



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: PA/00147/2020

**THE IMMIGRATION ACTS**

**Heard at Birmingham CJC  
On 5 July 2022**

**Decision & Reasons Promulgated  
On 11 July 2022**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**HJ**

(Anonymity direction made)

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms Rutherford instructed by Halliday Reeves Law Firm

For the Respondent: Mr Williams, a Senior Home Office Presenting Officer.

**DECISION AND REASONS**

- 1.** The appellant is a citizen of Iraq born on 1 March 1987. In a decision promulgated on 15 October 2020 Upper Tribunal Judge Gill found an error of law in the determination of the First-tier Tribunal, which dismissed the appeal on all grounds, and set that decision aside.
- 2.** Judge Gill found that the findings of the First-tier Tribunal at [42] and [45] had not been challenged by the Secretary of State and should therefore stand. [42 - 45] in total read:
  - 42.** The respondent is guilty of considering the account through the prism of that which would be expected in this country which is not the correct test as per KB

& AH [2017] UKUT 491 (IAC). That case held that the story as a whole has to be considered against the available country evidence and reliable expert evidence and other factors such as consistency. By and large the appellant has been consistent throughout his asylum interview, his statement and his evidence today and I am satisfied that he did have an intimate relationship with G, albeit that, absent further evidence, I cannot be satisfied that she suffered the consequences as claimed by the appellant.

43. I am therefore satisfied that the appellant would be perceived to be someone who has had a relationship with a woman outside of marriage and potentially could be the target of an honour killing by G's family. The objective evidence supplied by the appellant at pages 14 - 24 makes it clear that men, who are at risk of honour crimes, are in real danger because honour is a genuine issue and it will be shameful for a man under threat of another crime to approach the police for protection and, since sexual relations between an unmarried couple, is seen as a crime according to tribal tradition, the only way a man who fears revenge from the woman's relations could be protected by the police, would be to remain in police custody but that is not considered to be a durable solution. The same report goes on to say that even if the issues between the parties is resolved by marriage for example, there may be those who do not feel that honour has been satisfied and this means that the risk of violence can continue for years to come because 'the matter of a tarnished honour of the family not been rectified, is eternal' (page 18).
  44. Having considered the evidence in the background sources, I am satisfied that the appellant is a member of a particular social group (PSG) - a potential victim of honour violence based upon a sexual relationship outside marriage. That is not a characteristic he can change because it is based upon the perception of the appellant by society and, given the evidence about tarnished honour of being eternal, the appellant will find that label very hard to shake, even if he did marry G at some stage in the future because they may still be at risk from a member of her family does not consider honour to have been satisfied. The IKR is still very tribal as the background evidence acknowledges and therefore anyone who transgresses tribal law will be regarded as being different.
  45. That leaves the question as to whether he is at risk upon return from G's family and his own paternal uncle and cousins. Dealing with his paternal uncle first of all, I am satisfied he is not a member of a particular social group based upon the abuse given to him by his uncle. He was verbally abused but never assaulted and the verbal assaults were never bad enough to cause the appellant to leave his uncle's home from 2016 - 18. The level of abuse suffered does not amount to persecution and the appellant could move from his uncle's home and thereby avoid such abuse.
- 3.** The scope of this hearing is as identified by Judge Gill at [33] of her error of law decision in the following terms:
33. Accordingly, these findings and assessment by the judge shall stand. This means that the ambit of the remaking is limited to the following aspects of the appellant's asylum claim, humanitarian protection claim and the related Article 3 claim;
    - (i) Whether the appellant is a real risk of persecution from G's family in his home area and, if yes, whether he will be able to safely and reasonably relocate; and
    - (ii) In that regard, the Tribunal will need to consider and make findings on, the appellant's evidence as to the extent of any power or influence of G's family.

4. Judge Gill also found at [34] that paragraphs 15 to 20 of the First-tier Tribunal decision, where the appellant's oral evidence is set out, shall stand as a record of the evidence given by the appellant at that hearing.

## **Discussion**

5. There was no cross-examination by Mr Williams and the case proceeded by way of submissions only.
6. In relation to the first of the issues identified by Judge Gill, I find there is insufficient evidence to support a finding that after the appellant went to his maternal uncle's house, he faced a credible real risk from the family of G.
7. Mr William submitted the only evidence the family were interested in the appellant was them telling him to stop contacting the girl in question. At [20] the First-tier Tribunal decision it was recorded:
  20. He has not spoken to her since November 2018 when she blocked him on Facebook. A female family member contacted her claiming to have had a relationship with the appellant and they obtained his maternal uncle's telephone number and threatened him unless he made the appellant stop contacting her. The appellant said that he would not block her but told her to block him and she did in the middle of 2019. He said that he had been threatened by her family if he goes back and he said that G has also been threatened if she leaves the shelter. He thinks that she is still there. He said that he is still in contact with his maternal uncle and sister and they are still in the same place.
8. The appellant stated he was born on Warwmarwa Village in Sulaymaniyah, in the IKR in Iraq. His passport shows it was issued by the authorities in Sulaymaniyah. The appellant claimed that his uncle lives in Tuz Khurmatu, located approximately a hundred miles to the south-west of Sulamaniyah. Judge Gill noted that the appellant had claimed that from two years of age he had moved to live in Tuz Khurmatu.
9. The appellant stated that the girl in question had been taken to a shelter in Sulaymaniyah for her protection.
10. The appellant's evidence is that he had never been threatened directly although his maternal uncle had been.
11. The appellant claimed that the girl's family members work in the Peshmerga that they were powerful people in the PUK.
12. The appellant was asked whether he was able to locate to Erbil to escape from the PUK, but he claimed that he would be found in a few hours by the family.
13. The issue of honour crimes in Iraqis is the subject of a publication by the Home Office entitled: Country Policy and Information Note: Iraq 'Honour Crimes' Version 2.0, March 2021.
14. At 2.4.3 of this document it is written:
  - 2.4.3 'Honour' crimes may be committed or ordered by a husband, a father, a brother or another relative as a punishment to a family member because they have gone against social or cultural norms and are perceived to have

damaged the family's reputation by their actions. Such 'offences' include (but are not limited to) friendships or pre-marital relationships with a member of the opposite sex; refusing to marry a man chosen by the family; marriages that are against the family's wishes; seeking a divorce; committing adultery; being a victim of rape or kidnapping; and defying gender roles.

- 15.** It is important to note the reference to the PUK in the appellants evidence as that is the Patriotic Union of Kurdistan, which is separate from the Kurdistan Democratic Party (KDP). The main headquarters of the PUK is in Sulamaniyah whereas the KDP is based in Erbil.
- 16.** The appellant does not claim to be at risk from both groups or even the PUK as a whole, his claim being that the family are connected to a named individual who it is claimed is powerful within the PUK.
- 17.** The policy of the Secretary of State is now that an individual may be returned to any airport within Iraq and so the appellant can be returned to Erbil, the airport from which he left Iraq, and to where he travelled from his uncles, without experiencing any difficulties.
- 18.** I was not referred to sufficient evidence to support a finding that a person who relocates to a KDP area will face a real risk from the PUK, even if they have to make the necessary arrangements to enable them to settle there. It is not made out that the KDP not willing to protect any male or female within their territory who has a fear of reprisals. There is reference in the CIPU to honour killings being considered to be murder convictions and prison sentences being imposed by the courts for the same.
- 19.** It is also necessary to consider what will happen to the appellant once he leaves the airport in Erbil. It cannot be disputed that as an Iraqi Kurd the appellant will be able to obtain a laissez passer from the Iraqi Embassy in the UK, enabling him to fly to Iraq. It was confirmed in SMO, however, that this document will be taken from him on arrival.
- 20.** In the CIPU: Internal Relocation, civil documentation returns, Iraq, May 2022, at paragraph 2.4. 4, it is written:
 

2.4.4 Decision makers must therefore first determine whether a person would face any harm on return stemming from a lack of CSID/INID before considering whether their return is feasible. In cases where a person would be at risk on return due to a lack of documentation (i.e. facing destitution or possible ill treatment due to the requirement to travel internally within Iraq to obtain a CSID/INID) a grant of HP would be appropriate.
- 21.** Mr Williams, in his submissions, referred to the fact the appellant is an intelligent individual, having graduated with a degree in Iraq, who is likely to be able to recall the required details and to know the necessary numbers for family book, and that if INID had been issued he could obtain the same.
- 22.** Ms Rutherford referred to the fact the appellant's home area of Tuz Khumatu was in the Government controlled area of Iraq and that his local CSA office did not issue CSID which he would need to enable him to travel to his home area to obtain replacement documents.
- 23.** It was submitted that although the appellant will be returned to an airport in the IKR he requires proper documents to be able to travel to the government-controlled areas through the various checkpoints.

- 24.** On the issue of documentation, the appellant claimed to have left his Iraqi passport in Iraq [screening interview at 1.8] but also claimed at question 3.3 to have left Iraq on 1 August 2018, by air using his Iraqi passport, to fly to Turkey.
- 25.** In his asylum interview the appellant confirmed he has a sister, maternal uncle and paternal uncle in addition to other relatives in Iraq, although claimed that his paternal uncle did not treat him well when he lived with him and his wife although he had no problems with his maternal uncle. In reply to questions 17 the appellant confirmed he has contact with his sister and maternal uncle. He had indeed spoken to his sister a week prior to the asylum interview in October 2019.
- 26.** In relation to passport the appellant was asked where his passport was to which he confirmed it was at his home in Derby. When asked, he confirmed he had asked his uncle to send it to him to enable him to confirm his nationality with the Home Office, which he did.
- 27.** The appellant confirmed in reply to questions 35 that he has a CSID that he claims to have left in Iraq, but when asked with whom he claimed not to be sure whether it was with his paternal uncle, maternal uncle or sister. When asked in question 40 about the passport stating it was issued in Sulaymaniyah the appellant's reply was "when I had my CSID they have to put the place of birth and in which province, which was Sulaymaniyah."
- 28.** It is not made out before me that there is sufficient evidence to warrant a finding that the appellant has not and cannot contact his family in Iraq. It is not made out that those members the family would not be able to assist him in confirming the location of his CSID and either posting it to him in the United Kingdom or meeting him at the airport had handing it to him to enable him to travel back with his maternal uncle as required.
- 29.** The up-to-date INID's first appeared in Iraq in January 2016 which replaced the CSID documents. The appellant has not claim to have been issued with the same and it will therefore be necessary for him to travel to his local CSA office to provide the biometric information now required.
- 30.** If his local CSA office has started issuing INID it will not be possible for the appellant to obtain a duplicate CSID has previously suggested in the case. He will therefore need the relatives to send him or make available to him the document that was issued to him that he confirmed he left in Iraq. I reject the appellant's claim not to know where he left this document as the chronology suggests that he left Iraq from his maternal uncle's house where it is likely to be, a person with whom he remains in contact.
- 31.** I do not find the appellant has discharged the burden of proof upon him to the required standard to show that he is unable to access the required documentation from family members who remain in Iraq with whom he is in contact. It is not made out the appellant cannot be returned to Iraq or is unable to be in possession of his CSID.
- 32.** Answering the two questions posed by Judge Gill, :

- (i) Whether the appellant is a real risk of persecution from G's family in his home area and, if yes, whether he will be able to safely and reasonably relocate; and
- (ii) In that regard, the Tribunal will need to consider and make findings on, the appellant's evidence as to the extent of any power or influence of G's family.

- 33.** It is not made out the appellant will not be able to return to his home area and live with his maternal uncle where he experienced no problems on the basis of his own evidence previously, bar the 2019 threat on the telephone. It is not made out the family of G will be aware of the appellant's return to Iraq and as his home area is in the government-controlled areas of Iraq, it is not made out that the PUK have any influence there.
- 34.** The appellant's argument that he will be discovered if he registers in his home area has no arguable merit as even if you had to reregister it is not established that he will come to the attention of those he fears.
- 35.** I do not find it made out that the appellant's claim regarding the extent of power and influence of G's family has been made out. If they were as all-powerful of the appellant claims and were determined to kill him as the country information indicates happens in certain circumstances against males accused of committing other crimes, they could have located and taken action against the appellant before he went to his maternal uncles, yet they did not. This lack of practical interest is reflected in the evidence of the last contact in 2019 when the Facebook accounts were closed down when the appellant was just told to stop contacting G. There is no credible evidence of ongoing contact or direct threats since.
- 36.** I do not find the appellant has established an entitlement to a grant of international protection or for leave to remain in the United Kingdom on any other basis.

**Decision**

**37. I dismiss the appeal.**

Anonymity.

**38.** The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

Signed.....  
Upper Tribunal Judge Hanson

Dated 8 July 2022