may, in our view it does not address the logically prior question, namely, did the First-tier Tribunal have and explain a sound basis for their rejection? If the answer to that question is no – the test set out in PJ (Sri Lanka) does not arise.

34. The submission is that the First-tier Tribunal Judge did not set out any good reasons for dismissing the documents as unreliable. We agree with that submission. We have studied the terms of the decision, but can find no proper support for the terms of paragraph 34. For example, what was the reason for placing the FIR in the unreliable category? While no doubt there is “a high incidence of false ‘official’ documents”, there must also be some genuine documents. One cannot simply rely on doubts as to the veracity of the account given by the claimant as a reason for rejecting the documents when on their face, they support his asylum claim. The “holistic” approach endorsed by Judge Macleman would require the overall assessment to be made after all of the evidence has been considered and assessed. In other words, and by way of example, one might ask – do the documents support the claim? If yes, is there any reason arising from the documents themselves to reject their authenticity? If no, how does this affect, if it does affect, doubts that have arisen as to the claimant’s account? In our view, if those doubts are used as a priori reason to undermine and reject the documents, there is an obvious risk that supportive evidence is being wrongly excluded from the overall assessment.

35. We remind ourselves of the need to examine the facts with care (sometimes referred to as “anxious scrutiny”), and of the low standard of proof applicable in cases of this nature. We are persuaded that these factors have been given insufficient weight and attention in the more recent decisions. We recognise that there may be cases where the concerns over the veracity of a claimant’s account may be so clear-cut that the decision-maker is driven to rejection of supporting documents, even though on their face they appear to be authentic; but even then, given what is at stake, we would expect some consideration to be given to easily available routes to check authenticity. There is no question that these documents are at the centre of a request for international protection. The decision-maker should stand back and view all of the evidence in the round before deciding which evidence to accept and which to reject, and on the proper disposal of the appeal.”

33.

As with PJ, it is necessary to consider this passage of the opinion of the Inner House in detail. An immediately notable feature of AR is that, at paragraph 30, the Inner House made its own assessment

of the “official” documents, holding that these had “the hallmarks of valid documents” and that, at paragraph 33 “they appear to be valid and authentic, for example, where applicable, being duly stamped and signed”.

34.

It is evident that the Inner House did not find that the FIR and the other document apparently emanating from the Pakistan police required to be verified by the respondent. In paragraph 33, Lord Malcolm did not dissent from the finding of the Upper Tribunal Judge that the respondent was, in this case, under no obligation to verify the documents. The basis upon which the Inner House reached its conclusion was that the Upper Tribunal had not addressed “the logically prior question, namely, did the First-tier Tribunal have and explain a sound basis for their rejection?” The First-tier Tribunal had erred by relying on doubts regarding the veracity of the account given by the claimant as a reason for rejecting the documents when, on their face, they supported his claim. The fact that the Inner House had formed its own view about the validity and authenticity of the documents affected the nature of the requirement imposed on the judge to give legally adequate reasons for his overall conclusion that the appellant was not entitled to international protection.

35.

At paragraph 35, the Inner House nevertheless recognised that there may be cases where the concerns over the veracity of an account “may be so clear-cut that the decision-maker is driven to rejection of supporting documents, even though on their face they appear to be authentic”. Although paragraph 35 goes on to say that, even then, one would expect some consideration to be given to easily available routes to check authenticity, it is apparent that that the Inner House was not expressing any disagreement with the limitations identified by Fulford LJ in *PJ* on the respondent’s obligations in this area.

36.

We have already observed how the Tribunal *Tanveer Ahmed* was at pains to avoid falling into the trap of assuming that, just because an official-looking document emanating from abroad may have been issued by the authority whose name appears on the document, the contents of the document must be reliable. This is of particular relevance in the case of FIRs, the purpose of which is to record an accusation made by an individual about another person or persons. Even if the compiler of the FIR has not been suborned, it can readily be seen that the fact the accusation has been made is in no sense probative of the fact that the relevant authority believes the accusation, let alone of its veracity.

37.

It is, we consider, possible to summarise the law on this issue as follows. The IAT’s decision in *Tanveer Ahmed* remains good law. The overarching question for the judicial fact-finder will be whether the document in question can be regarded as reliable. An obligation on the respondent to take steps to verify the authenticity of the document will arise only exceptionally (in the sense of rarely). This will be where the document is central to the claim; can easily be authenticated; and where (as in *Singh v Belgium*) authentication is unlikely to leave any “live” issue as to the reliability of its contents. It is for the Tribunal to decide, in all the circumstances of the case, whether the obligation arises. If it does, the respondent cannot challenge the authenticity of the document in the proceedings; but that does not necessarily mean the respondent cannot question the reliability of what the document says. In all cases, it remains the task of the judicial fact-finder to assess the document’s relevance to the claim in the light of, and by reference to, the rest of the evidence.

## **F. THE “MIBANGA” DUTY**

38.

That last observation brings us to the cases on the second, related issue described in paragraph 1 above; namely, the assessment of the case “in the round”.

39.

In Francois Mibanga v Secretary of State for the Home Department[2005] EWCA Civ 367, the claim for asylum was based on the appellant’s account that he had been captured in the Democratic Republic of Congo by Rwandan-backed rebels, who had tortured him. The appellant produced a medical report on his injuries, together with a report by a country expert. The Court of Appeal held that the adjudicator who dismissed the appellant’s appeal had disregarded both expert reports in concluding that the appellant’s case lacked credibility. She had only turned to the reports after making that adverse credibility finding. Both reports were regarded by the Court of Appeal as detailed and impressive documents.

40.

In his judgment, Wilson J said:-

“23. In the light of my view as to the proper despatch of this appeal, it would be wise for me to keep my own views about the effect of the evidence to a minimum. The basis of the appeal is not that the weight of the appellant's evidence, coupled with that of the two experts, should have driven every reasonable fact-finding body to accept his account and to uphold his appeal but that he has been the victim of a flawed fact-finding exercise on the part of the adjudicator and that the tribunal fell into legal error in failing to recognise it and to remit the appeal for redetermination. In this regard Miss Braganza relies heavily upon the way in which the adjudicator folded the doctor's report into her enquiry only at a point after she had reached her conclusions and upon the way in which she jettisoned the focussed comments of the professor.

24. It seems to me to be axiomatic that a fact-finder must not reach his or her conclusion before surveying all the evidence relevant thereto. Just as, if I may take a banal if alliterative example, one cannot make a cake with only one ingredient, so also frequently one cannot make a case, in the sense of establishing its truth, otherwise than by combination of a number of pieces of evidence. Mr Tam, on behalf of the Secretary of State, argues that decisions as to the credibility of an account are to be taken by the judicial fact-finder and that, in their reports, experts, whether in relation to medical matters or in relation to in-country circumstances, cannot usurp the fact-finder's function in assessing credibility. I agree. What, however, they can offer, is a factual context in which it may be necessary for the fact-finder to survey the allegations placed before him; and such context may prove a crucial aid to the decision whether or not to accept the truth of them. What the fact-finder does at his peril is to reach a conclusion by reference only to the appellant's evidence and then, if it be negative, to ask whether the conclusion should be shifted by the expert evidence. Mr Tam has drawn the court's attention to a decision of the tribunal dated 5 November 2004, namely HE (DRC - Credibility and Psychiatric Reports)[2004] UKIAT 00321 in which, in paragraph 22, it said:

“Where the report is specifically relied on as a factor relevant to credibility, the Adjudicator should deal with it as an integral part of the findings on credibility rather than just as an add-on, which does not undermine the conclusions to which he would otherwise come.”

41.

Buxton LJ agreed:-

“30. ... The adjudicator's failing was that she artificially separated the medical evidence from the rest of the evidence and reached conclusions as to credibility without reference to that medical evidence; and then, no doubt inevitably on that premise, found that the medical evidence was of no assistance to her. That was a structural failing, not just an error of appreciation, and demonstrated that the adjudicator's method of approaching the evidence diverted from the procedure advised in paragraph 22 of HE, set out by my Lord.

31. Further, though perhaps less obviously, I agree that if an expert's view is to be rejected in the conclusive terms adopted by the adjudicator in this case, then proper procedure requires that at least some explanation is given of the terms and reasons for that rejection.”

42.

Following Mibanga, there were many challenges to Tribunal decisions, on the asserted basis that a judge had failed to treat (usually) a medical report in the way the Court of Appeal had held it should be treated in that case. Dealing with such a challenge, the AIT in HH (medical evidence; effective Mibanga) Ethiopia[2005] UKAIT 00164 attempted to dispel some of the misconceptions that had grown up around Mibanga:-

“19. Finally, the grounds assert that the Immigration Judge erred in law in failing to treat the medical report as part of the overall evidence in this case, to be considered "in the round" before coming to any conclusion as to the appellant's credibility. Reference is made to the Court of Appeal judgments in **Mibanga [2005] EWCA Civ 367**, in particular paragraph 24 of the judgment of Wilson J:

"It seems to me to be axiomatic that a fact-finder must not reach his or her conclusion before surveying all the evidence relevant thereto. Just as, if I may take a banal if alliterative example, one cannot make a cake with only one ingredient, so also frequently one cannot make a case, in the sense of establishing its truth, otherwise than by combination of a number of pieces of evidence".

...

21. The Tribunal considers that there is a danger of **Mibanga** being misunderstood. The judgments in that case are not intended to place judicial fact-finders in a form of forensic straightjacket. In particular, the Court of Appeal is not to be regarded as laying down any rule of law as to the order in which judicial fact-finders are to approach the evidential materials before them. To take Wilson J's "cake" analogy, all its ingredients cannot be thrown together into the bowl simultaneously. One has to start somewhere. There was nothing illogical about the process by which the Immigration Judge in the present case chose to approach his analytical task.”

43.

In S v Secretary of State for the Home Department[2006] EWCA Civ 1153, the Court of Appeal, faced with a similar submission, emphasised the exceptional nature of the factual matrix in Mibanga. Rix LJ said:-

“21. ... The injuries described in the medical report in Mibanga were extraordinary in their severity and in their nature. There was a mass of scars of different kinds all over Mibanga's body, described in detail, for instance, at paragraph 11 and 12 of Wilson J's judgment in that case. Some of them were consistent with beatings with a belt. Many of them were consistent with bites from leeches, which reflected Mibanga's allegation that he had been thrown by way of punishment into a barrel of leeches. In particular (and when I say in particular, I reflect the use of that expression found repeatedly throughout Wilson J's judgment in referring to this aspect of the evidence in that case) there were two

injuries, one at the tip and one at the base of Mibanga's penis, which were consistent with the application of electrodes to his genitals. Indeed, Dr Norman in that case had referred in her report to a book on the medical documentation of torture which provided the basis, or one of the bases, upon which she concluded that those injuries were consistent with the application of electrodes; see paragraph 25 of the judgment in that case.

22. It is against that background that although Wilson J, at paragraph 23 and elsewhere in his judgment, stated that he wished to be cautious about what he said about the facts of the case in the light of the consequence that the matter would have to be remitted for reconsideration at a new hearing, it is nevertheless clear from that paragraph 23 and elsewhere that he, and this court, had the very gravest doubts about the fact finding process which had been conducted by the adjudicator in that case. That, therefore, was the context in which Wilson J stated that the adjudicator had fallen into legal error by addressing the medical evidence only after she had conclusively rejected central features in the appellant's case as incredible. One only has to recite the facts of that case to see why the approach of the adjudicator there should have led to such concern.

23. In a concurring judgment, Buxton LJ referred to the error of law as being one in which there had been an artificial separation amounting to a structural failing, and not just an error of appreciation, in dealing with credibility entirely separately from the medical evidence.

24. It seems to me that the logic of Mibanga does not apply to this case, essentially for two separate reasons. One is that the structure of the immigration judge's reasoning here does not fall foul of that artificial separation and structural failure which were found to exist in Mibanga, and the other is that the medical evidence in Mibanga was so powerful and so extraordinary as to take that case into an exceptional area."

44.

Rix LJ went onto distinguish the striking facts of Mibanga from the medical report of Dr Steadman in S, which "was not consistent with direct assault of any kind at all. It was merely consistent with debris falling from above, in itself an essentially lacklustre gloss of what the appellant had really relied upon, which was shrapnel from a bullet or flying debris caused by ricocheting bullets" (paragraph 27).

45.

At paragraph 32, Rix LJ approved the comments of the AIT in HH, regarding the danger of Mibanga being misunderstood.

46.

In TF v Secretary of State for the Home Department[2018] CSIH 58, the Inner House was concerned with appeals by asylum seekers from Iran, who feared persecution if returned to that country, by reason of their conversion in Scotland to Christianity. The appellants adduced evidence from members of a particular church, testifying to the genuineness, in the eyes of the witnesses, of the religious conversions. The appellants' appeals were unsuccessful in the First-tier Tribunal and the Upper Tribunal.

47.

At paragraph 4, Lord Glennie, delivering the opinion of the court, was at pains to explain the nature of the appellants' case to be in need of international protection. The genuineness of the claim to have converted to Christianity whilst in Scotland lay at the heart of the case. It was not disputed that a genuine Christian convert faced a real risk of persecution if returned to Iran:

“They would be regarded as apostates. They could not be expected to conceal their religious beliefs so as to avoid persecution...Hence the importance of the question whether their conversion to Christianity was genuine; if it was not genuine they would be unlikely in Iran to act in a way which attracted attention and invited persecution. There was no suggestion in these appeals that the claim for asylum could succeed on the basis that, even if the sur place conversions were not genuine, the appellants would nonetheless be perceived as Christians because of their attendance at church in the United Kingdom and would, if returned to Iran, be persecuted as if they were Christians.”

48.

At paragraph 37, Lord Glennie found that what the First-tier Tribunal Judge had done in one of the appeals was to take his assessment of the appellant, which was adverse:-

“and apply it to all the evidence which could, on one view, be in favour of MA’s claim to be a genuine convert to Christianity, so that that evidence simply becomes a further example of MA manufacturing evidence in bad faith in order to support his appeal”.

49.

At paragraph 37, Lord Glennie considered that it was, to some extent, justified for the First-tier Tribunal to treat with scepticism the views of third parties as to the genuineness of the conversion to Christianity of an asylum seeker. There were, however, “limits to this approach” (paragraph 38). Just as juries in criminal trials are commonly directed that the fact an individual may have lied about one point does not necessarily mean he is lying about other matters, “The same words of caution should be taken to heart by tribunal judges hearing evidence in immigration and asylum appeals. People have different reasons for not telling the truth, or the whole truth, about particular matters”. They may, for example, be anxious not to get others into trouble. Nor was it necessarily suggestive of dishonesty to fail to give every detail on the first occasion they were asked about it, but only to come out with the full story on a second or subsequent occasion.

50.

At paragraph 39, Lord Glennie emphasised that the appellant’s case “has to be considered in the round, not only on the basis of the appellant’s own evidence, which may or may not be accepted as credible, but also on the basis of other evidence that may be available”. Much would depend on what that other evidence is. “If, for example, that other evidence comes from some wholly-independent source and is, on the face of it, impartial and objective, it is difficult to see how a finding that the appellant himself is dishonest can materially affect the weight to be attached to it”. By contrast, if the third party evidence “simply comprises information based entirely upon what the appellant has previously told the witness”, then it may well be legitimate for the tribunal to take account of its findings about the credibility of the appellant, “on the basis that it has found the appellant to be a liar and capable of making up a story, fabricating an account and spreading that account amongst others as part of a web of deception”. Much would depend upon the time and circumstances that the third party witness was given the information.

51.

It is also relevant at this point to remind ourselves of what the Inner House said at paragraph 35 of AR (see paragraph 32 above). There may be cases where concerns over the veracity of a claim and its account may be so clear-cut that the judicial fact-finder is driven to rejection of other evidence, such as supporting documents, even though these appear to be authentic.

52.



Since this decision began to be drafted, the Court of Appeal has had occasion to consider the Mibanga line of cases in MN and others v Secretary of State for the Home Department[2020] EWCA Civ 1746. At paragraph 108 of its judgment, the court held that the basic principle established by Mibanga was summarised by Sir Ernest Ryder in AM (Afghanistan) v Secretary of State for the Home Department[2017] EWCA Civ 1123, when he said at paragraph 19(a) that:-

“It is an error of approach to come to a negative assessment of credibility and then ask whether that assessment is displaced by other material”.

53.

It is often the case that a person’s claim to be in need of international protection turns on whether or not that person is adjudged to be credible. Credibility, however, is not necessarily an essential component of a successful claim. On the contrary, as Simon Brown LJ held in R (Ravichandran) v Secretary of State for the Home Department[1995] EWCA Civ 16:

“... the question whether someone is at risk of persecution for a Convention reason should be looked at in the round and all the relevant circumstances brought into account. I know of no authority inconsistent with such an approach and, to my mind, it clearly accords both with paragraph 51 of the UNHCR handbook and with the spirit of the Convention.”

54.

In some cases, credibility will have no role to play in the Ravichandran exercise. For example, a person may have told lies about everything involving their past life in a particular country and yet be entitled to international protection because there is evidence that shows there is a real risk of serious harm if the person is returned; for instance, because the authorities of that country persecute all returnees from abroad who have sought international protection.

55.

An example of the protean nature of credibility as a determinant of entitlement to international protection can be seen from TE. The evidence of the church witnesses, who deposed to the genuineness of the appellants’ conversions, went to the issue of whether the appellants had genuinely converted. Had their cases been that they would be perceived as apostates and persecuted for having undergone baptism or some other form of initiation, whether or not they intended to behave as Christians in Iran, the evidence of the church witnesses would have assumed a very different significance.

56.

The relevance of an individual’s credibility to their particular claim accordingly needs to be established with some care by the judicial fact-finder. It is only once this is done that the practical application of the Mibanga duty can be understood. The significance of a piece of evidence that emanates or purports to emanate from a third party source may well depend upon what is at stake in terms of the individual’s credibility. An arrest warrant from Afghanistan that states an individual was arrested on 1 April 2020 in Afghanistan may not advance that individual’s claim if there is reliable EURODAC evidence that the individual was fingerprinted whilst in detention in Germany on that very date. In such a scenario, the judge still has a duty to explain why (assuming he or she so finds) the arrest warrant does not assist the individual’s case; but the reasons are likely to be relatively straightforward. In the absence of the EURODAC evidence, the requirement of what will constitute legally adequate reasons for rejecting the individual’s claim may well be more onerous.

57.

To sum up, the judicial fact-finder has a duty to make his or her decision by reference to all the relevant evidence and needs to show in their decision that they have done so. The actual way in which the fact-finder goes about this task is a matter for them. As has been pointed out, one has to start somewhere. At the end of the day, what matters is whether the decision contains legally adequate reasons for the outcome. The greater the apparent cogency and relevance of a particular piece of evidence, the greater is the need for the judicial fact-finder to show that they have had due regard to that evidence; and, if the fact-finder's overall conclusion is contrary to the apparent thrust of that evidence, the greater is the need to explain why that evidence has not brought about a different outcome.

## **G. DECIDING THE APPEAL**

58.

We can now return to the facts of the present appellant's case. As we have seen, the first ground of challenge to the First-tier Tribunal Judge's decision proceeds on the assumption that, on the facts of this case, the respondent had an obligation to carry out verification of the arrest warrant; and that it was not open to the respondent or, indeed, the First-tier Tribunal Judge "to impugn such a document". The arrest warrant is said to be "central to the claim and it was not said it was not easily verifiable". The First-tier Tribunal Judge "erred where the respondent had failed to consider routes which the document could be verified".

59.

In his asylum interview, the appellant made no reference to there being an arrest warrant in his name in China. When asked at Q 151 why the Chinese authorities would still be interested in the appellant after several years, the appellant replied that they were interested in arresting those who support Tibet's independence. At Q 152, the appellant said he had friends who went back to China and he had asked them to find out what had happened back home. They had confirmed that he was still wanted.

60.

The asylum interview took place on 4 March 2019. The respondent's decision, refusing the appellant's claim, is dated 19 March 2019. There is no suggestion that, at the time the refusal letter was prepared, the appellant had sent a copy of the arrest warrant to the respondent. Nor is there any suggestion that it had accompanied the appellant's notice of appeal against the respondent's decision, which was received the First-tier Tribunal on 2 April 2019.

61.

In fact, the document in question was only sent to the First-tier Tribunal under cover of a letter from Katani & Co dated 16 July 2019, the day before the hearing, as part of the second inventory of productions. A copy of what itself appears to be a photocopy, purporting to be the warrant, occurs at page 15 of this inventory. It bears a stamp in the name of Global Language Services Ltd, indicating that it was translated into English on 16 July 2019. The English translation, at page 14, carries an identical stamp. After describing the appellant as suspected of participation in activities of Tibetan separatist organisations and attendance at illegal gatherings, etc, the warrant requests all local public security authorities to take all possible measures to search for the "suspect" after receiving this warrant. The public is urged to call the police "on 110" to report; and the bureau is said to be offering a high-value reward to anyone who provides useful information or who captures the suspect and sends him to the local public security authority.

62.

In the light of this chronology, it can readily be seen that the appellant can derive no assistance whatsoever from the judgments in PJ or AR. The respondent's Presenting Officer, like the First-tier Tribunal Judge, would have seen the arrest warrant and its translation only upon receipt of the second inventory of productions, which would appear to have been on the very day of the hearing. Mr Winter valiantly submitted that, even so, the duty of verification arose. If correct, that would, of course, place the respondent in an immensely difficult position. Either the Presenting Officer would have to seek an adjournment, in order for attempts at verification to take place; or he or she would be precluded from challenging the authenticity of the document before the First-tier Tribunal. Where the duty of verification is a live issue, the timing of the production of the document is, plainly, one of the fact-sensitive matters to which regard must be had in deciding, in all the circumstances, whether the duty arises on the facts of the case.

63.

In the present case, however, the arrest warrant document is very far from having the attributes described in paragraph 37 above as being needed to make the verification duty a live issue. On the contrary, leaving aside its egregiously late production, the fundamental reason why the duty does not arise in respect of the arrest warrant is because it is merely an unremarkable example of the kind of document encountered by judges of the First-tier Tribunal on a daily basis in protection appeals. If every document of this kind were required to be verified by the respondent, the appellate process would be severely impaired. We remind ourselves of what the Tribunal said at paragraph 36 of Tanveer Ahmed and what Fulford LJ said at paragraph 29 of PJ. Such an exercise would be entirely disproportionate. The appellant's ground (i), accordingly, fails.

64.

We turn to item (ii) of the grounds. This contends that the First-tier Tribunal Judge allowed his adverse credibility findings to sway the assessment made of the arrest warrant. Reference is made to TE. However, we approach to the matter in the light of the wider caselaw analysed above, regarding the treatment of evidence "in the round".

65.

So far as TE is concerned, we have already seen that the opinion of Lord Glennie was much more nuanced than the present appellant appears to suggest. At paragraph 38, Lord Glennie identified the need for caution before deciding that, because an individual may have lied about one point, that meant that he must be lying about other matters.

66.

As is plain from the decision of the First-tier Tribunal in the present case, the judge did not take this approach to the arrest warrant. He did not treat it as another example of the appellant giving deceitful evidence. Nor did the First-tier Tribunal Judge fall into the related error, identified at paragraph 32 of TE, of treating all evidence supportive of the appellant's case as merely further examples of him manufacturing a false claim. The First-tier Tribunal Judge came to the conclusion that the arrest warrant was neutral in its significance. That is very different from the mischief which the Inner House sought to identify in TE.

67.

We have seen that, in paragraph 35 of AR, the Inner House recognised that there may be cases where concerns over the veracity of a claimant's account may be so clear-cut and decisive that the decision-maker is driven to a rejection of supporting documents. It is plain that this was the approach taken by the First-tier Tribunal Judge in the present case. The appellant had asserted that he was a Tibetan

Buddhist. He had, however, demonstrated a remarkable ignorance of the tenets of that faith, as can be seen from the Asylum Interview Record. At Q 114 (the reference in paragraph 12(h) of the decision to Q 104 is plainly a misprint), the appellant said that he prayed to “the flag” because “here there is no Buddhism”. As someone who was supposed to be a Tibetan Buddhist, who had by his own account fled China in part for that reason, the First-tier Tribunal Judge was perfectly entitled to treat this answer as destructive of the appellant’s case to be a Tibetan Buddhist. That was reinforced by the findings in paragraph 12(i).

68.

Against that background, the First-tier Tribunal Judge was entitled to treat the arrest warrant as evidentially neutral. It had no relevance to the question whether the appellant actually was a practitioner of Tibetan Buddhism, which was the proposition upon which his claim to international protection was based. For these reasons, the ground advanced in sub-paragraph (ii) fails.

69.

Ground (iii) contends that the First-tier Tribunal Judge “erred by failing to be slow, at paragraph 12(e), to draw adverse inferences from admissions/inconsistencies arising from the screening interview”. At paragraph 12(e) the First-tier Tribunal Judge referred to the screening interview of 5 October 2018. The judge noted that nowhere in that interview did the appellant say anything about his belief in Tibetan Buddhism or support for Tibetan independence. Although the written answer to the question about religion - “just with Balai organisation”- might have been a misprint for the Dalai (Lama), it is nevertheless true that the appellant did not mention Tibetan Buddhism or Tibet at his screening interview.

70.

It is trite that a person claiming international protection is not expected in his screening interview to set out every detail of his claim. What might be reasonably expected to be found in a person’s answers at an asylum screening interview will depend on the facts of the particular case. A person who volunteers themselves to the respondent, in order to make a claim for asylum, after having lived in the United Kingdom for a significant period of time, might, as a general matter, be expected to provide somewhat more detail than, say, a person who is screened immediately after an arduous journey to this country, concealed in the back of a lorry.

71.

In the present case, the appellant had been in the United Kingdom for several years before he was arrested in connection with immigration matters. That was when he claimed asylum. Notwithstanding that the appellant was claiming following an event (his arrest) over the timing of which he had no control, we nevertheless consider that the First-tier Tribunal Judge was entitled to have some regard to the fact that Tibet and Tibetan issues did not feature in the reasons given by the appellant for claiming asylum.

72.

In any event, however, reading the decision of the First-tier Tribunal as a whole, it is manifest that the basis for the First-tier Tribunal Judge’s adverse credibility findings arose not from the screening interview but from the detailed asylum interview. It was in that interview that the appellant made the remarkable assertion that there was no Buddhism in the country in which he was claiming asylum.

73.

For these reasons, ground (iii) is not made out.

## **H. DECISION**

The decision of the First-tier Tribunal Judge does not contain an error on a point of law. The appellant's appeal is 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 appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Mr Justice Lane 7 January 2021

The Hon. Mr Justice Lane

President of the Upper Tribunal

Immigration and Asylum Chamber