



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/06086/2017

**THE IMMIGRATION ACTS**

Heard at Newport  
On 23 August 2018

Decision & Reasons Promulgated  
On 20 September 2018

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

MS H A  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms L Fenney, Solicitor  
For the Respondent: Mr C Howells, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge L Murray, promulgated on 26 September 2017, dismissing the appellant's appeal against a decision of the respondent made on 16 June 2017 to refuse to grant her asylum and humanitarian protection.
2. The appellant's case is that she is a Kurdish woman from Kirkuk in Iraq who is at risk on return as she had had a relationship with a man outside marriage, her father having

already arranged a marriage to another man. She feared she would be at risk of an honour killing from her family.

3. It is also the appellant's case that she had had a relationship whilst in the United Kingdom with another man and as a result of that relationship was pregnant.
4. It was submitted to the judge, as she records in her decision at [18], that even if it was not accepted that the appellant had had a relationship in Iraq she would be returning as unmarried and pregnant which would in itself put her at risk if she were to return to her family, return to her home area being impossible as a single mother she would face persecution.
5. The judge dismissed the appeal on all grounds, finding that:-
  - (i) the appellant's claim that her father could have threatened to kill her unless she married a man he chose after discovering she was in a relationship with a man he may not approve of is consistent with the background evidence [24];
  - (ii) there were inconsistencies in the appellant's evidenced [26] to [30];
  - (iii) the appellant was not in a relationship in Iraq and did not come from a strict family who disapproved of the relationship or threatened her as a result
  - (iv) the appellant was currently pregnant [31] but as she had not believed her account of what had happened in Iraq and would not be at risk from her family, she would not be at risk on return on account of her pregnancy;
  - (v) there was no article 15 (c) risk in Kirkuk [33] to the appellant;
  - (vi) the appellant had accepted in interview that she has an Iraqi Nationality certificate and passport and so could obtain a CSID [35]; thus, her return is feasible; and, in any event as she had found that she was not at risk from her family, they could vouch for her.
6. The appellant sought permission to appeal on the grounds that the judge had erred
  - (i) In her consideration of the risk on return to Iraq as an unmarried pregnant woman [4];
  - (ii) In failing to make findings that the appellant's relationship with her current partner was a relationship of which her family approved, and, absent such approval, the appellant would be at risk, given that the judge had acknowledged that had her account been accepted, the appellant would have been at risk on return [5];
  - (iii) In failing to note that, irrespective of the appellant's lack of credibility, she would be returning as an unmarried pregnant woman to an area in which honour crimes are prevalent.

7. On 5 March 2018, Upper Tribunal Judge McGeachy granted permission.
8. The appellant sought to show (1) that she had had a relationship in Iraq with a man; and (2) that she was at risk from her family as a result as her father wanted her to marry someone else. It was her case that she came from a strict, religious family.
9. Contrary to Ms Fenney's submissions, the finding that threats of the type described by the appellant was consistent with the background evidence [24] is not a finding that if the account were true, the appellant would be at risk. Even if it were, it cannot be said that on the basis of the background evidence that all families in Iraq or even Kurdish families are strict or religious, or would make threats to a daughter who became pregnant out of wedlock. That the family were strict or would make threats was a fact to be proved by the appellant and it was not accepted by the judge who gave adequate and sustainable reasons for finding that the family were not strict, and that finding is not challenged.
10. The challenge to the judge's decision is fundamentally flawed as to make out her case on the basis of threats flowing from being pregnant, the appellant needed to show that her family were strict and would threaten her; or (and this is not advanced), that she might be at risk from the wider population. As she has not shown that the family were strict, it cannot be argued that on the findings made by the judge, they would now make threats to her owing to a pregnancy out of wedlock, and it needs to be borne in mind that as at the date of decision, the pregnancy was in its very early stages, some 6 to 8 weeks at the date of hearing. Further and in any event, there is insufficient evidence to show that absent threats from family that there would be a risk to the applicant from living in an area where honour killings occur.
11. For these reasons, I am satisfied that the decision of the First-tier Tribunal did not involve the making of an error of law.

### **Notice of Decision**

The decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.

I maintain the anonymity order made by the First-tier Tribunal

Signed

Date 18 September 2018



Upper Tribunal Judge Rintoul