Upper Tribunal
(Immigration and Asylum Chamber) **Appeal No:** PA/02160/2019

THE IMMIGRATION ACTS

Heard at Glasgow
on 21 November 2019

Decision & Reasons Promulgated
on 28 November 2019

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

M A A

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Ethnic Minorities Law Centre
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is an Iraqi Kurd, born in August 1994. He sought asylum in the UK, claiming to be at risk of "honour killing" arising from a relationship with a woman whose family disapproved.

2. The respondent refused the claim by a letter dated 15 February 2019, declining to accept the appellant's account as credible, and holding that alternatively the appellant could relocate.

3. FtT Judge Farrelly dismissed the appellant's appeal by a decision promulgated on 7 August 2019. He found the appellant's evidence not credible, and at [61], in the alternative, that he could relocate.

4. The appellant's grounds of appeal to the UT are set out in his application dated 17 September 2019, in summary as follows:

   [1] inadequate reasons:

   (i), at [53] regarding Iraqi culture and the claimed relationship between the appellant and his girlfriend;

   (ii), at [55 – 56], absence of reasoning on the appellant's girlfriend staying with her cousin and going to the appellant's house without a chaperone, on their having sexual intercourse on the cusp of their planned elopement, and on the rapid deterioration of her health thereafter;

   (iii), applying the tribunal's own perception of reasonability;

   (iv), no support for the decision in the country information.

   [2] inherent implausibility:

   the wrong approach at [55] to whether the girlfriend might stay with her cousin, who for example might have agreed with the relationship; at [56], "the girlfriend may have said she was raped to save any harm coming to her"; at [57], use of the word "convincing" indicates the wrong approach; the appellant making no enquiries "may simply be an exercise in self-preservation".

   [3] operating on misapprehension / misunderstanding:

   at [53], no evidence girlfriend's brother aware of the relationship over its several years; at [57], no evidence girlfriend was pregnant.

   [4] internal flight:

   error at [61-62] (accepted as dependent on risk in home area); respondent's CPIN on returns "referred to at [16]" shows a new ID card coming into place, which requires the appellant to return to his home area to apply personally; failure to take account of that evidence, and to consider whether internal relocation was reasonable without such a card.

5. Permission was granted on 23 September 2019.

6. The SSHD responded to the grant of permission on 14 October 2019 that the FtT was entitled to find as it did; a reference in error to a "pregnancy" at [57] was immaterial; documentary obstacles to return were not argued in detail to the FtT; that ground was (as the appellant accepts) contingent upon risk in the appellant's home area; and the grounds were only a disagreement.

7. Although subject to strictures of the Courts, tribunals often use the terms "plausible" and "credible" loosely, as if interchangeable. Some evidence

may be implausible, or unlikely, at first sight, yet true. Whether evidence is credible depends on all relevant considerations, not on plausibility.

8. The judge at [53] does appear to muddle plausibility and credibility. That is not only a semantic point. The credibility conclusion is over-dependent on plausibility, and as Mr Winter pointed out, surreptitious relationships do take place, and do give rise to "honour killings". I note that at [59] the judge did observe that such things, although contrary to cultural norms, do occur; but there is some force in ground [1 i].

9. Ground [1 ii] is not of similar force. It was open to the judge to find this chapter of events not only unlikely but incredible, and he gave reasons. The health of the appellant's girlfriend might have deteriorated rapidly, but the absence of any apparent reason for that to happen was obviously unhelpful to the coherence of the account given.

10. Grounds [1 iii – iv] are vague, and do not add anything of significance.

11. The first point in ground [2] overlaps with [1 ii]. To offer the interpretation that the appellant's cousin may have approved of the relationship seems to be speculation; however, Mr Winter demonstrated during submissions that there was evidence to that effect. I find it obscure what is meant by the reference to the appellant's girlfriend claiming to have been raped. The point was not developed in submissions, there appears to have been no evidence to that effect, and the judge does not mention it. There is no error in using terms such as "convincing", as long as the correct standard of proof is applied in the overall decision.

12. The last point in ground 2 is not a good one. There is nothing to show that to preserve himself the appellant in the UK would refrain from finding out the fate of his girlfriend, which if his account is true would be a matter of acute anxiety to him. This is the point which the judge found "most damaging", and it is plainly a strong one, indicative of invention.

13. Unfortunately, the point is bound up with the reference to her fate "and the pregnancy". It was common ground that the evidence made no reference to a pregnancy.

14. Ground 3 discloses a misapprehension of the period over which the brother of the appellant's girlfriend was aware of the relationship, which was not several years. It is not shown, however, that anything turned on whether he knew for about a year, or for several years.

15. Ground 1 -3 I find somewhat muddled on what the evidence was, and on where the judge went wrong. The decision was also somewhat muddled. The grounds disclose some elision of plausibility and credibility, and slips on whether there was an alleged pregnancy, and on the period over which the brother of the appellant's girlfriend knew of the relationship. They do not show error in the point which the judge found most telling.

16. Ground 4 is based on the respondent's CPIN, "Iraq: internal relocation, civil documentation and returns", version 9.0, February 2019, produced by Mr Govan at the hearing. This ground discloses no error, for these reasons:

    (i) contrary to the suggestion in the grounds, this is not the background material referred to at [16] of the decision;

    (ii) the CPIN was not before the FtT;

    (iii) this is not material in a category of which the FtT is bound to take notice, if not prompted to do so;

    (iv) as the decision records at [62], the "practicalities of return" were "not argued in any detail";

    (v) the appellant placed a written submission before the FtT, which does not mention this line of argument;

    (vi) the CIPIN says at 5.6.9 that an applicant must "make an appointment at the local status office" - it does not say, as the ground optimistically glosses the matter, that he "has to return to his home area to apply personally"; and

    (vii) it appears from the CIPIN, as Mr Govan submitted, that the new scheme is being rolled out gradually, former documents are recognised in the meantime, and cards will (from some future date) be available from Embassies abroad.

17. The grounds do not show that the FtT made any error on internal relocation. The appellant has not alleged anything by which risk might have been more than local, so that was the end of his case.

18. Even if the line of argument in ground 3 had been before the judge, it does not establish that internal relocation would involve any undue harshness.

19. Grounds 1 – 3 disclose some shortcomings in the findings on local risk of "honour killing", but not in all aspects of the reasoning, and not in the most significant reason. The case failed in any event on internal relocation. It has accordingly not been shown that the making of the FtT's decision involved the making of an error on a point of law, such that it ought to be set aside. That decision shall stand.

20. The FtT made an anonymity direction. The matter was not addressed in the UT. This decision is anonymised.

22 November 2019
UT Judge Macleman