



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/12024/2017

**THE IMMIGRATION ACTS**

Heard at HMCTS Employment Tribunal  
Liverpool  
On 18 July 2018

Decision & Reasons Promulgated  
On 28 August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE O'RYAN

Between

SKT  
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr Ell, Counsel, instructed by Hazelhurst Solicitors.  
For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1 The appellant appeals against the decision of Judge of the First tier Tribunal Siddiqui dated 15 January 2018, in which the judge dismissed the appellant's appeal against the respondent's decision of 4 November 2017 refusing her protection claim.

- 2 The appellant is a national of Iraq, and is from Halabja, in the Iraqi Kurdistan Region. She gave an account that in 2016, she entered into a secret relationship with a Yazidi man, KT. The appellant asserted that her brother, S, who worked for the Patriotic Union of Kurdistan, found out about the relationship, beat her on numerous occasions, and forced her to marry another man, BMA. The appellant claimed to have escaped from BMA's home, ultimately reuniting with KT, who assisted her to leave Iraq for Turkey, before the appellant travelled in a series of lorries across Europe before arriving in the UK clandestinely in or around July 2016. She claimed asylum on the grounds that she feared harm in Iraq from her brother, and from BMA, because of her relationship with KA and for running away.
- 3 The appellant gave birth to a son, N, in March 2017. The appellant asserted that N's father was KT.
- 4 In the decision of 4 November 2017, the respondent rejected the appellant's claim for protection on the grounds that certain elements were not credible. The appellant appealed.
- 5 Dismissing the appeal, the Judge found at [27] that she was not satisfied even on the lower standard of proof that the appellant had had a relationship with KA or that she was at risk from her brother or BMA on return to Iraq. The Judge held that the appellant was married to BMA, and that it had not been established that the father of her child was anyone other than her husband, BMA. Taking into account the contradictions in her account as well as her vagueness in respect of key aspects of her account the Judge held the appellant was not a credible witness and considered her account not credible. The appellant would not face a real risk of persecution of the grounds her membership of a particular social group.
- 6 The Judge considered at [28]-[29] any risk of harm to the appellant as a returnee to Iraq. She noted that the IKR did not require anyone returning there to have an expired or current passport or *laissez-passer*. The Judge also found that the appellant would not be returning to the IKR as a single female nor would she have to live alone in Iraq because she will be returning to her husband and family. Although the appellant stated that she left her CSID card in Iraq, the Judge saw no reason why she could not access this on return. She would have the assistance of her husband BMA and family on return.
- 7 The appellant applied for permission to appeal against the decision on 14 February 2018, but permission was refused by Judge of the First tier Tribunal Froom on 12 March 2018. Renewing her application for permission in an application dated 27 March 2018, apparently drafted by herself, the appellant argues in summary as follows:
- (i) At paragraphs 1-2 of her grounds of appeal, the appellant raises issues regarding paragraphs 18(f) and 18(g) and (h) of the Judge's decision. However, it is to be noted that at those paragraphs of the decision the Judge was merely setting out the respondent's case as contained in the refusal letter,

and I find that the issues set out at paragraph 18 of the Judge's decision are not by themselves reasons relied upon by the Judge to dismiss the appellant's appeal. Mr. Ell, for the appellant, agreed as much in his submissions to me.

- (ii) However, at paragraph 3 of the appellant's ground of appeal, the appellant argues that the issue taken by the Judge at [24(a)], concerning the appellant's lack of knowledge of her brother's involvement in the PUK, could not be taken against her, as in Iraqi society women are looked down upon by men, who do not share information about their jobs with women, in particular if it involves working with the government. The appellant stated that she had provided the information that she was aware of and it was unjustified to take this against her.
- (iii) At paragraph 4 of the grounds, the appellant argues that in relation to the matter taken by the Judge at [24(b)], regarding alleged discrepancies concerning the whereabouts of her sister, the appellant argued that this was unintentional due to stress, fear and confusion.
- (iv) At paragraph 5 of the grounds, the appellant refers the Judge's finding at [25(c)] that Kurdish man usually only have one wife, and that only chieftains and wealthy landowners were permitted to have more than one wife, whereas there was no evidence that BMA, who was said to be already married, was in such a position; the appellant argued that it was not only wealthy landowners who were able to have more than one wife; Kurds were generally Sunni, and marrying more than one wife is permitted and did happen.

8 Permission to appeal was granted by Upper Tribunal Judge Plimmer in a decision dated 4 May 2018 on the following grounds:

"1. It is arguable that the First tier Tribunal's adverse credibility findings at [24] failed to take into account the plausibility of the appellant's claim that she was excluded from information, in the context of the country background evidence relating to the position of women generally in northern Iraq.

2. It is also arguable that the First tier Tribunal has adopted an overly narrow approach to the country background information when making adverse credibility findings at [25] and [26]. It is arguable that the First tier Tribunal should have asked whether the appellant's claim is reasonably likely to be true, bearing in mind that her claim may be unusual and not reflective of the position for the average woman in northern Iraq."

9 The respondent has provided a rule 24 reply resisting the appeal arguing that Judge had given cogent reasons at [24(a)] as to why the appellant's inability to give further basic details of her brothers work lacked credibility. It was also argued that in relation to the evidence about marriage in Iraq, the Judge noted that the appellant's evidence was inconsistent in more than one way and thus, when coupled with the adverse credibility points at [24], and considered in the round, the appellant's explanations were found to lack credibility and were unsupported by background material.

10 Mr. Ell relied upon the grounds of appeal. He referred me to page 36 of the appellant's bundle, which contained a passage from the Home Office Country Policy and Information Note: Iraq; Kurdish honour crimes, August 2017, as to the status of women in Iraq. He suggested that women held a subordinate status in Iraq compared to men, and that it was consistent with the country information that the appellant would have limited knowledge of her brother's roll within the PUK.

11 That may be the case, but the point taken by the Judge was that the appellant was unable to provide certain information which she referred to as basic information as to how long her brother had been involved with the PUK and why he joined. The Judge noted that the appellant had been living in the same household as her brother and even if she had not discussed these issues with him, given that she claims that colleagues visited the family home and she overheard conversations, the Judge would expect her to know more details about her brother's involvement with the PUK.

12 I find that the appellant's ground at paragraph 3 is nothing more than a disagreement with the Judge's conclusion. Even accepting the inferior status of women in Iraq compared with men, and that women may not directly question men about their activities, I find that it was open to the Judge to find on the evidence before her, that the appellant's credibility was diminished by reason of her inability to state how long her brother had been working for the PUK for.

13 The appellant's ground at paragraph 4, relating to the Judge's finding at [24(b)], regarding the whereabouts of the appellant's sister, is not one on which permission has specifically been granted. However, permission was granted generally, and so I address the point. The appellant had stated in the SEF interview at q92 that her youngest sister was married and lived in Sulaymaniya and the appellant went to visit her there, and pretended to go out to the shops but went instead to meet KA. In the refusal letter, the respondent pointed out that the appellant had previously stated that her family members lived in Halabja. In the appeal, the Judge referred to the appellant's evidence at questions 44 to 47 of the SEF interview and stated that the appellant's evidence was inconsistent about the whereabouts of her sister.

14 I quote those questions for the avoidance of doubt.

“Q44: What family do you have in Iraq?

A: I have three brothers, two sisters and my father. Mother is deceased.

Q45: What are all of their names?

A: ... The oldest sister is Soh(..) and youngest Som(...)

Q46: Who do you live with?

A: With them

Q47: Where do they live?

A: In Halabja in the address I gave before

Q48: Any family anywhere else in Iraq?

A: No.

Q49: No aunts, uncles cousins?

A: Yes I have one aunt in Suleymaniya.”

- 15 The appellant’s assertion in her ground of appeal is that ‘... that was purely unintentional and due to stress, fear and confusion’. However, the ground does not state what the alleged effect of any stress, fear and confusion was; ie whether this caused her to make an error at any particular point of her interview. She does not seek to correct any answer in interview or to state what her evidence might have been, had she not allegedly been suffering from stress fear and confusion. Further and in any event, the ‘explanation’ (such as it is) given in the grounds of appeal is in fact different to the explanation given before the Judge, which was that she thought it was obvious that her sister lived separately from the rest of the family as she was married.
- 16 I find that the ground of appeal, as drafted, does not disclose any error of approach by the Judge. The appellant’s answers in her SEF interview at q44-q49 were sufficiently clear as to the whereabouts of her family members, and I find that the Judge was entitled to take the later discrepancy about the whereabouts of the appellant’s sister into account as diminishing the appellant’s credibility overall.
- 17 The appellant then argues at paragraph 5 of the grounds that the Judge erred in her approach when assessing the credibility of the appellant being made to marry a Kurdish man who was himself already married. Mr. Ell suggested that although the Judge referred to evidence at paragraphs 6.2.1, 6.3.1, and 6.3.2 of the Home Office CIPN which addressed the average age for women to marry, the fact that women were usually married to close relatives, and that Kurdish men normally only have one wife, the Judge failed to contemplate the possibility that the appellant’s circumstances, and those of BMA, fell outside the boundaries of what is average, usual, or normal.
- 18 It is to be noted that although the judge found that the circumstances of the appellant’s marriage were inconsistent with objective evidence in three different ways, the appellant challenges only one of those findings, asserting that it is more common for Kurdish men to have more than one wife than the objective evidence suggests, which in any event has all the appearance of a mere disagreement with the

Judge's finding. There is no challenge to the Judge's other two reasons. Further, the Judge specifically contemplated at [26] that marriages may take place that differ from those described in the objective evidence. However, the Judge held, and I find that she was entitled to hold, that more than one aspect of the appellant's account was inconsistent with the external objective evidence regarding marriages, and the Judge was entitled to find that the appellant had not given a satisfactory explanation regarding such matters.

- 19 I find the appellant has not demonstrated that there is a material error of law in the Judge's decision. The Judge was entitled to conclude, therefore, that the appellant could return to the IKR directly, being a previous resident of that region, without the necessity for a current or expired passport or *laissez-passer*. The Judge was also entitled to find that the appellant would not be returning to the IKR as a single female, but that she and her child would be returning to the IKR to resume residence with her husband.

**Decision**

- 20 The making of the decision did not involve the making of an error of law.

I do not set aside the Judge's decision.

I dismiss the appellant's appeal.

Signed:

Date: 13.8.18



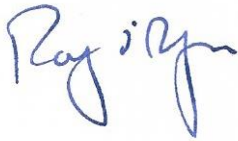
Deputy Upper Tribunal Judge O'Ryan

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

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

Signed:

Date: 13.8.18

A handwritten signature in blue ink, appearing to read 'P. Ryan', is written over a faint circular stamp.

Deputy Upper Tribunal Judge O’Ryan