



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

Appeal Number: PA/00371/2019

THE IMMIGRATION ACTS

**Heard at Bradford
On 14 August 2019**

**Decision & Reasons Promulgated
On 02 September 2019**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**MOHAMED AHMED
(anonymity direction not made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Brown instructed by Bankfield Heath Solicitors
(Sheffield)

For the Respondent: Mr A McVeety Senior Home Office Presenting Officer

ERROR OF LAW FINDING AND REASONS

- 1.** The appellant appeals a decision of First-tier Tribunal Judge Hillis promulgated on 3 April 2019 in which the Judge dismissed the appellant's appeal on protection and human rights grounds.

Background

2. The appellant is a male citizen of Iraq born on 21 January 1999 who arrived in the UK on 29 June 2019, illegally, and claimed asylum the same day. Having considered the evidence and submissions the Judge sets out findings of fact from [27] which conclude at [43] with the finding *“On the evidence taken as a whole I conclude that the Appellant has failed to show, to the low standard required, that he faces a risk of death, persecution or ill-treatment on removal to Iraq for a reason recognised by the Refugee Convention and, in particular, being at risk of becoming a victim of an honour crime due to his unauthorised relationship with his girlfriend on removal from the UK to Iraq.”*
3. The claim pursuant to articles 2 and 3 ECHR fell with the asylum conclusions as did the claim pursuant to Article 15(c) of the Qualification Directive. The Judge concludes the appellant had not shown he can satisfy the requirements of the Immigration Rules and that his removal from the United Kingdom is proportionate pursuant to Article 8 ECHR.
4. The appellant sought permission to appeal asserting the Judge made unsafe credibility findings in an appeal in which credibility was at the heart of the Judge’s conclusions.
5. The appellants pleaded grounds assert:

“5. The Judge at paragraph 35 makes reference to “known background material of the level and length of education that young women are permitted to undertake in Kurdish Sunni Muslim Families.” This material has neither been identified nor set out by the Judge and it is not at all clear what this material is and certainly the A has not been given an opportunity to comment upon it.

6. This erroneous and impermissible approach to the background evidence is compounded by the apparent selective approach to the background evidence adopted by the Judge at 42 related to honour crimes. The Judge merely cites one passage at AB29 which is a passage from the Danish Immigration Service, Kurdistan Region of Iraq (KRI) Women and men in honour- related conflicts, 09/11/2018. The Judge has ignored the following in the appellant’s bundle:

P15 para 1. “... Honour crimes are overwhelmingly perpetrated by male family members against female relatives, although occasionally males are also victims of such violence”

P22 7.1 “some years ago, a couple engaged in premarital relations managed to escape to Iran and got married with approval of their families. They returned to the KRI many years later with 2 children. But the conflict still remained and they were both killed”.

P32 “Men in honour conflicts 48. WEO stated that a man’s honour is not spotted by extramarital relationships the way a woman’s honour will be damaged. The man in a relationship will be in risk of being killed by the woman’s family, who might kill the woman but also the man.”

The Judge at 42 clearly forms a view that the background material does not show that males are victims of honour related harm. The above extracts shows that this is not the case and the Judges failure to properly consider the whole of the background evidence properly infects of the credibility findings which had been made. The basic tenant of the reasoning is that men cannot be victims of honour related harm and therefore any evidence relied upon to suggest that such a risk occurs is unreliable. Such an approach is clearly impermissible.

7. The Judge's findings at para 36 are not properly reasoned and the assumption that an older woman might not be attracted to a younger man.
8. The A produced a medical report from the Kurdistan Regional Government which supported the A's evidence that he was hospitalised on the 24/11/2017. At para 37 the Judge fails to make it clear whether he accepts that A was hospitalised as claimed and whether he suffered the recorded injuries. The evidence suggested that the A's injuries were life-threatening. The Judge suggests that such evidence adds little weight to the A's claim. The A contends that such reasoning is arguably perverse given both the A's account and the content of the report.
9. Similarly the way in which the Judge seemingly dismisses the evidence of the Court Summons and arrest warrant [38] on account of the difference in names, belies an unlawful approach to a proper assessment of the evidence.

Error of law

6. Mr Brown in his submissions relied upon his pleaded grounds challenging the style of the Judge's decision.
7. The Judge clearly considered the evidence with the required degree of anxious scrutiny. The Judge is not required to set out in detail each and every aspect of that evidence. The Judge's findings are set out in a clear and legible form supported by adequate reasoning.
8. In relation to the assertion the Judge erred at [35], the Judge in this paragraph writes:

"35. I do not find it credible that the Appellant's girlfriend would still being attending school at either 20 to 21 years of age (AI65) or 21 to 22 years of age (w/s at paragraph 4). Additionally, this is not consistent with the known background material of the level and length of education that young women are permitted to undertake Kurdish Sunni Muslim families."

9. Judges in the First-Tier Tribunal have considerable experience of dealing with cases concerning claimants from countries such as Iraq. The country material is frequently referred to in such cases and it is not arguably irrational or impermissible for a Judge to refer to such knowledge. Whilst the above paragraph does not set out details of the background evidence considered, the appellant has not provided with the grounds anything by way of background material to show that the Judge's findings on this point are irrational or incorrect. It is known that

the education system in Iraq is strictly controlled by the national government through the Iraqi Ministry of Education. The official educational cycle in Iraq extends to 12 years, including 6 years of mandatory primary education (6 - 12) followed by 3 years of intermediate school (12 - 15) and 3 years of secondary education (15 - 18). To complete secondary school and receive a certificate of completion each student must take a Baccalaureate exam and if a pupil does not pass the exam on the first attempt he or she is able to attend school for one more year to try to pass it but if the student does not pass the exam on the second occasion he or she will not be eligible to attend any other school or college. It is argued in some sources that the strict educational policy leads to many teenagers being on the streets and vulnerable to terrorist groups with no ability to get a job or produce an income.

- 10.** The Judge's conclusion the appellant's claim that his girlfriend remained at school, on either of the version of the ages recorded by the Judge, was not credible appears to be finding within the range of those available to the Judge.
- 11.** The assertion in the grounds the Judge erred at [42] in relation to the issue of honour crimes cannot be considered without a reading of the determination as a whole. At [42] the Judge finds:

“42. Further, the highlighted passage at page AB29, paragraph 21 of the report states in relation to men in honour related conflicts “honour crimes are only linked to women, not men. Normally, men in honour related conflicts will not be in serious trouble. The man might even be proud of himself in the sense that the extramarital relationship proves his masculinity. However it can happen that the man is targeted by the woman's family out of revenge. The source never heard of a man being killed without anything happening to the woman.”

- 12.** This paragraph is an accurate reflection by the Judge of the content of the Danish Immigration Service report. The Judge also notes at [41] that he has taken the report into account with particular reference to the highlighted passages relied upon by the appellant. It is not therefore a case of the Judge only looking at one paragraph without giving proper consideration to the remainder of the report. The Judge notes that the honour crimes discussed in the document primarily relate to premarital relationships which are essentially sexual in nature and not the circumstances set out in the appellant's claim. This is an adequate explanation for the weight the Judge gave to that evidence. Later in that paragraph the Judge also finds “*nevertheless, men are still under pressure to get married and there are cases of killings. When a man is killed in a non-conflict, it has to do with revenge or a consequence of a blood feud rather than the honour of the family. Normally in these cases, both families agree to the killing.*” The assertion in the grounds the Judge adopted an erroneous and impermissible selective approach to the evidence has no arguable merit. The Judge clearly noted that although women are primarily the target of honour killings men can be targeted although the author of the Danish Immigration Service report

never heard of a man being killed without anything happening to the woman. No arguable legal error material to the decision is established on this ground.

13. The third aspect of the grounds challenges [36] where the Judge writes:

“36. I do not find it credible that the Appellant’s girlfriend would be interested in having a relationship with a schoolboy who was 15 years of age at the time and consequently five to seven years younger than the Appellant, particularly in light of the accepted very serious risks that exist in any secret relationship between males and females in their Kurdish community. I do not find the Appellant credible in his account that he and his girlfriend walked hand-in-hand in public in light of his evidence that he knew full well of the very serious risks involved in such behaviour in his own culture and community, particularly given that the Appellant claims his girlfriend’s brother and father were high-ranking officials in the PDK and candidates for positions in the IKR Government. I note here there is no background or other evidence before me that the names of the Appellant’s father and brother have been identified as influential members of the PDK who sought election to the IKR Government.”

14. Whilst there is arguable merit in Mr Brown’s submission that it is not properly reasoned as to why an old woman would not be attracted to a younger man and that the finding in this respect appears to be based on assumption any error arising is not material. The age difference between the appellant and his alleged girlfriend is one issue which the Judge found undermined the appellant’s claim, but the remainder of the paragraph focused upon country information and the cultural aspects in relation to relationships between unrelated male and female members of the Kurdish community. That aspect of the decision has not been shown to be contrary to the country information or arguably outside the range of findings and conclusions available to the Judge on the evidence.

15. The appellant also challenges the Judge’s findings regarding the medical evidence. At [37] the Judge writes:

“37. I have taken the medical evidence dated 24 November 2017 into account but conclude that it adds little weight to the Appellant’s claim that it was his girlfriend’s family who cause the injuries to him given that he did not make any complaint to the police notwithstanding that his father is, on his own account, a member of the Peshmerga who would, in my judgement, at the very least, not take kindly to a member of the PDK almost killing his son by stabbing him in the manner alleged.”

16. The Judge does not appear to dispute the fact the appellant was hospitalised and suffered the injuries recorded in the medical report but was not satisfied, when considering the evidence as a whole, that the same was proof of causation. The appellant claimed that the injuries leading to his hospitalisation occurred as a result of his relationship with his girlfriend, but that core aspect of the appellant’s claim was not found

credible by the Judge for a number of reasons when considering the evidence as a whole. The conclusion by the Judge that the medical evidence added little weight to the claim by the appellant that it was his girlfriend's family who caused the injuries has not been shown to be finding not within the range of those available to the Judge on the evidence.

- 17.** The final challenge is to what is described at [9] of Mr Brown's grounds of challenge to be the manner in which the Judge seemingly dismisses the evidence of the Court Summons and arrest warrant at [38] on account of difference in names which he claims belies an unlawful approach to a proper assessment of the evidence. The difficulty for the appellant is that such a submission misrepresents the Judge's findings at [38] which are in the following terms:

"38. I have assessed the authenticity of the Court Summons and arrest warrant relied upon by the Appellant and conclude on the evidence taken as a whole that I can place little evidential weight upon them in support of the Appellant's claim. The Summons dated 10 April 2018 and arrest warrant dated 17 April 2018 refer to a male name Muhammed Salam Ahmed Hamad and not Mohammed Ahmed which is the name the Appellant makes his Protection Claim under. In reaching this conclusion I, of course, acknowledge that on many occasions spellings can differ in relation to documents in the IKR but take into account that both documents have exactly the same spelling of the accused named in them and the medical report is in the name under which the asylum claim is made. I have also taken into account the inconsistency in the date of the Summons dated 10 April 2018 and the appellant's account that he received it two to three days prior to that date. The fact that the Summons dated 10 April 2018 and yet requires the Appellant to attend Court on that day at 9 AM is significant evidence to show that it is not a genuine document as it gives the Appellant no effective notice to allow him to comply with the Summons."

- 18.** The Judge gives ample reasoning for why little weight was attached to this document which is not solely as a result of the difference in the name appearing upon the same and the named used by the appellant, although that was clearly a factor taken into account by the Judge.
- 19.** The grounds fail to establish arguable legal error material to the decision to dismiss the appeal when the determination is read as a whole. The findings are adequately reasoned, have not been shown to be irrational, and are within the range of those reasonably available to the Judge on the evidence.
- 20.** No arguable legal error material to the decision to dismiss the appeal is made out sufficient to warrant a grant of permission to appeal to the Upper Tribunal. The determination shall stand.

Decision

21. There is no material error of law in the Immigration Judge's decision. The determination shall stand.

Anonymity.

22. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....
Upper Tribunal Judge Hanson

Dated the 22 August 2019