



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

Appeal Number: PA/12125/2019

THE IMMIGRATION ACTS

Heard at Manchester via Skype

Decision & Reasons

On 16 December 2020

**Promulgated
On 13 January 2021**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

FDH

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Islam instructed by Fountain Solicitors (Walsall).

For the Respondent: Mr Tan Senior Home Office Presenting officer.

DECISION AND REASONS

1. By a decision promulgated on 3 July 2020 the Upper Tribunal found a judge of the First-tier Tribunal had erred in law in a manner material to the decision to dismiss the appeal and set that decision aside.
2. The scope of this rehearing is limited to the question of reasonableness of internal relocation within the IKR or Iraq generally in light of the country material and preserved findings.

Background

3. The core of the appellant's case is that he faces a real risk of being killed on return to Iraq for not upholding the family honour. The preserved findings are those set out at [40 - 41] of the First-tier decision in which the Judge writes:
 40. Therefore, I am prepared to accept that the appellant's mother did elope with [K] and the appellant based on his uncle's tribal beliefs, was told that to protect the family honour, he had to kill her and he refused. I am satisfied that, as the notional head of the household, the appellant would be the first in line expected to uphold the family honour and would be considered to have himself dishonoured the family if he did not. Page 253 makes it clear that wrong-doing against honour is considered unforgivable and this means that the risk of violence can continue for years to come because 'the matter of a tarnished honour of a family not yet rectified, is eternal' (page 257). The objective evidence supplied by the appellant makes it clear that men, who are at risk of honour crimes, are in real danger because honour is a genuine issue and it would [be] shameful for a man under threat of an honour crime to approach the police for protection and the only way a man who fears revenge could be protected by the police, would be to remain in police custody, but that is not considered to be a durable solution.
 41. Having considered the evidence and the background sources, I am satisfied that the appellant is a member of a particular social group (PSG) - a man who is perceived to have failed to protect his family honour and who fears therefore fears honour violence. That is not a characteristic he can change because it is based upon the perception of the appellant by society and, given the evidence about tarnished honour being eternal, the appellant will find that label very hard to shake. The IKR is still very tribal as the background evidence acknowledges and therefore anyone who transgresses tribal law will be regarded as being different.
4. The appellant's mother is a widow but a proposal of marriage by [K] at the house of the appellant's maternal uncle [S], the head of the family, was refused with [S] stating that if she married again it will bring shame upon the family.
5. The appellant's chronology shows that in September/October 2018 [K] attended [S's] house with elders of his tribe and an Imam to propose a third time but that [S] ordered another uncle of the appellant [M] to get KDP gunmen. The situation deteriorated and [K] was ordered to leave the house.
6. In February 2019, the appellant was told on the telephone that his mother had eloped with [K].
7. On 1 March 2019, the chronology shows that [S] was contacted by [K] on the telephone. [S] became very angry and declared he will get revenge upon [K] and the appellant's mother. [S] handed a gun to the appellant and ordered him to find his mother and kill her. When the appellant refused, he was beaten by [S].
8. [K's] house was raided by the appellant's uncles and shot at and [S] again told the appellant he must kill his mother. When he refused, [S]

- started to beat him again but was stopped by a paternal uncle [H]. The appellant claimed that later that same evening [S] beat him again when he refused to kill his mother once more, pulled out his gun, and tried to shoot him, although the appellant was saved by another uncle.
9. As a result, the appellant was told by one of his aunts that he had to leave as [S] will kill him. Another uncle assisted the appellant to leave Erbil by car, in which he travelled to the Turkish border and from there left the country with the assistance of an agent arranged by the uncle.
 10. Although in his submissions Mr Tan suggested some aspects of the appellants claim “did not add up”, the findings of the First-tier Tribunal have not been set aside and it was not made out they should be at this late stage.

Discussion

11. The appellants home area, and that of his family, is Erbil.
12. A number of sources of country material were identified in the Error of law hearing as follows:

21. The reference by the Judge to page 261 of the appellant’s bundle is a reference to a page in a document headed “Honour Crimes against men in KRI. Availability of Protection”. On that page there is reference to a person who claimed to have personally experience of a related threat who was able to stay in Sulaymaniyah as a result of the fact the father of his wife was unaware of his presence in the IKR, indicating that persons father in law did not have sufficient influence to find him.
22. What there is not in the decision, is reference to any other aspect of that report. In Chapter 3 headed availability of protection, page 259 of the bundle, it is written:

Khanim R. Latif, Asuda Sulemaniyah, stated that male victims of honour disputes are much less likely than women to find assistance and protection from the police and/or from the authorities as well as NGOs. Basically, men who are under threat of another crime, such as killing, only have the option to flee the country.

23. The same report records there are shelters for accommodating women but no NGOs or governmental institutions that address the issue of men as victim of honour threats. Despite this Dr Jwan Ihsan Fawzi, University of Sulaymaniyah, is recorded as having stated he did not consider that assistance to men who may be victims of honour revenges would never take place in the KRI (IKR) as crimes are punishable according to the law, and that the fact a court will take on a case relating to honour crimes did not mean there was any guarantee that the victim would be safe for that reason.
24. In section 3.1 of the report headed “Protection and assistance from the police” it is written:

Kajaw Jamal Jalal, *Hawlati* newspaper Sulemaniyah, considered that when men are at risk of being victims of honour crimes, they are in real danger. Honour is a genuine issue it would often be shameful for a male under threat of honour crime to approach the police for protection. Should a man request assistance and protection from the police, it is by no means certain that the police would be able to address the threat against him permanently.

In some cases, the police might attempt to reconcile the parties involved in the conflict. However, one cannot be confident that a police officer would

consider the alleged threat against the claimant as a genuine issue. On the other hand, the police would allow the claimant to file a case against his alleged perpetrator.

Hassan Berwari, Diakonia Dahuk, stated that sexual relations between an unmarried couple is considered a crime according to tribal tradition. Should a male offender fear revenge from relatives of the woman with whom he has had a relationship approach the police, he would most likely be offered protection. However, the only way possible for him to be protected would be to be kept in police custody. At the same time, the police would most likely try to solve the issue by requesting the tribal leaders to settle the dispute. It was emphasised that if a married woman has a sexual relationship with another man, she would definitely be killed by her husband's family or tribe due to their perception of honour.

DVW Sulemaniyah, informed that those men whose lives are threatened due to an offence can be protected by the police temporarily. Protection can be given by permitting them [men at risk] to stay in police detention.

Hassan Berwari, Diakonia, Dahuk, stressed that the authorities will not be able to protect a man at risk of an honour crime in the long run. It is not a durable solution to stay in prison.

Dr Jwan Ihsan Fawzi, University of Sulemaniyah, stated that to approach the police in an attempt to avoid becoming a victim of an honour crime, is not a feasible solution. The influence and power of the offending family may well be stronger than the authority of the police. The vast majority of persons under threat from honour crimes would never seek the protection of the police. Many police officers are influenced by tribal authority and tradition. It was added that the local community is likely to support tribal solutions with regard to offences of honour, even when this involves the killing of the offender/offenders.

Kajaw Jamal Jalal, *Hawlati* newspaper, Sulemaniyah, emphasised that the course of action police in KRI is not compatible to action taken by police in Europe or Canada for example. The only option in KRI is that the police may offer a man about risk of honour crime protection in detention.

Kajaw Jamal Jalal, *Hawlati* newspaper, Sulemaniyah stated that he had personally experienced on a related threats. The father of his wife does not accept her marriage, and the only reason that Kajaw Jamal Jalal dares to stay in Sulemaniyah is the fact that the father of his wife is unaware of his presence in the KRI. Kajaw Jamal Jalal stated that should the father of his wife attempt to trace him in order to restore his family honour, the police would not be able to do much to protect him against the threats related to honour. The police are unlikely to act before a crime of honour has been committed.

Ari Rafiq and Huda S. Zangana, DVW, Erbil, emphasized that the protection of men by the police can never be 100% but that the police can attempt to reconcile the parties involved in the matter.

There is no guarantee that such a settlement will be a lasting solution. There may be circumstances where the police do not have the power or influence to reconcile the parties. It was added that the KRG authorities are unable to protect a male offender of honour for the rest of his life.

Sardasht Abdulrahman Majid and Aree Jaza Mahmoud, DHRD, Sulemaniyah, had never heard of a man involved in a conflict concerning honour seeking the assistance of the authorities. Theoretically a male offender, who has been threatened as a result of a sexual affair, can approach the police, but Sardasht

Abdulrahman Majid and Aree Jaza Mahmoud, DHRD, Sulemaniyah, had never heard of this being the case.

A man might seek protection of the police or the DVW, however, this is not a durable solution. If the offender has had a sexual relationship with an underage girl, i.e. a girl under 18, he would be detained by the police. On the other hand, if the girl is not under age the police might accept that he filed a complaint at the station.

It was stressed that it is not illegal by law for a girl over 18 years of age to have consensual sex, however, it was emphasised that according to traditional values of society, she would risk being punished by her family or tribe or having such relations. It was added that whether or not the police would be willing to address his complaint, depends on the societal status of the man's family.

Mahidi M. Qadr and Fakhir Ibrahim, PAO. Erbil stated that it is unlikely that a person involved in adultery would seek protection with the police, as this is considered a criminal act. Man could seek temporary protection in police custody, however, upon release he would still be at risk from the family of the woman.

25. The above sets out the context in which the issue of family honour arises in light of the claim the appellant's mother eloped with [K] and the issue of family honour arising having been found credible, which the appellant failed to satisfy. There is therefore far more to this section of the reports than the entry at page 261 referred to by the Judge.
26. It is also not clear how the Judge has factored section 3.6 of the report into account in the decision-making process. This is headed "Protection by going into hiding or fleeing the country" in which it is written:

DVW Sulemaniyah, dated that the only solution for a man need of protection is to disappear, i.e. to escape abroad. There are examples of men who have left for Iran, Syria, and Turkey or even to Europe in order to seek protection against honour killing. If a man from a poor family marries a woman from a more influential or rich family if he stays in Iraq. However, it could also be the case of the family of the woman simply chooses never to see her again and that she is outcast by her own father.

DVW Sulemaniyah, explained that a man will find it easier than a woman to travel abroad on his own. On the other hand a woman would more easily be able to access protection and assistance from the police, the DVW and NGO's in KRI.

Sardasht Abdulrahman Majid and Aree Jaza Mahmoud, DHRD, Sulemaniyah, stressed that if the couple is unable to marry for whatever reason, then the only durable solution available to the male offender would be to "runaway".

Mahdi M. Qadr and Fakhir Ibrahim, PAO, Erbil, aware of cases where compensation had been demanded from a young man's family where this has not been feasible for the family. It was explained that even the family of the boy [the offender] will not defend the young man could even agree to kill him. A young man is likely to flee in order to find protection.

Concerning the crimes of honour committed against men, Mahdi M. Qadr and Fakhir Ibrahim, PAO, Erbil, confirmed that such cases existed [in KRI], and that person are likely to flee to avoid persecution.

When asked which options a man at risk of an honour crime has to seek protection, DVW Sulemaniyah, stated that the only option would be to seek protection abroad. Reference was made to a recent incident in a part of the city of Sulemaniyah called Rizgari where a couple in love had married. They were married for three months, however without the consent of the girl's brother or uncle. As a result the woman's uncle and her brother came to Sulemaniyah and killed the husband and seriously wounded the wife who was pregnant. The police are now investigating the case and they consider it to be a murder case. If caught and tried in court, the uncle and brother would risk being charged with murder according to the law.

According to DVW Sulemaniyah, the truth is, that if they [couples marrying against the will of their families] stay in Iraq, they are at risk of being killed by the family.

Jwan Ihsan Fawi, University of Sulemaniyah, explained that when reconciliation is not durable the man at risk can do nothing but try to flee the country. He might even attempt to relocate within Iraq all the while changing his name to avoid being found.

Kajaw Jamal Jalal, *Hawlati* newspaper, Sulemaniyah informs it is not safe for a man under threat from an honour crime to remain in Iraq. It might not even be safe for him to leave Iraq for e.g. Iran, Turkey, or Syria. Even if the person under threat stays abroad for a number of years and eventually returns to KRI, it is not certain that he would be out of danger before the honour of the family involved is restored.

Hassan Berwari, Diakonia, Dahuk, stated that relocation to another part of KRI was [is] not an option as the family seeking him is likely to pursue him.

Edrees Salih, Erbil, informed that it would not be an option for a man at risk of another crime to go into hiding for an extended period of time.

Regarding runaways, Khanim R. Latif, Asuda, Sulemaniyah, explained that a man who has offended the family's honour could always be victim to an honour crime. Khanim R. Latif, Asuda, Sulemaniyah, referred to the above-mentioned case from Rizgari, Sulemaniyah. In this case the man of a runaway couple was killed by members of the woman's family and the woman was seriously wounded. The woman was subsequently abandoned by her own family. However, the father of the male victim offered to adopt the woman and her daughter. Investigation of the case is still ongoing, and the woman remains under threat from her own family as the issue has not yet been settled.

However, it was added that even when a man at risk of honour killing escapes abroad, there is no guarantee that you will be safe, not even in Europe. It is the obligation of the father, or as a male members, of the offended family to re-establish the family's honour, and that may often involve killing of the offender.

13. It is not suggested the appellant will be able to live in his immediate home area as the Judge has found the threat from [S] is credible and it was not made out he will be able to live there without being discovered by [S].
14. It was suggested by Mr Tan that the appellant can live elsewhere in the IKR as [S] is not as powerful as he claims and will not be able to find him.

15. It was not suggested the appellant is able to relocate to Bagdad or anywhere outside the IKR on the facts.
16. I also accept as credible the appellants claim that even though one of his aunts and uncles helped him escape and leave the IKR they are unlikely to assist him in returning and resettling out of a fear that if this was discovered by [S], it would place them at risk too.
17. The appellant will therefore have to return and establish himself without the benefit of a family network or support.
18. It is noted that [S] did not find the appellant during the time he was hiding near the Turkish border but that is not the issue. Although Mr Tan submitted there was no evidence of the interrogation of family members by [S] to ascertain where the appellant was, it is not clear how the appellant as a person in hiding and later in the UK could have discovered what [S] was doing as he has had no contact with his immediate family in Iraq.
19. I note Mr Tan's submission that the question of honour affects all male members of the family but, even if that is so, it a preserved finding that the appellant was told to kill his mother which he refused to do making him the target of a related reprisal.
20. The submission of Mr Tan in relation to the evidence concerning whether court proceedings had been issued to arrest the appellant's mother or whether a named military figure had verbally instructed that the appellant's mother's photograph should be sent to all checkpoints and that she should be arrested if encountered, as the appelanst alleged he heard, was contradictory is noted.
21. Mr Tan also submitted by reference to the country guidance case of SMO that as the appellant was required the use of his CSID in his daily life and business affairs he would know his CSID number and will be able to recall the same, but that was not put the appellant in cross-examination and nor was the submissions that friends and the appellants former business partner will be willing and able to assist him with obtaining documentation. No submissions were made regarding the ability of the appellant to obtain a replacement identity card in light of the abolition of the CSID and its replacement with the new Iraqi identity document and interim temporary document referred to in the country material. In light of the inability of the appellant to be able to seek assistance from other male members of his immediate family it was not established that he will be able to redocument himself in the United Kingdom.
22. In relation to risk on return, the appellant's case concerning his mother and the events giving rise to the First-tier Tribunal's findings have been found to be credible. To the lower standard applicable in a protection appeal it has not been made out the appellant's claim that a paternal uncle assisted him leaving Iraq as a result of the risk he faced at the hands of [S] is not credible, and nor is the appellant's assertion that other family members whilst willing to help him leave Iraq would not be willing to expose themselves to possible harm by enabling him to return and re-establish himself in his home country.

23. The appellant claimed that his maternal uncle [S] is sufficiently powerful or of influence to enable him to track down the appellant in the IKR if he is returned. The photographic evidence shows the person the appellant claims to be his uncle with others either carrying weapons or near weapons including armoured vehicles, rocket launchers, etc. To the lower standard it appears that the evidence does establish that [S] is either a person involved in the peshmerga or has a close association with persons within that organisation. There is, in addition, the tribal element identified by the First-tier Tribunal. The appellants evidence, either as a result of a court order or word-of-mouth based upon what he claims he overheard, is that the photograph of his mother and her name has been circulated to the checkpoints. The country material refers to frequency of checkpoints and need for identity documents to pass through the same meaning there is a possibility that the appellant's return will be discovered and passed to the military commander who ordered the photograph to be circulated and through him to [S]. It is therefore not necessary, to the applicable lower standard, for the appellant to establish that [S] is powerful enough in his own right to discover the appellant's return on his own. It was not made out why, if the majority of what the appellant had said has been accepted as credible by the First-tier Tribunal, and in the absence of persuasive countervailing evidence or submissions, and in light of the evidence in the chronology disclosing the extent of [S's] anger in relation to sisters (the appellant's mother's) actions, that the appellant's claim relating to their being a real risk from [S] is not credible too.
24. The key question when discussing internal relocation is whether it is reasonable in all the circumstances. The country material clearly shows there is no effective support for the appellant in the situation in which he will find himself other than to confine himself in a cell in a police station or live in isolation, effectively as a hermit. It is not made out that having to isolate away from the community and only been permitted to remain at the whim of enforcement services is reasonable in all the circumstances. The appellant will not be able to return to another part of the IKR and live as near a normal life as he can.
25. The country material speaks of the possibility of reconciliation though the intervention of tribal elders, but it was not established on the evidence that his is a viable option. In any event, if the appellant had to be personally involved in the process, [S] would be aware of the appellants return.
26. In summary, it is not made out the appellant will be able to redocument himself such that he can return to Iraq in light of the lack of evidence of possession of his CSID, the failure to pursue in cross-examination whether he could remember the details, or a member of his friendship group assist him, or in light of the current situation that prevails in light of the introduction of the new Iraqi identity card. In light of the preserved findings of the First-tier Tribunal and in light of the absence of any credible evidence the appellant will receive

support from any of his family members in Iraq, it is made out it is not reasonable in light of the country information for the appellant to internally relocate to another part of the IKR. The evidence supports the comment made in one of the reports referred to in the error of law decision that the only realistic option for a male found to be at risk of an honour killing is to leave Iraq. The appellant chose to leave Iraq and there is, on the specific facts of this appeal, credible evidence to show that this is the only realistically available option to him. It is also of relevance that, as accepted by the First-tier Tribunal, honour is unforgivable meaning the risk of violence can continue for years to come because the matter of tarnished honour of the family not yet rectified is eternal. It is not reasonable for the appellant to have to effectively hide forever to avoid harm from [S].

- 27. I find the appellant has established the lower applicable standard the causal link between the reason he has been found to be a member of a PSG and the real risk of harm from [S] for the breach of family honour sufficient to entitle him to a grant of international protection.
- 28. This decision sets no precedent and nor is it intended to do so. It is a decision made on the specific facts of this appeal and in light of the preserved findings of the First-tier Tribunal, on the basis of which this appeal is allowed.

Decision

- 29. **I remake the decision as follows. This appeal is allowed.**

Anonymity.

- 30. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue the order previous lade pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....

Upper Tribunal Judge Hanson

Dated the 18 December 2020.