Neutral Citation Number: [2005] EWCA Civ 1219

Case No: C5/2005/1328, 1328A, 1329, 1330 PTA

IN THE SUPREME COURT OF JUDICATURE
COURT OF APPEAL (CIVIL DIVISION)
ON REFERENCE FROM THE ADMINISTRATIVE COURT
QUEEN'S BENCH DIVISION (ELIAS J) CO/3488/2005

Royal Courts of Justice
Strand, London, WC2A 2LL

Tuesday 25 October 2005

Before :

THE MASTER OF THE ROLLS
LORD JUSTICE MAURICE KAY
and
SIR CHRISTOPHER STAUGHTON

- -

Between :

(1) HAMID **(2) GAAFAR** **(3) MOHAMMED**	**Appellants**
- and -	
SECRETARY OF STATE FOR THE HOME DEPARTMENT	**Respondent**

- -

(1) Manjit Gill QC and Abid Mahmood (instructed byBlakemores Solicitors) for **Hamid**
(2) Manjit Gill QC and Basharat Ali (instructed by Noden & Co Solicitors) for **Gaafar**
(3) Manjit Gill QC and Chris Jacobs (instructed by White Ryland Solicitors) for **Mohammed**
Mr Jonathan Swift (instructed by the Treasury Solicitor**)** for the **Respondent**
Hearing date: 26 July 2005

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Judgment

Lord Justice Maurice Kay : This is the judgment of the court.

1. These three appeals are the first to be referred to the Court of Appeal by a High Court Judge sitting in the Administrative Court pursuant to section 103C of the Nationality, Immigration and Asylum Act 2002. Section 103C was inserted into the 2002 Act by the Asylum and Immigration (Treatment of Claimants etc) Act 2004. The new procedure accompanied the establishment of the Asylum and Immigration Tribunal with effect from 1 April 2005. The three appellants come from the Darfur region of Sudan. Hamid and Mohammed are members of the Zaghawa tribe. Gaafar is a member of the Al Berget tribe. Each of them claimed asylum upon arrival in the United Kingdom. In each case the Secretary of State refused the application. Hamid and Mohammed each appealed to an adjudicator but their appeals were dismissed. In Gaafar's case, the appeal was heard by an immigration judge after the establishment of the AIT in April. His appeal was also dismissed. All three made applications under section 103A of the 2002 Act for reconsideration of the adverse decision. Such an application now goes before a senior immigration judge on paper. The three applications for reconsideration were unsuccessful.

2. Following a refusal of reconsideration by the AIT, application may be made to the Administrative Court under section 103A. Such an application goes before a judge as a paper application for him to consider whether he should order the AIT to reconsider its decision because it may have made an error of law. However, section 103C then provides:

> "(1)On an application under section 103A in respect of an appeal the appropriate court, if it thinks the appeal raises a question of law of such importance that it should be decided by the appropriate appellate court, may refer the appeal to that court."

In England and Wales, "the appropriate court" is the Administrative Court and "the appropriate appellate court" is the Court of Appeal.

3. The three applications to the Administrative Court were considered by Mr Justice Elias on 10 June 2005. He has referred them to the Court of Appeal pursuant to section 103C.

4. In his written reasons Mr Justice Elias stated:

> "1. I see no basis for challenging the findings of fact of the adjudicator [or immigration judge]. Equally he was entitled to conclude that it would not be unsafe or unduly harsh for the applicant to live in Khartoum. However the adjudicator [or immigration judge] concluded that the applicant faced a risk of persecution in his home area in Darfur. The evidence suggests that the State is either involved in or complicit in that persecution. The issue therefore arises whether a relocated person in those circumstances can be required to rely upon the protection from the State that is party to the persecution.

> 2. I have seen a starred determination of the Asylum and Immigration Tribunal, *A E (Sudan) UKAIT* (2005) 00101. The President, Mr Justice Hodge, concluded that relocation is an option for those fleeing Darfur. It is a carefully reasoned decision but in my view there is a respectable argument to the contrary and it is desirable that the matter is considered by the Court of Appeal."

5. Now that the matter is before Court of Appeal under section 103C, the powers of this Court include:

> "(a) to affirm the Tribunal's decision;
>
> (b) to make any decision which the Tribunal could have made;
>
> (c) to remit the case to the Tribunal;
>
> …
>
> (g) to restore the application under section 103A to the Administrative Court."

6. Before turning to the issues of law to which the jurisdiction of this court is limited, it is necessary to say a little more about the facts of each case.

Hamid

7. This appellant is a member of the Zaghawa tribe and lived at Oro in Darfur. The village was attacked by a group known as the Janjaweed in November 2003. Hamid went to Taweela, but in October 2004 this village was also attacked by the Janjaweed. In the first attack his father and brother were killed. In the second attack his mother was killed. Hamid then went to the village of Al Shyria and from there travelled by Port Sudan to the United Kingdom. The adjudicator accepted Hamid's account of his background and what had happened to him in Sudan. He concluded that Hamid had suffered persecution by reason of his ethnicity and that he would be at risk of further persecution if he were to return to his home area. However, the adjudicator went on to conclude that Hamid could live in Khartoum. He accepted that on return, Hamid would be questioned at Khartoum airport but he found that in the absence of any political involvement there was no real likelihood of a risk of persecution or of treatment contrary to Article 3 of the European Convention on Human Rights and Fundamental Freedoms (ECHR). He also concluded that, given his personal circumstances, it would not be unduly harsh for Hamid to relocate to Khartoum.

Mohammed

8. The basis of Mohammed's claim for asylum was that he is a member of the Zaghawa tribe and that he had a history of membership of or support for the Sudanese Liberation Army (SLA). His home was in Abogamra in Darfur. In 2003 this village was attacked by Arab militia. He then moved to Nayala where he lived for about a year. From there he moved to Khartoum in March 2004, having previously spent

some time in Omdurman because he feared arrest in Nayala. He left Sudan at the end of September 2004.

9. The adjudicator accepted that it was too dangerous for Mohammed to return to Darfur by reason of his race and that if he were returned there he would be persecuted on grounds of ethnicity. However, he further concluded that there was no evidence that Darfurians generally are arrested and ill-treated in Khartoum or in locations outside Darfur. The adjudicator did not accept Mohammed's evidence as to his political involvement. He found it to be implausible that Mohammed had undertaken political activities when in Khartoum. He further found that Mohammed had not been involved in politics either in Darfur or in Khartoum, that he was not a genuine supporter of the SLA, and that the Sudanese authorities had not targeted him or been interested in him by reason of any connection with the SLA. He further concluded that Mohammed had no real difficulties in Khartoum and that although it is difficult for many people from Darfur to settle in Khartoum it was not unreasonable or unduly harsh for Mohammed to do so. He would not be persecuted in Khartoum. It was "a viable internal relocation option".

Gaafar

10. Gaafar's application was on the basis that he is a member of the Al Berget tribe and lived in the village of Tawila. In March and November 2004 this village was attacked by the Janjaweed militia. After that, Gaafar said that he started collecting money for the "Sudanese Liberation Movement". He had left Tawila shortly after the November 2004 attack when he heard that his father and brother had been arrested by Sudanese 'security agents' on suspicion of supplying weapons to the movement. Gaafar believed the same security agents also suspected him of supplying weapons. He travelled to Al Kofra City and from there to the United Kingdom.

11. The immigration judge concluded that it was not credible that either Gaafar or his father had collected money for the movement. He also rejected Gaafar's account as to what had happened to his father and brother and concluded that this went to the root of Gaafar's credibility in respect of his claimed fear of persecution on political grounds. He then considered the situation in Darfur and concluded that the issue was whether "internal flight is possible as a person of his ethnicity but with no political profile, either actual or imputed". The adjudicator concluded that upon return Gaafar would face questioning by the Sudanese immigration authorities at Khartoum airport. He further concluded that there was not a real risk that the authorities would relocate minority African tribe members who were in internal displacement camps and that in such a camp Gaafar would not face treatment contrary to Article 3 of the ECHR. It would not be unduly harsh for Gaafar to relocate to the Khartoum area.

12. In each of the three cases, when a senior immigration judge considered the application for reconsideration under section 103A, the conclusion was that the decision of the adjudicator or immigration judge disclosed no material error of law.

The Important Question of Law: Internal Relocation and State Persecution

13. The question which caused Mr Justice Elias to refer these cases to the Court of Appeal is apparent from the two final sentences of the first paragraph of his reasons:

> "The evidence suggests that the State is either involved in or complicit in … persecution. The issue therefore arises whether a relocated person in those circumstances can be required to rely upon the protection from the State that is party to the persecution."

14. It is common ground that the starting point is Article 1A(2) of the Refugee Convention which provides that a person is a refugee if:

> "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, [he] is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country … "

Although the Convention contains no express requirement that a victim of persecution should relocate internally before seeking international protection, it has been accepted for many years that reasonable internal relocation is to be expected. In the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status* (1979) it was stated (at paragraph 91):

> "The fear of being persecuted need not always extend to the <u>whole</u> territory of the refugee's country of nationality. Thus, in ethnic clashes or in cases of grave disturbances involving civil war conditions, persecution of a specific ethnic or national group may occur in only one part of the country. In such situations a person will not be excluded from refugee status merely because he could have sought refuge in another part of the same country, if under all the circumstances it would not have been reasonable to expect him to do so. "

15. The subsequent milestones in our jurisprudence have been *Regina v Secretary of State for the Home Department ex parte Robinson* [1998] QB 929 and *A E and F E v Secretary of State for the Home Department* [2003] EWCA Civ 1032; [2003] INLR 475. In *Robinson* Lord Woolf MR, giving the judgment of the Court, concluded that the test suggested by Lindon JA in *Thirunavukkarasu v Canada (Minister of Employment and Immigration)* (1993) 109 DLR (4^{th}) 682 is a particularly helpful one. The test was put by Lindon JA (at page 687) in the following terms:

> "Would it be unduly harsh to expect this person … to move to another less hostile part of the country?"

16. Lord Woolf added that the use of the words "unduly harsh" fairly reflects that what is in issue is whether a person claiming asylum can reasonably be expected to move to a particular part of his home country. In *Karanakaran v Secretary of State for the Home Department* [2000] INLR 122 Brooke LJ referred to the "unduly harsh" test as tempering the words of Article 1(A)(2) "by a small amount of humanity". He added (at page 130):

> "Although this is not the language of 'inability', with its connotation of impossibility, it is still a very rigorous test. It is

> not sufficient for the applicant to show that it would be unpleasant for him to live there, or indeed harsh to expect him to live there. He must show that it would be unduly harsh."

17. In *A E and F E* Lord Phillips of Worth Matravers MR, giving the judgment of the Court, observed (at paragraph 64):

> "The 'unduly harsh' test has, however, been extended in practice to have regard to factors which are not relevant to refugee status, but which are very relevant to whether exceptional leave to remain should be granted having regard to human rights or other humanitarian considerations. The problem with this is that humanitarian considerations cannot readily be applied as a test of law as to whether an individual is entitled to refugee status."

18. In a later passage he dealt with the relationship between asylum cases and human rights and humanitarian considerations as follows (at paragraph 67):

> "It seems to us important that the consideration of immigration applications and appeals should distinguish clearly between: (1) the right to refugee status under the Refugee Convention; (2) the right to remain by reason of rights under the Human Rights Convention; and (3) considerations which may be relevant to the grant of leave to remain for humanitarian reasons. So far as the first is concerned, we consider that consideration of the reasonableness of internal relocation should focus on the consequences to the asylum seeker of settling in the place of relocation instead of his previous home. The comparison between the asylum seeker's situation in this country and what it will be in the place of relocation is not relevant for this purpose, though it may be very relevant when considering the impact of the Human Rights Convention or the requirements of humanity."

19. This approach is clear as to the appropriate test to be applied when considering internal relocation in the context of an asylum application. The point which Mr Manjit Gill QC seeks to advance is that it does not deal with the situation where the persecution in the home area is carried out by state agents or the state is otherwise complicit in the persecution. He draws attention to the UNHCR Guidelines on International Protection dated 23 July 2003 and the Michigan Guidelines on the Internal Flight Alternative of 1999.

20. The UNHCR guidelines of 2003 describe one of the criteria for assessing whether internal relocation is relevant in the following terms:

> "(b) *is the agent of persecution the State*? National authorities are presumed to act throughout the country. If they are the feared persecutors, there is a presumption in principle that internal flight or relocation alternative is not available." (paragraph 7)

21. Paragraph 13 then states:

> "The need for an analysis of internal relocation arises only where the fear of being persecuted is limited to a specific part of the country, outside of which the feared harm cannot materialise. In practical terms, this normally excludes cases where the feared persecution emanates from or is condoned or tolerated by State agents, including the official party in one party States, as these are presumed to exercise authority in all parts of the country. Under such circumstances the person is threatened with persecution countrywide unless exceptionally it is clearly established that the risk of persecution stems from an authority of the State whose power is clearly limited to a specific geographical area or where the State itself only has control over certain parts of the country … Where the risk of being persecuted emanates from local or regional bodies, organs or administrations within a State, it will rarely be necessary to consider potential relocation, as it can generally be presumed that such local or regional bodies derive their authority from the State. The possibility of relocating internally may be relevant only if there is clear evidence that the persecuting authority has no reach outside its own region and that there are particular circumstances to explain the national government's failure to counteract the localised harm."

22. The Michigan Guidelines state (at paragraph 5):

> " 'Internal protection alternative' analysis shall be directed to the identification of asylum seekers who do not require international protection against the risk of persecution in their own country because they can presently access meaningful protection in a part of their country. So conceived, internal protection analysis can be carried out in full conformity with the requirements of the Refugee Convention."

23. Paragraph 16 then states:

> "There should therefore be a strong presumption against finding an 'internal protection alternative' where the agent or author of the original risk of persecution is, or is sponsored by, the national government."

24. Mr Gill accepts that these documents do not seek to rule out internal relocation in all cases of state persecution. What he says is that they are strongly indicative that it is exceptional for internal relocation to apply in cases of State persecution. He then submits that the position of Dafurians in and around Khartoum is not exceptional in that sense and that internal relocation is wholly inappropriate in their case.

25. On behalf of the Secretary of State, Mr Swift submits that, whether the persecution emanates from state agents or non-state agents, ultimately the question is whether the fear of persecution on the part of the applicant is "well founded" within the meaning

of Article 1(A)(2). Conceptually, the approach is no different. It is perfectly possible for the well-founded fear of persecution in the home area to give way to a lack of well-founded fear in the area of internal relocation. It all depends on the circumstances of a particular case. He further submits that the UNHCR guidelines are not binding and, in any event, when read as a whole, they do not and could not give rise to irrebuttable presumptions. For his part, he draws attention to EU Council Directive 2004/83/EC on "minimum standards for the qualification and status of third country nationals or stateless persons as refugees". Member States are required to implement this Directive by 10 October 2006. It seeks to establish a common policy on asylum which is consistent with the provisions of the Refugee Convention. Article 8 of the Directive provides:

> "1. As part of the assessment of the application for international protection, member states may determine that an applicant is not in need of international protection if in a part of the country of origin there is no well-founded fear of being persecuted or no real risk of suffering serious harm and the applicant can reasonably be expected to stay in that part of the country.
>
> 2. In examining whether a part of the country of origin is in accordance with paragraph 1, member states shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant.
>
> 3. Paragraph 1 may apply notwithstanding technical obstacles to return to the country of origin."

26. Mr Swift points out that there is no suggestion in the Directive that internal relocation is precluded in situations where the persecution feared is at the hands of state agents. Rather, the focus is placed on the practical consequences of the internal relocation. This, he submits, is entirely consistent with the approach adopted in *A E and F E* which postulates a prospective assessment of risk in relation to the specific internal relocation.

27. For our part, we do not consider that the UNHCR Guidelines, the Michigan Guidelines or the Council Directive have a significant impact on this case. The UNHCR guidelines are "intended to provide interpretative legal guidance for governments, legal practitioners, decision-makers and the judiciary, as well as UNHCR staff carrying out refugee-status determination in the field". The underlying assumption of the extracts to which we have referred is obvious. In most cases where persecution is carried out by state agents it will not be limited to a particular part of the country in question. However, the Guidelines do not specifically address what is in issue in the present case, namely displacement from one part of the country to another. An applicant for asylum has to show a well-founded fear of persecution upon return. However badly he may have been treated in his home area, if there is not a real risk of persecution in the area to which he would be returned, he will not be able to establish a right to refugee status. If the evidence is to the effect that persecution that had occurred in the original home area is not being and will not be continued in the area to which the person would be returned, his claim for refugee

status will fail. As we read the UNHCR Guidelines, they focus on the "normal" case in which persecution which emanates from or is condoned or tolerated by state agents is not subject to geographical restriction within the country.

28. The Michigan Guidelines emerged from the First Colloquium on Challenges in International Refugee Law which was convened at the University of Michigan Law School in April 1999 under the distinguished chairmanship of Professor James Hathaway. A group of academics and their students worked collaboratively for three days "to refine an analytical framework for adjudicating internal protection concerns". The Guidelines "seek to define the ways in which international refugee law should inform what the authors believe is more accurately described as the 'internal protection alternative'." However, they have no normative status, nor do they specifically address the displacement issue illustrated by the present appeals. The Council Directive makes no specific mention of this problem either and we do not find it to be of great assistance in the present context.

29. In our judgment, it is neither necessary nor desirable to attach to cases such as this the language of "presumption" or "exception". We accept the submission of Mr Swift that ultimately the question is whether the fear of persecution on the part of the applicant is "well-founded" within the meaning of Article 1(A)(2). In each of the three cases the adjudicator or immigration judge found that there was not a significant risk of persecution on return to the Khartoum area and it would not be unduly harsh for the respective appellants to relocate there. Upon applications for reconsideration, in each case a senior immigration judge found an absence of legal error in the approach of the adjudicator or immigration judge. Similarly, we find no legal error.

30. Thus far we have dealt with Mr Gill's primary submission. He also made a secondary submission which will require us to return to *Robinson* and *A E and F E*. Mr Gill's further submission is to the effect that internal relocation cannot arise unless the applicant would receive protection at least equal to the basic norms of civil, political and socio-economic human rights. That latter formulation was referred to in *Robinson* at page 940c. It is important to set the extract in context. Lord Woolf said this (at 939h – 940b):

> "In determining whether it would not be reasonable to expect the claimant to relocate internally, a decision-maker will have to consider all the circumstances of the case, against the backcloth that the issue is whether the claimant is entitled to the status of refugee. Various tests have been suggested. For example, (a) if as a practical matter (whether for financial logistical or other good reason) the 'safe' part of the country is not reasonably accessible; (b) if the claimant is required to encounter great physical danger in travelling there or staying there; (c) if he or she is required to undergo undue hardship in travelling there or staying there; (d) if the quality of the internal protection fails to meet basic norms of civil, political and socio-economic human rights."

31. Following the tabulation of those examples and further consideration of the authorities and submissions he then adopted the "unduly harsh" test as the appropriate one, observing (at page 943c):

> "We have set out, ante, pages 939h – 940b, appropriate factors to be taken into account in deciding what is reasonable in this context."

32. All that now has to be considered in the light of *A E and F E*. At the highest level of abstraction, there is no tension between the ratio of *Robinson* and the ratio of *A E and F E*. They agree that the appropriate test in relation to internal relocation is the "unduly harsh" test. Beneath that, however, there is an undeniable tension. The way in which Lord Woolf referred to "basic norms of civil, political and socio-economic human rights" is supportive of the submission which Mr Gill now makes. However, in *A E and F E*, Lord Phillips, following a review of the most recent Commonwealth authorities and with the assistance of an extract from the speech of Lord Scott of Foscote in *R (Yogathas) v Secretary of State for the Home Department* [2002] U KHL 36, [2003] 1 AC 920, demonstrated how "basic norms of civil, political and socio-economic human rights" had extended the "unduly harsh" test by embracing

> "factors which are not relevant to refugee status, but which are very relevant to whether exceptional leave to remain should be granted having regard to human rights or other humanitarian considerations." (at paragraph 64)

33. How is this tension to be resolved? In our judgment the ratio of *Robinson* on this issue is that the appropriate test in respect of internal relocation is the "unduly harsh" test, neither more nor less. We agree with the approach adopted in *A E and F E*, namely that

> "humanitarian conditions cannot readily be applied as a test of law as to whether an individual is entitled to refugee status." (at paragraph 65)

34. *Robinson* was decided before the enactment of the Human Rights Act 1998. Now that an applicant for asylum can combine his application with a human rights claim, the temptation to merge humanitarian considerations into a consideration of asylum is easier to resist. *A E and F E* requires a clear distinction to be drawn between matters relevant to refugee status, matters relevant to a right to remain by reason of the Human Rights Act and considerations which may be relevant to the grant of leave to remain for humanitarian reasons. It seems to us that these distinctions should be rigorously observed. This means that in the present case "basic norms of civil, political and socio-economic human rights" fall to be considered by reference to the ECHR and not as sub-criteria of the "unduly harsh" test in relation to the internal relocation aspect of an asylum application. In the great majority of cases, this should not produce a less benign end result. If the evidence points to a failure to meet "basic norms of civil, political and socio-economic human rights", the result is likely to be a successful human rights claim, even if the asylum claim fails. For all these reasons we reject the submission that, as a matter of law, internal relocation cannot arise in an asylum case unless the applicant would receive protection at least equal to the basic norms of civil, political and socio-economic human rights.

Fact-Sensitive Matters relating to the Individual Appellants

35. Mr Gill submits that even if he is wrong about the law of internal relocation, nevertheless there were identifiable errors of law in the determinations of the adjudicators or the immigration judge, such that the three cases ought now to be remitted for reconsideration. This aspect of the present case does not raise a question of law of the importance referred to in section 103C(1), but, now that the case is before us, it is appropriate to deal with the submissions rather than simply restore the application to the Administrative Court.

Hamid

36. The point sought to be taken on behalf of Hamid is that the adjudicator dismissed his appeal simply on the basis that it was indistinguishable from the decision of the Immigration Appeal Tribunal in *M M (Zagawa – Risk on Return – Internal Flight) Sudan* [2005] UKIAT 00069. The suggestion is that the adjudicator did not carry out an independent assessment in relation to Hamid.

37. The adjudicator in the case of Hamid referred to *M M*, observing that it was concerned with the risk on return for a Zagawa who had suffered persecution. The adjudicator said (at paragraph 29):

> "The Tribunal concluded that although he may be questioned at the airport, however the objective evidence did not lead them to a conclusion that he would be at risk of treatment contrary to Article 3 as a result of the questioning. The appellant in that case, as in this case, had no history of political involvement, and was not a student. In that case the IAT concluded there was no reason to think, given the numbers of displaced persons in Khartoum, and their diverse ethnicity, that the appellant would be identified by the local security forces and treated with suspicion and prejudice. The IAT therefore reached the conclusion that there was no real likelihood of a risk of persecution or of treatment contrary to Article 3 were he to be returned. In the light of this IAT decision, and for the same reasons, I also reached the same conclusion in respect of this appellant."

38. The adjudicator in the present case had heard the appeal only seven days after the determination in *M M*. In our judgment she was entirely justified in treating the case on a like for like basis. We discern no error of law.

Mohammed

39. The points advanced on behalf of Mohammed are as follows. First it is said that the findings as to whether he would live with relatives or in a camp for internally displaced persons in Khartoum were unclear. Secondly, to the extent that a camp remained a reasonable possibility, the adjudicator had not properly explained why it would not be unduly harsh or a breach of Article 3 of the ECHR for Mohammed to inhabit one. Thirdly, there was insufficient consideration of the situation in the camps.

40. In fact the adjudicator dealt with the appeal expressly on the basis that Mohammed might have to live in a camp. The other points sought to be made really seek to build on the formula of "civil, political and socio-economic human rights" referred to in *Robinson* but dealt with in an asylum context in *A E and F E*. The question then remains to be considered by reference to Article 3. We are unpersuaded that the adjudicator fell into any error of law when he concluded that there was no breach of Article 3. It is significant that the Asylum and Immigration Tribunal, presided over by Mr Justice Hodge, the President of the Tribunal, reached substantially the same conclusion in *A E (Relocation – Darfur – Khartoum) Sudan C G*, [2005] UKAIT 00101,which is now a country guidance case.

Gaafar

41. Mr Gill seeks to make a number of points in relation to Gaafar. To the extent that they relate to persecution in the Darfur area, they are immaterial because the real issue is that of internal relocation. To the extent that they again seek to build upon the reference in *Robinson* to "basic norms of civil, political and socio-economic human rights", in an asylum context the point has been disposed of by reference to *A E and F E*. The immigration judge gave separate consideration to Article 3 but concluded that the appellant had not demonstrated that there are substantial grounds for thinking that there is a real risk of treatment contrary to Article 3. He specifically referred to the decision of the House of Lords in *Ullah*. As with Mohammed, this conclusion lives easily with the recent country guidance case of *A E (Relocation – Darfur – Khartoum) Sudan*.

Conclusion

42. In our judgment no error of law has been identified in the determinations of the adjudicators or the immigration judge in these three cases. On the issue of asylum, there is no general principle or presumption that persecution by or on behalf of the state is incompatible with acceptable internal relocation. This is made clear by *A E and F E*. So far as the fact-specific matters referred to in the second part of this judgment are concerned, we are entirely satisfied that no error of law has been identified in any of the determinations and that on both asylum and human rights grounds the decisions are entirely compatible with the country guidance contained in *A E (Relocation – Darfur – Khartoum) Sudan*, which has not been shown to be legally erroneous in any way. Accordingly, we would dismiss these appeals.