



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/07632/2016

THE IMMIGRATION ACTS

Heard at Field House  
On 5 March 2018

Decision & Reasons Promulgated  
On 20 March 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

MISS SSH  
(ANONYMITY DIRECTION CONTINUED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Karim, counsel instructed by Simman Solicitors

For the Respondent: Mr N Bramble, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Iraq, date of birth 2 April 1991, appealed against the Respondent's decision, of 12 July 2016 to refuse asylum and protection claims. Her appeal came before First-tier Tribunal Judge Caleb (the Judge) whose decision promulgated on 2 March 2017 dismissed the appeal for protection under the Refugee

Convention Articles 2 and 3 ECHR, and generally under Article 8 ECHR. An anonymity direction was made and is continued.

2. I considered the challenge on 20 December 2017 promulgated my decision that the Original Tribunal's decision could not stand because the Judge had failed to give sufficient or adequate reasons addressing the totality of the evidence. I gave directions for further witness statements and evidence to be filed and for the case to be listed for decision by me on its merits.
3. To that end a fresh bundle was prepared on behalf of the Appellant which contained a helpful chronology as well as statements from the Appellant, the Appellant's father, the Appellant's aunt (initials KHM), a country expert report from Dr Alan George, dated 15 February 2018, and background evidence supporting the claim of risk that the Appellant faced.
4. At the hearing before the Judge evidence was given from an aunt of the Appellant (ZA) and a relative, Mr FSH. Essentially, the parties have for these purposes today identified that whilst the Appellant fears the risk of being kidnapped and relies upon historical matters of her brother being kidnapped, at its core the question of real risk is the return to Baghdad of the Appellant as a lone female. The evidence has therefore been filed to the effect that the Appellant's close family are not living within Baghdad or Iraq but are living outside their country of origin, either in Turkey, Sweden, or the UK.
5. The position is that the Appellant (and it is not argued to the contrary) is a lone woman and on a return to Iraq would have no home to return to, no family network to support her, no other support of any sort, and no effective protectors against kidnapping, violence, abuse or being taken advantage of as a single woman.
6. The Appellant's evidence reflected in her statements shows that she comes from a relatively well-to-do family, largely consisting of professional persons, all of whom have left Iraq: They have been leaving since about 2014/2015, and the last aunt,

KMH, in 2016. The evidence is that they have left because of conditions in Iraq, threats they faced, difficulties arising from their religious faith and the circumstances as events deteriorated in Iraq. Mr Bramble does not argue that the Appellant could return to the KRG or that she would be any safer there than elsewhere in Iraq.

7. The Appellant makes plain that she simply has no-one to turn to and that she is vulnerable to threats as a lone woman, but more importantly perhaps, a lone woman who has lived outside of her home country for a number of years who would be perceived as being of a different background, putting aside other considerations. The position, which was not substantively argued to the contrary, putting aside other matters, the assessment on the evidence and the opinion of Dr Alan George was of real risk of ill-treatment on return or of serious harm. The material from Dr Alan George addressed the position of women in Iraq and the risks they generally face, as well as the risks the Appellant faced as a lone female without male support. Dr George said this:-

“144. If returned to Iraq, Ms H would be vulnerable – especially in non-KRG Iraq – as a single female without a supportive family network. I refer to my Paragraphs 119-136. The risks she would face would be especially severe because, in this highly patriarchal society, she would have no male protectors.

145. As a single woman she would face serious risks and difficulties throughout Iraq. I have stressed in my Report ... the crucial importance of such family support networks.”

He noted other material from a joint British Danish Fact-Finding Mission as well as from the UNHCR which identified the risks that women who do not benefit from any type of family network or tribal links within Iraq, do not have the protection; They are even more at risk and likely to be prime targets for traffickers.

8. The dangers faced by single women have clearly been recognised in other material, not least the country guidance cases of AA (Article 15(c)) Iraq CG [2015] UKUT 00544 (IAC) and BA (Returns to Baghdad) Iraq CG [2017] UKUT 00018 which identified the general lack of security within Baghdad, the risks of kidnapping, the greater use of violence and the difficulties that those without protection face from kidnapping, including kidnapping returnees from the west. In that case Dr George appeared and gave evidence on a range of subjects and his views and representations were accepted by the Tribunal. There is nothing within BA that qualifies the real risks that a lone woman might face. The Appellant claims to be at risk of persecution as a lone woman (a particular social group) on return to Baghdad. The burden of proof is upon her to establish that risk, but in accordance with familiar case law the standard of proof is a low one and I rely upon the case of Karanakaran [2000] EWCA Civ 11 as well as Sivakumaran [1968] Imm AR 147 and Ravichandran [1996] ImmAR 97.
9. The position is that the Appellant's evidence which was not substantively challenged on this issue by Mr Bramble stands as reliable evidence of the risks she faces. In addition, Dr George also comments upon the risks of kidnapping and he takes the view that the risks of kidnapping that Miss H would face in Iraq would not be high and he gives his reasons for that. Nevertheless, even if it is subjectively well-held as, the fact is that extortion, exploitation and violence represent real threats to a single woman without a network or protectors to turn to in Iraq.
10. In these circumstances I find the Appellant has discharged the burden of proof to that low standard that she is at risk of persecution and for the same reasons, on the same evidence, that she faces the real risk of Article 2 and Article 3 ill-treatment on the basis that she is vulnerable to exploitation and abuse from militia forces of one sort or another, either deployed or in being in Iraq. Accordingly, whether the fear is of the state or of non-state agents, I find on the evidence that internal relocation is not a reasonable option on the evidence before me. I also find on the evidence that there is no sufficient protection to which she could have recourse. For these reasons therefore, and briefly, I find that her case properly sits against the objective material and that read as a whole, together with the expert evidence. I find the Appellant has

discharged the burden of proof of the real risks that she faces on return. It seemed to me consistent with her claim the fact that so many others of her relatives have left Iraq, settled in other countries and show no signs whatsoever of return to Iraq.

11. I indicated to the parties and they agreed that on the basis that if the need for protection was to be found under the Refugee Convention, or alternatively through Humanitarian Protection, was established there was no issue about return with reference to paragraph 276ADE of the Immigration Rules, nor in relation to Article 8 ECHR. The Original Tribunal's decision does not stand and the following decision is substituted. In the alternative, if the threat is from non-state agents, whilst the risk is of serious harm I would have allowed the appeal on Humanitarian Protection grounds.

#### **NOTICE OF DECISION**

12. The appeal is allowed under the Refugee Convention.

#### **ANONYMITY**

An anonymity direction was made and is continued.

#### **TO THE RESPONDENT**

#### **FEE AWARD**

A fee of £140.00 was paid. In the light of the additional evidence that has been provided now it is clear that the matter has significantly moved on in terms of up-to-date and relevant evidence on the Appellant's behalf and it seems to me that a fee award is not appropriate.

Signed

Date 12 March 2018

Deputy Upper Tribunal Judge Davey