



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/04243/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 16 August 2019

Decision & Reasons Promulgated  
On 25 September 2019

Before

**DR H H STOREY  
JUDGE OF THE UPPER TRIBUNAL**

Between

**MR A. R.  
(ANONYMITY DIRECTION MAINTAINED)**

Appellant

and

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

Respondent

**Representation:**

For the Appellant: Ms S Walker, Counsel, instructed by Elder Rahimi Solicitors  
For the Respondent: Mr S Kotas, Home Office Presenting Officer

**DECISION AND REASONS**

1. In a decision posted on 12 February 2019 Judge Welsh of the First-tier Tribunal (FtT) dismissed the appeal of the appellant, a national of Iran, against the decision made by the respondent on 14 March 2018, refusing his protection claim. The principal basis of the appellant's asylum claim was that he had been targeted by the Iranian authorities because of his father's activities on behalf of the Labour Party, which had led to his imprisonment. The appellant's home had been the subject of numerous raids by the Iranian authorities.

2. The judge did not find the appellant's account credible.
3. The appellant's principal grounds are twofold.
4. It is first advanced that the judge had made a material misdirection of fact giving rise to unfairness relating to the raids by the authorities on the appellant's house. Two particular criticisms are made: that the judge was wrong to count against the appellant that none of the objective evidence presented made mention of the father's name "particularly given the very lengthy prison sentence he is still serving"; and that there was no rational basis for the judge's assumption that the father had been charged, convicted and then sentenced to a prison sentence.
5. I received clear and succinct submissions from both representatives, Mr Kotas highlighting that the grounds did not take issue with several of the judge's reasons for rejecting credibility.
6. Dealing with the second criticism first, I am not persuaded that it identifies a material error of law. Plainly on the appellant's evidence, the father had been arrested approximately twelve years ago after he had taken part in a workers' demonstration at a sugar cane factory owned by the government.
7. It is true that the background evidence, in particular the CIPIN of March 2016 on Iran: Human Rights Defenders, does not specify that all those arrested and detained by the authorities for anti-government activities are subject to persecution and trial and conviction. For example at 6.3.2 of the CIPIN quotes from the Freedom House, Freedom in the World report for 2016 stating that:

"6.3.2 Activists are routinely arrested without warrants, held indefinitely without formal charges, and denied access to legal counsel or any contact with the outside world. Many are later convicted on vague security charges in trials that sometimes last only a few minutes. Activists say they have been beaten during interrogation, forced into false confessions, and subjected to psychological pressure, including threats that their relatives will be arrested. In the past two years, the IRGC's intelligence unit appears to have increased its involvement in political repression. The unit reportedly controls a section of Tehran's Evin prison.

Security forces are seldom held responsible for human rights violations."
8. At the same time, this same report describes "judicial harassment" (see e.g. 6.3.5) as one of the most common tactics used by the Iranian authorities for dealing with activists with fabricated charges and unfair trials (see e.g. 6.1.5) being endemic. There was also specific mention in the CIPIN of an OCHR report of 2009 about human rights activists being arrested and convicted: the judge noted this at paragraph 31(4). Accordingly it was reasonable of the judge to infer from the appellant's account that the father's imprisonment for such a lengthy period was not an example of indefinite detention without any legal process. In any event, what for the judge was the principal concern was the failure of the appellant to substantiate

his claim that his father had been imprisoned for a very lengthy period. Ms Walker takes particular issue with paragraph 45:

“45. The account I have from the Appellant and his witnesses is the skeleton of a story. There is very little information about the Appellant’s father. For example, I do not know his history of political or union activity; his role in the demonstrations that led to his arrest and lengthy term of imprisonment; whether any of his associates suffered a similar fate; the charges and the trial; whether he was permitted a lawyer; in which prison he is being held; whether the family were permitted to visit him or correspond with him. In my view, if the Appellant’s account were true, this sort of detail could and would be provided and I reject the explanations put forward for its absence.”

9. But the main point relied on by the judge was lack of information and the judge’s reference to the lack of information about charges and trial were prefaced by the words “[f]or example”. Further, the examples given went much wider than information about charge and trial and included “his history of political or union activity”, “his role in the demonstrations”, and “whether his family were permitted to visit him or correspond with him”. The judge took fully into account that the appellant was 6 years old when he claimed his father was arrested, but properly observed that there had been extensive opportunities to obtain such information via his mother and other family.

10. Turning to the first point of criticism, it focuses on paragraph 44:

“44. Given the extent of the objective evidence about human rights defenders, including trade unionists who have been imprisoned, it is surprising that there is no mention of the Appellant’s father, particularly given the very lengthy prison sentence he is still serving.”

I would accept that the background information before the judge did not bear out that the Iranian authorities would publicly identify all those it detained, even anti-government activists or trade unionists, but this paragraph does not confine its scope to the Iranian regime’s information/“official sources” about human rights defenders. It is concerned with information from all sources and it is clear from the CIPIN report that human rights reports monitoring Iran commonly mention detained activists (see e.g. 5.1.4 on a jailed trade unionist serving an eleven-year sentence). This lack of any mention of the father in the background evidence was one other aspect of the judge’s assessment, alongside the failure of the appellant to provide specific information that would or should have been available to the family about the father’s whereabouts or their inability to establish them.

11. The grounds also complain that in finding that there was not “any logical reason” that the appellant would be of adverse interest to the authorities, the judge flew in the face of the background evidence stating that family members of activists are harassed and arrested. This contention targets paragraph 51:

“51. The fact of the evidence upon which the conviction is said to have been based is at odds with the Appellant’s account. His case is that neither he,

his brother, nor his mother ever been involved in any sort of anti-government activity. He did not provide a reason why, therefore, people involved in such political activity would have named him as a co-conspirator. Nor is there any logical reason why this would be the case. Even if his father had been involved, he was convicted approximately 12 years before these proceedings were initiated. Given this length of time, it is difficult to comprehend why anyone involved would even be aware of the Appellant's name."

12. I fail to see that in this paragraph or any other the judge was overlooking the background evidence that the authorities target not just anti-government activists but their families. Indeed at paragraph 34 the judge cites a USSD annual report for June 2015 referring to the harassment and arrests of family members of human rights activists. On the judge's findings, the appellant had failed to show that his father had been a trade unionist arrested and detained by the Iranian authorities. Hence the background evidence regarding family members of persons who were human rights activists was not pertinent, except as background to the claim.
13. I should record that I have had regard to other points raised in the grounds not advanced by Ms Walker before me, including the contention that the judge had not dealt fairly or accurately with the witness evidence, had erred in assessing the plausibility of the appellant's account of the delay in the Iranian authorities instituting criminal proceedings against him and their not charging his mother. In my view she was right not to pursue these as they fell well short of identifying any legal error. I should also add, as regards Article 8, that the judge's assessment that the appellant would not be at real risk of suicide was entirely within the range of reasonable responses and the judge's analysis of the medical report was sound.
14. For the above reasons I conclude that the judge did not materially err in law. Accordingly the decision of Judge Welsh to dismiss the appellant's appeal must stand.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 23 September 2019



Dr H H Storey  
Judge of the Upper Tribunal