



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/07093/2017

**THE IMMIGRATION ACTS**

Heard at North Shields  
On 7 September 2018

Decision & Reasons Promulgated  
On 13 September 2018

Before

**DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES**

Between

**K. F.**  
**(ANONYMITY ORDER MADE)**

Appellant

And

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Cleghorn, Counsel instructed by Immigration Advice Centre Ltd

For the Respondent: Mr Diwnycz, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant claims to have entered the UK illegally on 11 October 2016, and claimed asylum on that date as a national of Iraq. That protection claim was refused on 6 April 2017. Her appeal against that refusal came before the First-tier Tribunal at North Shields when it was heard by First-tier Tribunal Judge SPJ Buchanan. The appeal was dismissed on asylum and human rights grounds in his decision promulgated on 3 January 2018.
2. The Respondent's application for permission to appeal was granted by First tier Tribunal Judge Hodgkinson on 26 January 2018, limited to the complaint that the

Judge had erred in his approach to the humanitarian protection claim by taking an inconsistent approach to whether Kirkuk was situated within the KRG. The Appellant renewed her application to the Upper Tribunal, and on 23 March 2018 Upper Tribunal Judge Macleman extended the grant of permission to all of the grounds. No Rule 24 Reply has been lodged by the Respondent, and neither party has made a Rule 15(2A) application. Thus the matter comes before me.

3. The Appellant's primary complaint (as advanced before me by Ms Cleghorn) was that the Judge appeared to have misdirected himself in the course of considering the humanitarian protection appeal, as to the location of either Kirkuk or Tuz Khurmatu, so that at one point he appeared to have placed one or other of those cities within the KRG [8.15]. The argument turns upon the Judge's finding "*I am not persuaded that it would be unreasonable to expect the appellant to return to the IKR again*" since Ms Cleghorn accepted that the Judge had otherwise accurately placed geographically both Kirkuk and Tuz Khurmatu in the course of his decision. I am satisfied however that it also turns upon the assumption that the Appellant had not lived in the KRG. When I alerted her to the passage, Ms Cleghorn accepted however that the Judge's phrasing of "*return to the IKR again*" could be a reference to the Appellant's evidence that she was born in Koya, and had lived there with her parents until at least the age of sixteen. I am satisfied that this is the only sensible reading of the Judge's decision; the Appellant had accepted before him that she was born and grew up in Koya, in the KRG. As Ms Cleghorn accepted before me, Koya lies within the province of Erbil in the KRG.
4. No complaint is made by the Appellant over the Judge's rejection as untrue of her claim that she is at risk of serious harm from members of her own family [8.1-8.8]. The Judge found that she had advanced a false claim to asylum. He also noted that her husband had advanced a false claim to asylum that had been dismissed by the Tribunal in 2012; he was in the UK in February 2009 and not in Iraq as claimed.
5. The Appellant had claimed to have left the KRG upon the occasion of her marriage when she claims to have moved to live with her husband in Kirkuk. Whether that claim was true, or not, it is quite clear that the Judge did not accept that the Appellant was estranged from, or, had lost contact with, her own family (who presumably remain based in Koya in Erbil). Thus the issue of internal relocation was addressed in the context of the humanitarian protection appeal (quite properly) on the basis that the Appellant was a returning resident of the KRG, and a Kurd, who would be returning to Iraq in the company of her husband and children, and who would be admitted to the KRG, and who would have the support of close family. The Judge did not have the benefit of the guidance to be found in AAH (Iraqi Kurds - internal relocation) Iraq CG [2018] UKUT 212, but his decision is entirely consistent with that guidance, and the Appellant has not sought to argue to the contrary. That disposes of the ground upon which permission was initially granted.
6. The Appellant had argued before the Judge that her youngest daughter was at risk of FGM in the event the family were returned to Iraq. That claim had to be viewed in the context of the damage sustained to the general credibility of both the Appellant and

her husband by virtue of the adverse findings made both by the Judge himself, and the Tribunal in 2012.

7. The infant child who was the focus of this argument was a newborn baby at the date of the hearing; so young indeed that the skeleton argument prepared on her behalf had argued the position on the basis of the risk of FGM to an unborn child. The Appellant's case was as follows. She claimed that both she, and her elder daughter, had been subject to FGM when in Iraq, and that she had agreed to her eldest daughter being subject to FGM, even though her husband did not agree with the practice. She told the Judge that she was now opposed to the practice, but claimed that her mother in law (ie the paternal grandmother) would insist upon it were the family returned to Iraq, although she also claimed that she and her husband had lost all contact with his family.
8. In the circumstances the Judge found that there was no risk of FGM to the infant child from either the Appellant, or, her husband. Moreover he concluded that there was no risk to the child from her paternal grandmother for two reasons. First the Appellant claimed to have lost touch with all members of her husband's family in Iraq. Secondly the Judge was not prepared to accept that the paternal grandmother would override the express wishes of the Appellant and her husband [8.10]. By inference the Judge's conclusion was that Appellant's own family members would not override the express wishes of the infant's parents either.
9. Those findings were well open to the Judge upon the evidence before him, and they were properly reasoned. The grounds that raise a complaint to those findings are not well drafted, and I am satisfied that they are entirely misconceived. They confuse the infant child's maternal family (who presumably remain based in Koya) with members of the paternal family with whom the Appellant had claimed that all contact had been lost. They also misrepresent the Appellant's own evidence as to her attitude to FGM; she had originally been in favour of it to the extent that she had overruled the wishes of her husband so that her eldest daughter was subject to the practice, but she had told the Judge (and he had accepted) that she had now changed her mind and was opposed to the practice.
10. In the circumstances it was open to the Judge to consider the position of the family upon return to Iraq, and their ability to relocate to the KRG, upon the basis that (i) neither the Appellant nor her husband faced any risk of harm in the KRG, (ii) the family faced no risk of harm from the Appellant's family in Koya and were not estranged from them, and, (iii) the infant child faced no risk of FGM. No complaint was raised in relation to this in the grounds, but for the sake of completeness I note that since the Appellant's husband was returned to Iraq in 2013, no issue arose over the ability of the family to be re-documented prior to removal from the UK (even if they had in truth lost all of the Iraqi identity documents and passports previously issued to them) since replacements could be issued to them through the Iraqi Embassy in the UK. The Appellant's family records in Koya could be accessed, as indeed could her husband's records with the Iraqi passport office, from the UK. Thus the family could return to Iraq in possession of legitimate passports and CSID cards.

11. In the circumstances, and notwithstanding the terms in which permission to appeal was granted, I therefore dismiss the Appellant's challenge, and confirm the decision to dismiss the appeal on all grounds.
12. The anonymity direction previously made is continued.

Notice of decision

The decision promulgated on 3 January 2018 did not involve the making of an error of law sufficient to require the decision to be set aside. The decision of the First tier Tribunal to dismiss the appeal is accordingly confirmed.

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

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 11 September 2018

Deputy Upper Tribunal Judge J M Holmes