Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/03547/2015

THE IMMIGRATION ACTS

Heard at Newport	**Decision & Reasons Promulgated**
On 13 November 2017	**On 11 December 2017**

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

HAR
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Caseley, instructed by Migrant Legal Project (Cardiff)
For the Respondent: Mr I Richards, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This appeal is subject to an anonymity direction made in my decision dated 23 January 2017 prohibiting the disclosure or publication of any matter likely to lead to members of the public identifying the appellant. A failure to comply with this direction could lead to Contempt of Court proceedings.

Introduction

2. The appellant is a citizen of Iraq who was born on [ ] 1990. He is Kurdish and a Sunni Muslim. He left Iraq in July 2015 and entered the United Kingdom on 28 August 2015. On 29 August 2015, he claimed asylum. The basis of his claim was twofold. First, he claimed that his home village of Bakrd, Makhmour District (on the border of Nineveh and Erbil governates) had been attacked by ISIS and his family had been taken. He feared ISIS if he returned. Secondly, he claimed that there was a family feud with the Barzani family as a result of a relationship between his uncle and a girl from that family. His uncle had been killed and he would be a target if he returned.

3. On 27 November 2015, the Secretary of State refused the appellant's claim for asylum and for humanitarian protection and under Art 8 of the ECHR.

4. The appellant appealed to the First-tier Tribunal. Judge Burnett dismissed his appeal on all grounds. The judge rejected the appellant's account that there was a family feud with the Barzani family and so concluded that the appellant had failed to establish his asylum claim. The judge, however, accepted the appellant's origins and that his village had been attacked by ISIS. He concluded that there was an Art 15(c) risk in the appellant's home area. The judge, nevertheless, found that the appellant could safely and reasonably internally relocate either to Baghdad or to the Iraqi Kurdish Region (the "IKR") and consequently he dismissed the appellant's appeal on humanitarian protection grounds. No reliance was placed upon Art 8 before the judge.

5. The appellant appealed to the Upper Tribunal. In a decision dated 23 January 2017, I concluded that the judge's findings in respect of the appellant's asylum claim were legally sustainable. It was accepted that an Art 15(c) risk existed in the appellant's home area but, it was accepted by the Secretary of State, that the judge had erred in law in reaching his internal relocation findings because background evidence sent in by the appellant after the hearing had not been placed before the judge and taken into account in his decision.

6. Accordingly, I set aside the judge's decision and adjourned the hearing in order that the decision could be remade in respect of the appellant's humanitarian protection claim, in particular in relation to whether internal relocation to Baghdad or the IKR was an option.

The Issues

7. At the resumed hearing, it was accepted by Mr Richards, who represented the Secretary of State that the appellant could not return to his home area as there was an Art 15(c) risk there.

8. The sole issue argued before me was whether the appellant could internally relocate within Iraq in order to avoid that Art 15(c) risk.

9. The Secretary of State contended that the appellant could either internally relocate to Baghdad or to the IKR.

The Submissions

10. In summary, Ms Caseley, who represented the appellant, submitted that it would be unreasonable or unduly harsh for the appellant to relocate to Baghdad or to the IKR. She relied upon her detailed skeleton argument, in particular at para 10-34.

11. First, although Kurdish, Ms Caseley submitted that the appellant could not internally relocate to the IKR. She submitted that, applying the country guidance decision in AA (Article 15(c)) Iraq CG [2015] UKUT 00544 (IAC) and the country guidance as amended by the Court of Appeal in AA (Iraq) v SSHD [2017] EWCA Civ 944, the appellant would be allowed entry to the IKR for ten days as a visitor but any renewal of that permission, for periods of further ten days, would be dependent upon the appellant obtaining employment.

12. Relying upon background information set out at paras 18-21 of her skeleton argument, Ms Caseley relied upon the deteriorating economic situation in the IKR and submitted that the appellant would be unable to gain employment. Ms Caseley submitted that the appellant would, therefore, have no lawful basis to remain in the IKR beyond the ten days and even if the IKR authorities did not pro-actively remove Kurds, it would be unreasonable to expect him to continue to live there without status. In any event, as a result of his inability to seek employment, Ms Caseley submitted that he would, in all the circumstances, become an IDP who was destitute.

13. Ms Caseley's submission is helpfully summarised in para 22 of her skeleton in the following terms:

> "The Appellant is a young man with no qualifications, trade or professional skills that he could use to find employment in Iraqi Kurdistan. He suffers from mental health problems which affect his ability to manage everyday tasks, and which in Dr Battersby's opinion makes it 'unlikely that he would be able to obtain and keep work as well as care for himself'…. He does not have a support network in Iraqi Kurdistan. In these circumstances, and having regard to the fact that few displaced people are earning an income and that unemployment is high among both the host and displaced population, there must be a real risk that he would not be able to find employment. If he could not find employment, it would follow that he would be unable to obtain a long-term residence permit and would be living in the region as an irregular migrant. This precludes identifying Iraqi Kurdistan as a viable internal flight or relocation alternative for this Appellant."

14. Ms Caseley also submitted that the appellant would not have a Civil Status Identity Document ("CSID") which would affect his ability to gain employment (see paras 23-25 of her skeleton argument).

15. As regards Baghdad, Ms Caseley relied upon the country guidance decision of BA (Returns to Baghdad) Iraq CG [2017] UKUT 00018 (IAC). She submitted that,

although the Upper Tribunal, had found that the general risk to all Sunnis did not engage international protection, a cumulative assessment of circumstances might do so. There was not a sufficiency of protection from the risk to young Sunni men in Baghdad, in particular, from Shia militias, who man checkpoints throughout the city. The appellant would, in order to find work, likely have to travel across the city and therefore would inevitably be confronted at checkpoints. The appellant was Kurdish and, on the judge's findings, spoke only basic Arabic. She submitted that there was a real risk to him in Baghdad from Shia militias.

16. Further, and in any event, applying the factors set out in AA at para 15 of the country guidance, she submitted that it would be unreasonable or unduly harsh for the appellant to relocate to Baghdad. He would not have a CSID. He had no family or friends in Baghdad to accommodate him. He had no sponsor to provide accommodation. He was from a minority community, namely a Kurd. She also relied upon Dr Battersby's report which diagnosed the appellant as suffering from moderate PTSD and that he struggled with loud noises, crowds and the dark and had experienced suicidal thoughts. He continued to struggle to manage everyday tasks in the UK and, she relied upon Dr Battersby's view that he would be unlikely to obtain and keep work as well as care for himself. Ms Caseley also relied on the fact that the appellant was not a skilled or, as she put it in her skeleton, "particularly employable individual" who had had three years' primary education and had worked in the family shop in his home area.

17. On behalf of the respondent, Mr Richards relied upon the Home Office, "Country Policy and Information Note, Iraq: Return/Internal Relocation" (September 2017) ("*CPI Note*").

18. First, he submitted that the appellant could internally relocate to Baghdad and he relied upon para 2.2.15 of the *CPI Note* where, referring to the Upper Tribunal's country guidance in AA, it was stated that:

> "As a general matter, it will not be unreasonable or unduly harsh for a person from a contested area … to relocate to Baghdad City … and that 'the number of persons for whom it is not reasonable or unduly harsh to relocate to Baghdad is likely to be small'".

19. Mr Richards referred to para 2.2.17 where, quoting the Upper Tribunal, it was stated that

> "Arabic speaking males with family connections in Baghdad and a CSID are in the 'strongest position' and conversely, those with no family, from minority communities and those without a CSID are most vulnerable. However there is a 'wide range of circumstances falling between these two extremes'."

20. Mr Richards accepted that the appellant as a Kurd was, therefore, a minority individual. He pointed out that Judge Burnett had, in effect, accepted that the appellant spoke basic Arabic. Mr Richards accepted that the appellant did not presently have a CSID. However, he submitted that the appellant could obtain such

a document, important to his employability, from the Iraqi Embassy in the UK. He relied upon para 3.3.4 of the *CPI Note* where it was stated:

> "A CSID can be obtained in the UK through the Iraqi Embassy if a person has a current or expired passport and/or the book and page number for their family registration details. Otherwise, a power of attorney can be provided to someone in Iraq to obtain a CSID from them."

21. Mr Richards submitted that the appellant had produced in the bundles for the appeal, a photograph of his CSID in translation at A7 of the main bundle. This would, Mr Richards submitted, assist the appellant in obtaining a CSID.

22. Further, Mr Richards submitted that Judge Burnett had not accepted the truthfulness about the appellant's knowledge of the whereabouts of his family. Judge Burnett had found that the appellant knew where his family was although he made no finding as to where they in fact were. Mr Richards submitted that they would be available to assist the appellant, in any event, in obtaining a CSID in Iraq.

23. Mr Richards submitted that internal relocation to Baghdad was an option and was not unreasonable given that the appellant was a fit and a young man who had worked in the past.

24. Mr Richards submitted that internal relocation to the IKR was also an option. He relied on the fact that the appellant is a Kurd and had lived on the border of the IKR. He had family in Iraq in or near the IKR. He relied on the relevant paras in the *CPI Note*, including paras 2.2.11 and 2.2.12 – the latter setting out the country guidance in AA. Paragraph 2.2.11 stated that:

> "in general, it may be possible for Kurds who do not originate from the KRI to relocate to the region. …".

25. Paragraph 2.2.12, citing AA states that:

> "Whether [a Kurd] … if returned to Baghdad, can reasonably be expected to avoid any potential undue harshness in that city by travelling to the IKR, will be fact sensitive; and is likely to involve an assessment of (a) the practicality of travel from Baghdad to the IKR (such as to Erbil by air); (b) the likelihood of K securing employment in the IKR; and (c) the availability of assistance from family and friends in the IKR".

26. Mr Richards invited me to consider Dr Battersby's report as having been predicated on the appellant telling the truth which the judge had not accepted. He invited me to treat Dr Battersby's report with some caution.

27. Mr Richards submitted that it was not unreasonable or unduly harsh to expect the appellant as an able-bodied individual who had worked in the past, with family support and some financial support from the UK on return to relocate to the IKR.

The Law

28. The only issue now live in this appeal is that of internal relocation.

29. The appellant's asylum claim fails as a result of Judge Burnett's adverse findings which I upheld in my decision dated 23 January 2017.

30. It is accepted by the Secretary of State that there is an Art 15(c) risk to the appellant in his home area.

31. The appellant's claim is, therefore, for humanitarian protection under para 339C of the Immigration Rules (HC 395 as amended). That claim requires that the appellant establish that:

> "substantial grounds have been shown for believing that the person concerned, if he returned to the country of return, would face a real risk of suffering serious harm and is unable, or, owing to his such risk, unwilling to avail himself of the protection of that country …".

32. The real risk of serious harm is established, falling within Art 15(c), and is set out in para 339C(iv).

33. The requirements for internal relocation are set out in para 339O of the Immigration Rules as follows:

> "339O (i) The Secretary of State will not make:
>
> …
>
> (b) a grant of humanitarian protection if in part of the country of return a person would not face a real risk of suffering serious harm, and the person can reasonably be expected to stay in that part of the country.
>
> (ii) In examining whether a part of the country of origin or country of return meets the requirements in (i) the Secretary of State, when making his decision on whether to grant asylum or humanitarian protection, will have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of that person.
>
> (iii) (i) applies notwithstanding technical obstacles to return to the country of origin or country of return."

34. It is not suggested in this appeal that there is any obstacle to the appellant's return to Iraq.

35. Internal relocation will, therefore, not be an available option if either the place of proposed relocation is unsafe or because it would be unreasonable or unduly harsh to expect an individual either to reach or stay in that safe place.

36. In Januzi v SSHD [2006] UKHL 5 at [21], Lord Bingham identified the approach as follows:

> "The decision-maker, taking account of all relevant circumstances pertaining to the claimant in his country of origin, must decide whether it is reasonable to expect the claimant to relocate or whether it would be unduly harsh to expect him to do so … the decision-maker must do his best to decide, on such material

> as is available, where on the spectrum the particular case falls … All must depend on a fair assessment of the relevant facts."

37. In Januzi, Lord Bingham identified that the socio-economic conditions in the proposed area of relocation will be relevant, including medical care, the ability to earn a living and find accommodation, any family links, ethnic affiliations, the ability to live a life at least at subsistence level, and whether support might be forthcoming from sources either in the country of origin or from abroad (see also SSHD v AH(Sudan) and others [2007] UKHL 49; [2008] Imm AR 289).

38. The burden of proof lies upon the appellant to establish, to the lower standard applicable in international protection cases, that he is entitled to humanitarian protection. The Secretary of State, having raised the issue of internal relocation, the burden of proof remains on the appellant to demonstrate that he is not safe in another part of the country or that it would be unreasonable or unduly harsh for him to relocate there.

Discussion

39. I have considered all the material in the various bundles to which I was referred. Neither representative referred me to an expert report from Professor Christoph Bluth which is contained within the Tribunal's file. It was not relied upon in either representative's oral submissions and Ms Caseley's detailed skeleton argument made no mention of it. I can only assume that the parties considered it to have no relevance to my decision and I have not, therefore, referred to it myself.

40. A number of facts are no longer in dispute either as a result of Judge Burnett's findings or because they are accepted by the parties.

41. The appellant is a Kurd from the village of Bakrd in Makhmour District which is close to the border with the IKR.

42. The appellant worked there in a grocery shop which is family owned.

43. The appellant has only three years of primary education and speaks only basic Arabic.

44. The appellant fled Iraq after his village was invaded by ISIS in August 2014.

45. Judge Burnett did not accept the appellant's account that his family were taken when ISIS attacked the village. Judge Burnett found (at para 62) that the whereabouts of the appellant's family are known to him but:

> "it is unlikely that they have made it to Baghdad given the country situation, especially given that they were residing in, or very near, a contested area."

46. It is accepted that the appellant has a photocopy of his CSID.

47. It is clear from the country guidance in AA (as amended by the Court of Appeal) that possessing a CSID is important both in terms of obtaining employment and accessing

services in Iraq (see para 9). Further, it is a specified relevant factor in determining whether it would be unduly harsh or unreasonable to expect an individual to relocate to Baghdad (see para 15(a)).

48. I was not directly address on the relevance of a CSID to living in the IKR. Neither representative submitted it was irrelevant and Ms Caseley directly relied on its absence to support the appellant's claim that he could not be expected to relocate to the IKR. It is not clear to me on reading the background material and AA whether the CSID is important in the context of living in the IKR (rather than elsewhere in Iraq). Given my findings below that the appellant could obtain a CSID, the point is not crucial in relation to relocation to the IKR and I am content to assume for the purposes of this appeal that it has some relevance.

49. I do not accept Ms Caseley's submission that the appellant could not obtain a CSID from the Iraqi Embassy in the UK. That possibility is, contrary to her submission, expressly recognised by the Upper Tribunal in AA at para [177]. There it is stated that it is possible to obtain a CSID either by the production of a current or expired passport or "the book and page number for their family registration details". In this appeal, the appellant has a photograph of his CSID which is at page A7 of the main bundle (in translation). That contains the "family registration details" and would, I find, enable the appellant to obtain a new CSID from the Iraqi Embassy in the UK. Ms Caseley placed some reliance upon the Upper Tribunal's statement at [186] which makes reference to an individual's "ability to persuade the officials that they are the person named on the relevant page" which "is likely to depend on whether they have family members or others individuals who are prepared to vouch for them". That, however, is said in the context of obtaining a CSID from their home governorate. It was not suggested in this case that the appellant could do so as an Art 15(c) risk exists in his home governorate. Neither did Mr Richards suggest that he could obtain a CSID from the "central archive" in Baghdad (which is problematic: see para 11 of the guidance in AA) or an alternative CSI office for his particular home area.

50. Consequently, I approach the issue of internal relocation in this appeal on the basis that I am satisfied that the appellant can return to Iraq with a valid CSID.

51. I deal first with internal relocation to Baghdad.

52. In AA, the relevant country guidance is at paras 14 and 15 (as amended by, and annexed to the judgment of, the Court of Appeal. Paragraph 14 states that:

> "as a general matter, it will not be unreasonable or unduly harsh for a person from a contested area to relocate to Baghdad City or (subject to paragraph 2 above) the Baghdad Belts."

53. Paragraph 15 of the guidance goes on to set out the relevant factors to be taken into account in assessing whether it would be unreasonable or unduly harsh to relocate to Baghdad as follows:

> "15. In assessing whether it would be unreasonable/unduly harsh for P to relocate to Baghdad, the following factors are, however, likely to be relevant:
>
> (a) whether P has a CSID or will be able to obtain one (see Part C above);
>
> (b) whether P can speak Arabic (those who cannot are less likely to find employment);
>
> (c) whether P has family members or friends in Baghdad able to accommodate him;
>
> (d) whether P is a lone female (women face greater difficulties than men in finding employment);
>
> (e) whether P can find a sponsor to access a hotel room or rent accommodation;
>
> (f) whether P is from a minority community;
>
> (g) whether there is support available for P bearing in mind there is some evidence that returned failed asylum seekers are provided with the support generally given to IDPs."

54. Here, as I have found, the appellant will return with a CSID.

55. As the country guidance in AA makes plain, a CSID is important because it is (at para 9):

> "Generally required in order for an Iraqi to access financial assistance from the authorities; employment; education; housing; and medical treatment. If P shows that there are no family or other members likely to be able to provide means of support, P is in general likely to face a real risk of destitution, amounting to serious harm, if, by the time any funds provided to P by the Secretary of State or her agents to assist P's return have been exhausted, it is reasonably likely that P will still have no CSID."

56. Judge Burnett found that it was not likely that the appellant's family, although in Iraq, had travelled to Baghdad. The appellant will, therefore, return to Baghdad without any familial support there.

57. His CSID will assist him in obtaining employment. He will return however, as Mr Richards accepted, as a member of a minority community. He is a Kurd. He also speaks only basic Arabic which will, as AA recognises, make it less likely that he will find employment.

58. Ms Caseley placed reliance upon the country guidance decision of BA. That case concerned, inter alia, the position of Sunnis on return to Baghdad. The Upper Tribunal affirmed the earlier conclusion in AA that the general level of violence in Baghdad City did not engage Art 15(c) of the Qualification Directive. However, the Upper Tribunal concluded that (headnote para (vi)):

> "Individual characteristics, which do not in themselves create a real risk of serious harm on return to Baghdad, might amount to a real risk for the purposes of the Refugee Convention, Article 15(c) of the Qualification Directive or Article 3

> of the ECHR if assessed on a cumulative basis. The assessment will depend on the facts of each case."

59. The Upper Tribunal noted that (headnote para (vii)):

> "in general, the authorities in Baghdad are unable, and in the case of Sunni complainants, are likely to be unwilling to provide sufficient protection."

60. The Tribunal noted the increase in sectarian violence since the withdrawal of the US-led coalition forces in 2012, in particular that (headnote para (v)):

> "Sunni men are more likely to be targeted as suspected supporters of Sunni extremist groups such as ISIL. However, Sunni identity alone is not sufficient to give rise to a real risk of serious harm."

61. In BA, the Upper Tribunal noted the prevalence of checkpoints (about 200 in the streets of Baghdad) which were used to check the identity of people and vehicles. Sunnis were a particular target for such inspections and had resulted in Shia militias killing Sunnis (see [84]-[101]). The appellant is, of course, a Sunni, young man. Although BA did not specifically consider the position of a Kurd (since that appellant was not of that ethnicity in that case), the background evidence shows the continued antagonism and hostility towards Kurds, including by the Shia militia. In para 29 of her skeleton argument, Ms Caseley cites a number of background documents which, in my judgment, support this view. It is convenient to set out that paragraph of her skeleton (removing the supporting footnotes) which is in the following terms

> "The Finnish Immigration Service report states that Asaib Ahl al-Haqq "openly supports an anti—Kurdish policy and is critical of the existence of "two governments" (Baghdad and Erbil)." In 2014 Asaib Ahl al-Haqq leader Qais al-Khazali said "Kurds living in Baghdad and other provinces will be targeted… their economic interests, offices, and political presence will be targeted." Kurdistan 24 reported in January 2016 that Kurdish families in Baghdad had been targeted by gunmen and that some had fled their homes. In January 2016 a Kurdish member of the Iraqi Parliament stated that Kurdish residents in Baghdad are under serious threat and that most are forced to flee the city. In February 2016 it was reported by Kurdish MPs that militia groups had threatened Kurdish families in Baghdad with death and had given them one month to leave the capital. Reportedly, al-Khazali said in March 2016 of Iraq's Kurdish population, "[they are] operating right now like leeches, which feed on the host's body – sucking moreand more of its blood – in an effort to grow in size." Kurdish MPs have themselves been targeted and in May 2016 it was reported that some had left Baghdad. Al-Khazali made further inflammatory anti-Kurdish comments in December 2016. In February 2017 a number of Kurdish MPs fled Baghdad following a protest by Sadrists. The overall political context must be understood in this regard. Some of the contested areas reclaimed from Daesh are disputed between Kurdish Peshmerga forces and Shia militias. Shia militias, known as the Popular Mobilization Units, have attacked Kurds in areas of disputed territory such as Tuz Khormato, and in February 2017 thousands of Kurdish families fled the Tuz Khormato area due to atrocities committed against them by the militias. The Shia militias therefore have a general stance of hostility

> towards Kurds, and it can be expected that the Appellant, as a young Sunni Kurdish man, would be at real risk in Baghdad from the Shia militias."

62. I accept Ms Caseley's submission that in order to find and sustain employment in Baghdad the appellant will be required to cross the city and will as a consequence be confronted at checkpoints by Shia militia. The appellant's language is Kurdish Sorani and he only speaks basic Arabic. His background (which would include that he is a Sunni) will be only too obvious to those at checkpoints.

63. I accept that the country guidance in AA concludes that "in general" relocation to Baghdad will not be unduly harsh or unreasonable. But, as para 15 of the guidance makes plain, each case must turn upon its own facts and an assessment of the evidence. The subsequent CG decision in BA highlights the risk to Sunnis in Baghdad albeit not, in itself, amounting to a real risk of serious harm.

64. There is, nevertheless, a risk to which he will be exposed as a result of living in Baghdad and seeking and sustaining employment in the city. In BA itself, the Upper Tribunal, adopting a "cumulative" approach, found that the particular appellant in that case had established a real risk of serious harm or persecution. The facts were, there, different in a number of respects, including that that appellant had been outside the UK for fifteen years and so had a particular profile as a returnee from the west and, further, he had previously worked for a foreign contractor.

65. In this appeal, I am not satisfied that there is a real risk of serious harm to the appellant in Baghdad which, in itself, engages Art 3 or amounts to persecution. However, there is a background risk of significance which when taken cumulatively with the other factors in assessing whether internal relocation is an option, leads me to conclude that it would be unreasonable or unduly harsh for the appellant to live in Baghdad. In reaching that view, I take into account the factors relied upon by the appellant, albeit that I accept that he would have a CSID on return. He would, however, have no family or friends. He is from a minority, namely he is Kurdish. He speaks only basic Arabic which must, in my judgment, seriously hamper his ability to obtain employment in Baghdad where, and the contrary was not suggested before me, Arabic is the prevailing language. He has mental health problems which, and I accept this evidence, Dr Battersby observes, will impact upon his ability to obtain and retain employment (see the discussion at paras 71-73 below which I adopt here). The appellant has no specific qualifications: his only work has been in the family shop. There is also the evidence, which I have set out above from Ms Caseley's skeleton, that Kurds may be treated with hostility in Baghdad. In my judgment, there is a very real risk that the appellant will not be able to obtain or retain employment despite possessing a CSID.

66. For these reasons, having regard to the background risk to the appellant and his economic and social circumstances in Baghdad, I am satisfied that it would be unreasonable or unduly harsh for him to live in Baghdad such that he cannot be expected to internally relocate there.

67. I now turn to consider the issue of whether the appellant can internally relocate to the IKR. In AA the Upper Tribunal identified in para [20] of the country guidance the fact-sensitive approach to determining whether a person returned to Baghdad could reasonably be expected to travel to and live in the IKR as follows:

> "Whether K [a Kurd], if returned to Baghdad, can reasonably be expected to avoid any potential undue harshness in that city by travelling to the IKR, will be fact sensitive; and is likely to involve an assessment of (a) the practicality of travelling from Baghdad to the IKR (such as to Irbil by air); (b) the likelihood of K's securing employment in the IKR; and (c) the availability of assistance from family and friends in the IKR."

68. In para [19], the Upper Tribunal dealt with the position of a Kurd on entry to the IKR and thereafter as follows:

> "A Kurd (K) who does not originate from the IKR can obtain entry for ten days as a visitor and then renew this entry permission for a further ten days. If K finds employment, K can remain for longer, although K will need to register with the authorities and provide details of the employer. There is no evidence that the IKR authorities pro-actively remove Kurds from the IKR whose permits have come to an end."

69. It was not suggested by either party before me that the appellant could not reach the IKR, presumably by air from Baghdad travelling to Irbil. Before me, the submissions focused on the appellant's circumstances in the IKR, in particular whether he could obtain employment and so be able to remain beyond the initial ten days' entry permission and-or whether it would be reasonable or unduly harsh for him to live there. In the IKR, unlike in Baghdad, the appellant will not be faced with hostility as a Kurd or any risk from Shia militia.

70. Ms Caseley placed reliance upon the fact that the appellant was a young man with no qualifications, trade or professional skills. She also relied upon his mental health problem, including his ability to manage everyday tasks, recognised by Dr Battersby in her report. She relied on the fact that the appellant had no support network in the IKR, including family and the evidence, which she summarised in paras 18-21 of her skeleton argument, demonstrating the increasing poor economic situation in the IKR. She submitted, in effect, that the appellant would become destitute in the IKR and therefore could not be expected to relocate there.

71. I accept, as Mr Richards submitted, that the appellant is an able bodied young man. However, what he has to offer is limited in an open job market. He has no qualifications (he was educated for three years in primary school) and has no trade or professional skills. He previously worked in a shop run by his family. Although Mr Richards invited me to treat Dr Battersby's report with some caution, in her report she does diagnose the appellant as suffering from "moderate PTSD" (see page A12 of the main bundle) and, I am satisfied, was well aware that the appellant had been found not to be credible having been provided with both the First-tier Tribunal's determination and my decision in the Upper Tribunal finding an error of law. She specifically acknowledges that the appellant has been found to lie in respect

of his history at page A17. Nevertheless, she is confident in her diagnosis. In her report (at page A21) Dr Battersby notes the problems suffered by the appellant which, in her view amount to "specific difficulties with his mental health that significantly impact on his ability to function in everyday life".

72. She, thereafter, gives examples, including him struggling with loud noises, crowds and the dark and having suicidal thoughts. She concludes:

> "He is currently in a relatively safe country but is still struggling to manage everyday tasks. Relocation would be highly likely to be a stressful experience and any increased stress is likely to have a negative impact on his mental health and subsequent negative impact on his functioning and suicide risk. From his current presentation it would seem unlikely that he would be able to obtain and keep work as well as care for himself. He is also reluctant to seek help from others. For these reasons in my opinion [the appellant] has specific difficulties by way of his mental health that significantly affect his ability to manage internal relocation."

73. I accept Dr Battersby's opinion that the appellant has significant mental health difficulty and, like her, I am satisfied that these would on return to the IKR affect his ability to obtain or retain employment.

74. Judge Burnett made no finding as to where the appellant's family was in Iraq, other than to find that they were not likely to be in Baghdad. It is, therefore, pure speculation whether they remain in the appellant's home area or have, themselves, moved into the IKR whose border is close to the appellant's home area. However, there is nothing to suggest that even if they were in the IKR they could provide any material or economic support to the appellant and, but this is also necessarily speculation, they may themselves be in an IDP camp in the IKR. In any event, I am unable to find on the evidence that the appellant's family are, or would be able to, support the appellant in any material way in the IKR.

75. Ms Caseley placed reliance upon what was said in the "UNOCHA, Iraq [2016] Humanitarian Response Plan" (December 2016) which paints a bleak picture of the IKR's economy as follows:

> "In recent months, faced with a crippling fiscal deficit, the regional government has struggled to provide employment and basic public services for both resident communities and displaced families. The steep drop in oil revenue, driven by historically low prices, has led to a spike in public debt. Salaries are in arrears and all public investment projects have been halted. More than 150,000 workers employed on these projects are now without jobs… In a region which only a few years ago was experiencing very high growth rates, poverty has more than doubled in the KR-I in the past two years. The displaced have been particularly hard-hit; although many have been struggling to survive on savings, personal resources are now exhausted, forcing hundreds of thousands of families to rely on outside assistance, and where this is inadequate, on negative coping strategies. Job losses are leading to serious economic hardship among both resident and displaced families and are likely to ignite unrest, unless steps are taken to protect incomes… As the crisis has become protracted, both the

> displaced and residents are struggling to support their families. Few displaced people [in Erbil governorate] report earning an income; the overwhelming majority continue to rely on savings to survive. Unemployment, coupled with sharp increases in the cost of living, is creating serious economic and social hardship among both resident and displaced communities."

76. Further, the document continues:

> "One of the most dramatic changes in Iraq is the exponential deterioration in the condition of host communities. Families who have generously opened their homes and have been sharing their resources with relatives and neighbours are rapidly plunging into poverty. During the past 12 months, the debt burden has quadrupled in Kurdistan and in the Diyala and Ninewa governorates. In numerous neighbourhoods, including in Dahuk, Erbil, Sulaymaniyah and Kirkuk, families are relying on negative, even irreversible coping strategies… 85 per cent of displaced people are in debt, most unpayable, locking families into generations of impoverishment and immiseration… With the social protection floor contracting and unemployment affecting hundreds of thousands of workers, social tensions are rising, in some places sharply. As many as 1.7 million people are likely to be impacted by social conflict."

77. The influx of IDPs and Syrian refugees to the IKR is, itself, attested by the Kurdistan Regional Government in a document from September 2015 noting that (at C55 of the appellant's bundle of April 2017) that the region is

> "Offering safety, protection and services to 280,000 Syrian refugees and up to 1.5 million IDPs. In 2014, an average of 80,000 IDPs entered the Kurdistan region every month. These figures exclude the displaced population served by the KRG in the neighbouring provinces. As a result of multiple waves of displacement, the population of the Kurdistan region has increased by almost 30%, placing immense pressure on existing resources and services."

78. The document goes on to note that the region is "on the verge of breakdown".

79. A Kurdish newspaper report from September 2016 (at pages 43-44 of the April 2017 bundle) reports that poverty and unemployment in the IKR has reached "unprecedented levels". It reports that "extreme poverty is more widespread amongst larger families with family children and unemployed parents". Further, unemployment has almost tripled since 2010 from 4.8% to 13.5% although "the actual unemployment is likely to be considerably higher" quoting the IKR government. The "UNOCHA, 2017 Humanitarian Response Plan: Advance Executive Summary" (at C101 of the April 2017 bundle) notes that:

> "Three years of continuous conflict and economic stagnation have impacted nearly every aspect of Iraqi society. Poverty rates in Kurdistan have doubled and unemployment has trebled in many communities. Pay rolls for government employees have been cut or delayed. Agriculture production has declined by 40 per cent, undermining the country's food sufficiency, and hundreds of thousands of people have been forced to migrate to urban areas for jobs and support."

80. The report also predicts a further displacement of 500,000 people in 2017 as a result of the military operation in and around Mosul (see C130).

81. The dire straits faced by the economy in the IKR is identified in the Home Office's own *CPI Note* at para 7.2.4 as follows:

> "7.2.4 The source also commented on economic opportunities in the KRI:
>
> > 'Three sources said that the number of job opportunities in KRI is very limited for the host community as well as for IDPs. In this respect, ERC stated that, due to the financial crisis in KRI, even people from the host community are losing their jobs. Three sources indicated that the private sector is affected by the crisis, including the construction business and the oil business. Being among these sources, IRC added that many jobs in the oil sector are occupied by foreign labour.
> >
> > 'When asked in which fields IDPs typically find jobs, three sources said that IDPs who manage to get a job will often find it in low-skilled fields, for instance construction or casual work in agriculture or restaurants. IRC further stated that IDPs with an education may be able to find work with NGOs; however, the number of jobs available in this field is low.
> >
> > 'It was stated by three sources that the public sector is not adding new jobs, and three sources pointed to the fact that the Kurdistan Regional Government (KRG) has not paid salaries to government employees since June 2015. IOM said that it is not possible to live on a salary of a civil servant under the Kurdistan Regional Government (KRG) administration. Various sources stated that publicly employed IDPs are still supposed to receive their salary from the central government in Baghdad. Two sources, however, said that as of September 2015, there is a delay in the payment.
> >
> > 'Different figures were given by three sources on the current unemployment rate in KRI, ranging from 6.5 percent to 35 percent.
> >
> > 'Three sources pointed to competition for jobs in KRI between host community members, IDPs and Syrian refugees. Three sources said that IDPs are typically willing and able to work for lower salaries than members of the host community. IOM stated that they, as an organisation, are facing difficulties to find employment for Kurdish returnees who went back to KRI from Europe, as many companies downsize their workforce.'"

82. The quotation is from the Danish Refugee Council & Danish Immigration Service document entitled "the Kurdistan Region of Iraq (KRI): Access, Possibility of Protection, Security and Humanitarian Situation – Report from Fact-Finding Mission to Erbil, the Kurdistan Region of Iraq (KRI) and Beirut, Lebanon, 26 September to 6 October 2015" (dated April 2016).

83. In my judgment, the background evidence well demonstrates the dire economic situation faced in the IKR not least because of the huge influx of IDPs from central

Iraq and Syria. This has had a significant effect on the IKR's economy and, importantly for the purposes of this appeal, the jobs market. The appellant would enter that market without any particular trade, skill or professional background. His only education is three years in primary school. His only work experience is working in the family shop. He has mental health difficulties which, in my judgment, would further impact upon his ability to obtain or sustain employment in the IKR. In my judgment, taking all these factors together there is a real risk that the appellant would be unable to find or sustain employment in the IKR such that he would become destitute. That would affect his ability to remain in the IKR legally where it cannot be reasonable to expect him to remain without legal status. But, more importantly, the situation that there is a real risk he will face makes it unreasonable or unduly harsh for him to live in the IKR.

84. For these reasons, therefore, I am satisfied that internal relocation to the IKR is not a viable option for the appellant.

85. Consequently, based upon there being an Art 15(c) risk to the appellant in his home area, I am satisfied that the appellant is entitled to humanitarian protection under para 339C of the Immigration Rules.

Decision

86. The decision of the First-tier Tribunal to dismiss the appellant's appeal on asylum grounds stands.

87. For the reasons given in my decision dated 23 January 2017, the First-tier Tribunal's decision to dismiss the appellant's appeal on humanitarian protection grounds involved the making of an error of law. That decision was set aside in my earlier decision.

88. I now remake the decision allowing the appellant's appeal on the basis that he is entitled to humanitarian protection.

Signed

A Grubb
Judge of the Upper Tribunal
6, December 2017