



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/08618/2017

**THE IMMIGRATION ACTS**

Heard at Civil and Family Court,  
Liverpool  
On 26.3.18

Decision and Reasons Promulgated

On 24.4.2018

Before

DEPUTY UPPER TRIBUNAL JUDGE O'RYAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

Mr ATTA FATIH ABDULLAH  
(ANONYMITY ORDER NOT MADE)

Respondent

**Representation:**

For the Appellant: Mr Bates, Senior Home Office Presenting Officer  
For the Respondent: Miss Patel, Lei Dat & Baig Solicitors

**DECISION AND REASONS**

- 1 This is an appeal brought by the Secretary of State against the decision of Judge of the First tier Tribunal O R Williams dated 20.10.17 allowing the applicant's appeal against the Secretary of State's decision of 1.8.17 to refuse the applicant's protection claim. I shall retain the designations of the parties as they were before the First tier.

- 2 The Appellant is of Kurdish ethnicity, and was born in Kifri, in the Diyala governorate in Cental and Southern Iraq. He attended the University of Salahaddin, Erbil (i.e. in the Iraqi Kurdish Region ('IKR') comprising Dohuk, Erbil and Suleimaniah) for 4 years ending June 2016, studying history. He would go home regularly during that period (SEF q 11-14).
- 3 The Appellant claimed to be in need of international protection because of a fear of serious harm said to have arisen in Kifri from the family of a young woman, SM, with whom the Appellant had formed a relationship outside of marriage. SM was also from Kifri but they had met and formed a relationship at the university in Erbil, and had graduated together. They had a sexual relationship. The Appellant had told SM that he would offer to marry her.
- 4 The Appellant claimed that in September 2016 and December 2016 he had asked SM's family to allow them to marry, but they had refused on grounds that the Appellant was an atheist. They also learned that the Appellant had had a sexual relationship with SM. They beat SM and kept her imprisoned and threatened to harm the Appellant. The Appellant left Kifri, travelling firstly to Erbil. He perceived that he was at risk there, and later spent some time in Dohuk, before leaving Iraq in January 2016 and travelling to the UK via Turkey and other countries, arriving in the UK on 9.3.17.
- 5 In her decision of 21.8.17, the Respondent accepted that the Appellant had had a relationship with SM, but rejected that SM's family sought to harm him as a result. In the alternative, the Respondent argued that the Appellant could internally relocate to the IKR, being able to be admitted for 10 days and to register for renewal, and noting that the Appellant had resided in Erbil for 4 years whilst at university (para 45). He would be able to pass through Baghdad, as necessary (para 46). It is to be seen that the Respondent's case was not that the Appellant originated from the IKR, but that he could be admitted there as a Kurd.
- 6 The Appellant's appeal came before the Judge on 4.10.17. The Judge accepted the credibility of the core of the Appellant's account, finding that the Appellant was of specific ongoing adverse interest to SM's family for a perceived honour crime as they have threatened him with death [34].
- 7 The Judge purported to find that the Appellant was 'from Dohuk' [21] (which is in the IKR) and that he was 'from' the IKR [33]. I cannot see the evidential foundation for this - his evidence was that he was from Kifri, in the Diyala governorate. It may make little difference, as the Judge appeared to proceed on the basis that the Appellant could enter, reside, and seek employment in IKR (see e.g. [41]).
- 8 The Judge rejected the Appellant's account that whilst in Erbil, having fled the threat against him in Kifri, he had been tracked down by members of SM's family [35]. The Judge held at [40] that the Appellant could not internally relocate to Baghdad as he would not have a host family to stay with.

9 At [41]-[45], the Judge held that the Appellant could not safely internally relocate to IKR. The reasons were as follows:

“41. *Whilst*, as argued by Ms Bird (*for the Respondent*), it is possible for the appellant to travel via Baghdad International Airport in transit and internally relocate to Erbil from Baghdad International Airport, (the airport is open and receives direct flights from Baghdad International Airport) or indeed to fly directly from the UK to Erbil via a European country such as Germany (Frankfurt Dusseldorf and Munich airports) or Austria (Vienna). *And*, I accept that it would be fanciful to consider that SM’s family would immediately be alerted to his arrival back in Dohuk, IKR. *And*, I note that IKR has a sizeable landmass and a population of circa 38 million. *However*, he would be at risk within Dohuk/IKR/a large city such as Sulaymaniya for the following reasons [42-45].

42. Firstly I am satisfied that the appellant would be an ongoing adverse interest to SA’s family, who as a matter of common sense are evidently ‘well-to-do’ having regard to the fact that they could afford to send their daughter to University where she appears in photographs with all the appearance of be expensively clad. (Although I cannot be satisfied that they have any specific influence in KRI as the evidence of the family connection to the Zangana tribe is vague and inconclusive – AB paragraph 24).

43. Secondly as such they will be well placed to make enquiries of the Appellant’s whereabouts - which they are reasonably likely to do as “honour codes ... are embedded in broader pervasive ways of thinking that revolve around gender values and traditions that legitimize men's control of women's bodies and behaviour” and frequent, “2,353 allegations of violence against women between July and November 2013” (AB 29-30).

44. Thirdly, the appellant is a graduate and when he applies for a graduate job there will be a limited pool of jobs/applicants of his age/status. In the context that he cannot be expected to lie about his qualifications, family details or date of birth or atheistic beliefs it is reasonably likely that at some stage his identity would become known whether by accident or design and to those who want to find out.

45. Fourthly, there is no evidence in the country guidance information before me that ‘honour-based offences’ are forgiven by the passage of time and so the point would remain at risk, up especially as he could not rely upon the state for protection except by being kept in police custody (AB 31) – which would not be reasonable. He could not rely upon his brother to permanently fund a life on the run.”

10 The appeal was allowed.

11 The Respondent applied for permission to appeal on 31.10.17 on grounds that the Judge had made findings which were not open to him on the evidence before him, specifically that –

- the family of the Appellant’s claimed girlfriend were ‘well to do’ (para 42)
- the status of the family would allow them to be ‘well placed’ to make inquiries about the Appellant’s whereabouts (para 43);

the Appellant was a graduate and that when he applied for graduate jobs his details would become known to those who wanted to find him (para 44).

- 12 It was further submitted that the Judge had made sweeping assumptions in order to make these findings, and had failed to give adequate reasons for his assumptions, particularly in light of the Judge's finding that the Judge would not be satisfied that the family had any specific influence in IKR, as the evidence of the family connections to the Zangana tribe was weak and inconclusive.
- 13 Permission to appeal was granted by Judge of the First tier Tribunal Maller on 27.11. 17 on the basis that those grounds were arguable.

### **Submissions**

- 14 Mr. Bates argued that the Judges's findings were not adequately reasoned, and that there was no proper evidential foundation for the Judge to make the findings at paragraphs 42-44.
- 15 There was insufficient evidence before the Judge to support the finding that SM's family was 'well-to-do'; even if SA attended university, there was no evidence about the cost/affordability of university education in Iraq. (I also note that in relation to the Appellant's own attendance at university, half of that costs was met by the university - SEF q 147).
- 16 Further, it was impermissible speculation on the part of the Judge to draw any inference about the status or wealth of SM's family based merely on photographs showing her mode of dress on her graduation day.
- 17 Further, there was no evidence as to how SM's family would be 'well placed' to make inquiries about the Appellant's whereabouts, given in particular the Judge's finding that the family had no specific influence in the IKR. In that regard, Mr Bates referred to the Appellant's actual evidence regarding the position of SM's family, in his witness statement of 26.9.17:

"24 SM's family is well respected and from the well known tribe of Zangana. They are a large tribe and because the matter is one of honour it affects the entire tribe. This tribe is located all over the Kurdish region including within Erbil, Suleymania and other areas. I believe that they have motive drive and willingness to locate me within Iraq and to kill me."

- 18 If, as the Judge held, SM's family had no specific influence in KRI, as the evidence of the family connection to the Zangana tribe was 'vague and inconclusive', then the means by which the Appellant had stated he would be tracked down (by the Zangana tribe) did not exist. Something more, by way of evidence or reasoning, was needed to support a finding that SM's family would be well placed to find the Appellant.
- 19 Further, the Appellant's evidence about finding a job on return was as follows:

“25 It will be impossible for me to try and find a job because I would be constantly looking over my shoulder and if I worked I would be exposing my identity to others and this would reveal my location. There is also a limitation of jobs available in the job market in Kurdistan.”

20 Mr Bates argued that even if the Appellant were to seek employment, as a graduate or otherwise, given the Judge’s finding that the family had no specific influence in IKR, and no established connection with the Zangana tribe, it was not explained how SM’s family would ever come to know that the Appellant had applied for or obtained employment in IKR.

21 Further, in order to determine whether there was any proper evidential foundation for the Judge’s findings, Mr Bates also referred me to the country information which was before the Judge in relation to the issue of honour crimes in Iraq. That was set out at pages 25 to 34 of the Appellant’s Bundle. Pages 25 to 28 were an extract from the Respondent’s Operational Guidance, v 10.1 dated 31.12.13 (reissued 22.8.14) which contains at para 3.13 onwards a section on honour crimes. It provides:

“3.13.2 Treatment UNHCR’s Eligibility Guidelines of May 2012 noted that so-called “honour crimes” - that is, violence committed by family members to protect the family’s honour - reportedly remain of particular concern. Most frequently, women and girls and, to a lesser extent, men and boys, are killed or subjected to other types of violence such as mutilations, because they are judged to have transgressed cultural, social or religious norms bringing shame to their family.”

and

“3.13.17 There might be cases where men are at risk of honour crimes for committing certain acts which have brought shame on their family. Effective protection is unlikely to be available and, if in such a case internal relocation is considered unduly harsh, then Humanitarian Protection will be appropriate.”

22 Further, at pages 29-34 is an Immigration and Refugee Board of Canada Response to Information Request on honour based violence in the Kurdistan region of Iraq dated 15 February 2016. There is a section at 1.2 entitled ‘Male victims of honour based violence’:

‘Information on male victims of honour-based violence was scarce among the sources consulted by the Research Directorate within the time constraints of this Response. Citing the country representative for Diakonia, an international development organization (Diakonia 27 Sept. 2013) in the city of Dahuk, the Danish fact-finding mission report states that “men are equally at risk of becoming victims of honour crimes as women” (Denmark 2010, 3). In contrast, in the opinion of the WADI representative, boys and men are “not very likely” to become victims of honour-based violence in Iraqi Kurdistan, and when they are affected, “most” of the time it is due to

"supposed homosexuality" (WADI 25 Jan. 2016). A March 2014 article by Dr. Gill similarly states that

'men are most likely to cause dishonour as a result of their behaviour towards women, including through (i) their choice of romantic and/or sexual partners, (ii) refusing an arranged marriage, (iii) coming out as gay, bi-sexual or transgender, and/or (iv) refusing to commit an act of HBV [honour-based violence]. Nevertheless, the fact remains that the majority of victims are female and the majority of perpetrators male. (Gill 14 Mar. 2014)'

The 2015 Ceasefire Centre for Civilian Rights and MRG joint report states that men are "occasionally" the victims of honour-based violence and they are "sometimes" killed to restore the offended family's honour (Nov. 2015, 26). According to the DIS report, the father of a girl or the husband of a woman "would most likely kill his daughter or his wife," respectively, for having an "illicit sexual relationship with another man. ... After this, the male offender would then be at high risk of being killed" (Denmark 2010, 7).

According to sources, there is no assistance for male victims of honour-based violence (Denmark 2010, 9; WADI 25 Jan. 2016). According to the Danish fact-finding mission report, if a man who had sexual relations outside of marriage feared honour-based violence and approached the police, "he would most likely be offered protection. However, the only possible way for him to be protected would be to be kept in police custody," which is not viable in the long-term as staying in prison is "not a durable solution" (Denmark 2010, 10). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Further information on the situation of male victims of honour-based violence, including protection, could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.'''

- 23 Mr Bates submitted that such evidence indicated that honour based violence was predominantly experienced by women, not men; that those at risk, whether women or men, were predominantly at risk from their own family; and where men were at risk, the evidence suggested that this was often as a result of being perceived to have brought dishonour of their own family, for their perceived homosexuality. There was nothing in that evidence which the Appellant could rely on to support the Judge's findings in internal flight to IKR.
- 24 By way of her submissions Miss Patel provided a rule 24 reply which in summary argued that the Judge was entitled to draw the inferences as he did, based on his findings of fact about the Appellant's account and relying on the country information before him, as referred to in the decision. There was no error of law in the decision.

## Discussion

- 25 I find that there is a material error of law in the Judge's decision, there being no proper evidential foundation for the Judge's conclusions, which are, to use the Respondent's expression 'sweeping assumptions', that SM's family was 'well-to-do', making it well placed to make enquiries about the Appellant's whereabouts, and that it was reasonably likely that at some stage his identity would become known to those who wanted to find out, ie SM's family.
- 26 I adopt the submissions of the Respondent. Given in particular the finding that SM's family, in Diyala province, in Central and Southern Iraq, had no specific influence in IKR, and their connection with the Zangana tribe was not made out, it is simply not apparent from the Judge's decision how they would be in a position to locate the Appellant in IKR, whether through a potential employer of the Appellant, or otherwise.
- 27 Further, the fact that SM attended university, which may or may not have been paid for by her family, and that on her graduation day, she had 'all the appearance of being expensively clad' are not matters which properly support a finding that the family was affluent. The cost of SM's clothes (even if expensive looking), whether such clothes were easily afforded by her family, or even whether they were her clothes, are all unknown.
- 28 Further, the Judge appears to find the likelihood that the Appellant will apply for a 'graduate job', which were said to be limited in number, increases the chances of his detection, but without specifying how SM's family would, in the absence of any network of informers, contact potential employers, which are ill-defined, and of uncertain number, to ask about the Appellant.
- 29 I find that in the absence of any reference to some other, more direct evidence, of SM's family's ability to trace the Appellant in IKR, the Judge has arrived at findings of fact which were not open to him on the evidence available, and/or has failed to give reasons for his decision which were adequate in law.
- 30 The error was material to the outcome of the appeal.
- 31 I set the decision aside.

## Remaking

- 32 Miss Patel requested an adjournment for the Appellant to give further oral evidence as to SM's family's ability to trace him, and to obtain further country information to support that point.
- 33 Standard directions were issued in this appeal, following the grant of permission to appeal on 27.11.17. Those directions gave notice at para 4 that there would be presumption that in the event of the Tribunal deciding the decision of the FtT is to be set aside as erroneous in law, the remaking of the decision would take place at

the same hearing, normally based on the evidence before the FtT, and any further evidence submitted under paragraph 5 of the directions, which set out the power of the Upper Tribunal to permit new or further evidence to be admitted under Rule 15(2A) of the Procedure Rules. Further, paragraph 8 of the standard directions provides that any request for the services of an interpreter must be made to the tribunal writing, at least seven days in advance of the schedule hearing date.

- 34 There was no Rule 15(2A) application made prior to the hearing of the appeal before me, and no request for an interpreter. Miss Patel did not identify any specific country evidence upon which the appellant may seek to rely in addition to the material already before me. Mr Bates objected to an adjournment, and requested I remake the decision on the basis of the present evidence.
- 35 At the hearing, I reserved my decision as to whether I would remake the decision following the hearing, or adjourn and re-list before the Upper Tribunal on a later date to allow the Appellant to submit further evidence. I requested the parties to give me their submissions as to re-making, however (as referred to below).
- 36 Having reserved my decision as to whether the Appellant should be afforded a further hearing, I find that there is no adequate reason for adjourning the present appeal and relisting it. Having regard to the overriding objective to deal with cases fairly and justly, I find that the Appellant has not identified any particular issue on which further oral evidence is reasonably required. The Judge had already rejected the Appellant's claim that SM's family traced him to the IKR, and his claim that SM's family had connections with the Zangana tribe, and that tribe would find the Appellant. These findings have not been shown to have been vitiated by any error of law.
- 37 I distinguish my decision in the present case not to adjourn, from a case management decision I made in another case in the list before me on the same day, which Miss Patel may well have observed, to adjourn for further oral evidence to be given, coincidentally on the issue of internal relocation to the IKR in another Iraqi appeal, on the basis that the First tier Judge in that other matter had made no findings whatever as to that appellant's ability to relocate to IKR, or as to his claimed fear of a clan there (not the Zangana).
- 38 I therefore remake the decision based on the evidence before me, and the submissions I received from the parties as to remaking.
- 39 Mr Bates relied on his previous submissions, and argued that there was no adequate evidence available to how the Appellant would be found by SM's family, and argued that internal relocation to IKR was reasonable.
- 40 For her part, Miss Patel took me through some of the material as already set out at paragraph 21 and 22 above, and argued that there remained a real risk of serious harm to the Appellant as a male victim of threatened honour crime. Further, internal relocation to IKR was not possible, not on the basis that the present Appellant was unable to enter and remain in IKR, but rather on the basis that he



would be found there and seriously harmed by SM's family, and that no effective protection would be available to him.

## Findings

- 41 I find, accepting that some men can be the victims of honour crime, and adopting the Judge's finding that there is a risk of harm to the Appellant in Kifri, that the Appellant has not established by evidence that there is any reasonable degree of likelihood that SM's family would be able to find him in IKR. They do not live there; they have no particular influence there; the Appellant has not established that SM's family have connections to any influential tribe there; it is not established that SM's family is affluent; SM's attendance at university in Erbil is not I find a sufficient evidential basis to find that SM's family has sufficient wealth and influence to be well placed make enquiries about the Appellant's whereabouts in IKR; and the means by which a family, outside IKR, and having no particular influence or connections within IKR, would make enquiries of potential employers of a person seeking employment within IKR, is not established by the Appellant.
- 42 The Judge proceeded on the basis that the Appellant could enter and remain in IKR. That issue is not disputed before me.
- 43 The Respondent having raised internal relocation to IKR within the refusal letter, the Appellant has not made good his assertion that internal relocation to IKR is not available to him.

## Decision

- 44 I find that the making of the decision involved the making of an error of law.
- 45 I sent aside the decision.
- 46 I remake the decision, dismissing the Appellant's appeal.

Signed:

Date: 23.4.18



Deputy Upper Tribunal Judge O'Ryan