

Asylum and Immigration Tribunal

NS (Iraq: perceived collaborator: relocation) Iraq CG [2007] UKAIT 00046

THE IMMIGRATION ACTS

Heard at Birmingham
On 16 October 2006

Determination Promulgated
On 12 April 2007

Before

Senior Immigration Judge Allen
Immigration Judge Pirotta
Mr A A Lloyd, JP

Between

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Bandegani of the Refugee Legal Centre
For the Respondent: Mr J Jones, Home Office Presenting Officer

1. *An Iraqi who is perceived as a collaborator as a consequence of his work for the UN, an NGO, the Multi-National Force, the Coalition Provisional Authority or a foreign contractor, and who has attracted the hostility of an armed group, faces a real risk of persecution on return to his home area.*
2. *Ability to relocate in Iraq to an area other than the KRG for such a person would depend on the circumstances of the case, including such matters as the reach of the group which has targeted him.*
3. *Relocation to the KRG for any Iraqi is in general only feasible if the person concerned would be allowed to enter and legally reside in the area of relocation, and has family, community and/or political links there enabling them to survive.*
4. ***LM [2006] UKAIT Iraq CG 00060*** (guidance on Christian women perceived as collaborators and internal relocation to KRG) is here considered and extended. The guidance in ***RA (Christians) Iraq CG [2005] UKIAT 00091*** remains for the time being valid in cases concerning Christians with no other distinguishing profile.

DETERMINATION AND REASONS

1. The appellant is a national of Iraq. He appeals to the Tribunal against the Secretary of State's decision of 31 March 2006 to remove him as an illegal entrant from the United Kingdom. The hearing before us took place on 16 October 2006. Mr A Bandegani of the Refugee Legal Centre appeared on behalf of the appellant. Mr J Jones appeared on behalf the Secretary of State.
2. There had been an earlier hearing on 13 September 2006 which had had to be adjourned essentially because the expert report upon which the appellant relied had only very recently been received by the appellant's representative and Mrs Da Silva who at that time appeared on behalf of the Secretary of State did not have time to go through the report properly. In addition, she was disadvantaged by not having the relevant operational guidance note which we considered would also be of assistance.
3. It is relevant also to mention that at a case management hearing on 27 April 2006 it was confirmed by Mrs White, who at that time appeared on behalf of the Secretary of State, that it was accepted that the appellant was a Yezidi, there was no challenge to the work that he had carried out for the coalition forces and that there were no credibility issues concerning his activities in Iraq.

THE APPELLANT'S EVIDENCE

4. The appellant's account of his history which he says caused him to flee Iraq and come to the United Kingdom is set out in his statement dated 15 June 2005. In that statement he said that he was born in 1980 in Bashika, a small town near Mosul in the north of Iraq, and that he has lived there with his family all his life. His family were of the Yezidi religion and they are discriminated against because Muslims believe them to be devil worshippers.
5. In summary, he said that he feared for his life in Iraq because he had been working as a translator for the coalition forces in Mosul and his life had repeatedly been threatened by the terrorist organisation Qaedat Al-Tawheed wal Jihad.
6. With regard to being a Yezidi the appellant said that it is obvious you are Yezidi because people you work with or people in town go and pray throughout the day whereas the Yezidis do not. Also they fast for just three days in December as opposed to observing Ramadan. He said that many fanatical Muslims believe that if they could not convert a Yezidi to Islam, killing a Yezidi was a step forward to gaining paradise. He said that he did not practice his religion but there was no way he could be Muslim.
7. He had trained as a nurse and qualified in December 2001 but found it difficult to get work. He applied to be a translator for the coalition forces and was accepted straight away and he began working for the US Army in December 2003. He worked at the US Army Base in Mosul called Camp Freedom. He said that he worked all the time from then until the time when he escaped from Iraq. He was not sure when he left Iraq but he arrived in the United Kingdom on 20 May 2005 having previously spent

two weeks in Syria and was then hidden on a ship and took two to three months to get to the United Kingdom. It would follow from that that he ceased his work as a translator and fled from Iraq in approximately February 2005.

8. The appellant then went on to describe his translating activities and the people for whom he worked at the camp. He said his family did not mind him working for the coalition forces and he was able to give them money as well. He said that he had to be very secret about what he was doing and he was warned by other translators to stop doing his work because as soon as the terrorists knew about his job he would be killed.
9. He said that a month before the fall of Saddam he had USA tattooed just below his shoulder on his right arm. He had known this was a dangerous thing to do but he had done it for a bet.
10. He said that around the three months before he fled Iraq terrorists started to kill some of the Iraqi soldiers and workers for the coalition forces from his base. He said that Qaedat Al-Tawheed wal Jihad were the most powerful of the terrorists because they had money and communication networks, but most of the groups worked together, transferring information such as people's names. He said that when the terrorists captured people they interrogated them for information about other Iraqis working for the coalition forces and also got information from spies on the base, Iraqi workers and indeed from some US soldiers known as "black sheep". He saw DVDs of two other translators being interrogated, tortured and beheaded by the terrorists for working for the coalition forces and for being Christian. He was also told that in the mosque a fatwa had been announced by the Imam against people working for the coalition forces and that they should all quit as their duty to Islam.
11. He said that in the last three months before he fled Iraq he received a letter at home from the terrorists saying "we are Qaedat Al-Tawheed wal Jihad" and then a verse from the Koran with which he was not familiar as a Yezidi and then they said that they knew his name and that he should quit and join Islam or he faced death. After receiving this letter he knew he had to try to escape from Iraq as his life was in danger, that he needed to raise money to pay an agent so he went into hiding but he kept working and changed his location between various houses.
12. A similar warning letter was received at his house about two weeks after the first one and subsequently a third letter threatening him again with death as it was the third warning. He did not keep the letters because if he was captured with those letters on him by the group he would be put to death. He also said that after the third letter the terrorists put his name on the mosque called Haiba Khatoon in an area of Mosul and he was told about this by friends. As a consequence it would be the case that any terrorist group which captured him would know that Qaedat Al-Tawheed wal Jihad were looking for him and such blacklists were on many mosques. He kept hearing different stories about interpreters or members of the armed forces being captured and killed.
13. About a month before he left Iraq he was told by people from his town that five people had been killed by Qaedat Al-Tawheed wal Jihad for being Yezidi and for

working for the coalition forces. Their mutilated bodies were brought back to his village to be buried. He also said that on one day not long before he left he was shot at whilst driving his car home after work. Thereafter he changed his car but he did not believe that this would really work. He said that there was nothing the US Army could do to protect Iraqi people working at the base once they were outside the base. He was afraid to the extent he did not feel he could go into Mosul in case someone recognised him. He could not go to the Iraqi police because they could not protect themselves. He did not know who the terrorists were and the police could not protect him from everyone in Mosul.

14. He then went on to give details of how it was he was able to leave Iraq by paying a large sum of money to an agent and the details of his escape from Iraq and his travel to the United Kingdom.
15. In conclusion he said that he could not go elsewhere in Iraq because Qaedat-Al-Tawheed wal Jihad are everywhere in Iraq and would be able to capture him because they had lists of names and probably had his picture. He said that everyone in Iraq has to carry an ID card and because some of the terrorists put on police uniforms, when you showed your ID card at the checkpoint the terrorists could easily see your name or recognise your face and they would see that he was on their list. He said that there is no protection in Baghdad, Basra or Falluja and that the terrorists can reach everyone whether he is an interpreter, policeman or anyone and the coalition forces cannot protect him because he is not allowed to live on the base. He also said that if he went to another city people would know he was not from there because he has a Mosul accent and they would ask themselves why he had travelled from his city.

SUBMISSIONS

16. In his submissions Mr Jones referred to the Operational Guidance Note of 12 January 2006. He took us to Section 3.8 which in its various sub-paragraphs is concerned with the situation for perceived collaborators in Iraq. He drew our attention to the reference to Al-Qaeda in Iraq which was the group which the appellant blamed for past persecution. It could be seen that a loose coalition of insurgent groups including guerrillas from Al-Qaeda in Iraq were believed to have a controlling presence in a number of cities including Mosul. It could be seen that amongst others translators had been perceived as traitors or collaborators and had been killed by armed groups. It was accepted that the police force outside the Kurdistan Regional government (KRG) area was not effective to provide security to ordinary Iraqis.
17. The Operational Guidance Note should be read together with the Country of Origin Information Report on Iraq of April 2006. Mr Jones referred us to paragraphs 6.22, 6.23, 6.26, 6.31–6.32 and 6.54-55. Again there were references to people perceived as collaborators as including interpreters and to the security situation in Mosul. There was mention also at paragraph 6.129 of the group Al-Tawhid wal Jihad which had been referred to by the appellant. The expert, Dr Fatah, said that this group had translated itself into Al-Qaeda in Iraq. It could be seen from this report that people such as translators were seen as legitimate targets by the armed groups.

18. He also referred to the question of relocation to the KRG. It was accepted that this was probably not feasible for the appellant. It could be seen from paragraph 2.12 of the Operational Guidance Note that internal relocation to the KRG might pose real difficulties. Freedom of movement in Iraq was severely restricted due to the security situation and the existence of military checkpoints.
19. Mr Jones also referred to page 106 of the appellant's bundle which comprised the UNHCR October 2005 guidelines. From this it would appear that relocation to the north would depend on ethnicity and whether the person was a security risk and whether they had a sponsor, so relocation could take place in limited circumstances.
20. Mr Jones also referred to the determination in *LM 2006J UKAIT 0060* in particular at page 20 concerning risk to people associated with the multi-national force. He accepted that the appellant fitted that profile. These in effect were the salient points with regard to risk in the appellant's home area and protection and relocation to the KRG for the appellant. It was not possible to point to a Kurdish sponsor in the KRG for the appellant, and the Tribunal would wish to come to its own views on that.
21. As regards relocation elsewhere, this could be possible but the assessment of risk looking globally at the position for the appellant depended upon his location so there would be a real risk if the multi-national forces in one place had left for another location. In his case it was necessary to consider the situation in his home area where he would be at high risk. There was a paucity of evidence about risk in the provinces handed over by the Multi-National Force (MNF) to the Iraqi authorities.
22. With regard to the expert report of Dr Fatah, Mr Jones argued that paragraph 225 of that report had not been properly explained, in that Dr Fatah had not said why the appellant would be at risk if he were seen to be a Kurd. A lot depended on the individual's location. It was questioned therefore why there would be a risk throughout Iraq and why he could not relocate elsewhere and the report did not properly quantify the assessment.
23. We stated to Mr Bandegani that in the light of Mr Jones' very helpful submissions we only wished to hear from him with regard to relocation elsewhere in Iraq other than the north.
24. Mr Bandegani argued that the appellant was at risk of specific targeting by insurgents in central and southern Iraq. He referred us to page 3 of his skeleton. He referred to the scale of co-operation between insurgent groups which had developed to a more formal connection. There was an increase in attacks on soft targets and the types of targeting attacks had grown in their sophistication. He referred also to page 92 of the main bundle which showed that lists were used in Iraq and they were used by insurgent groups other than those mentioned in the Operational Guidance Note. Page 285 of the bundle dealt with the reach of the particular group in question. Human Rights Association documents had been received about intimidation causing displacement and executions based only on the victim's name. There were references to secret prisons and to the use of mosques by insurgents. The insurgent groups had a common agenda in Iraq. The Secretary of State had accepted in the

Country of Origin Information Report for April 2006 that had been put in that part of the strategic goal of these groups was to target those who facilitated the occupation. He referred also to the Local News document.

25. With regard to risk throughout Iraq, reference was made to page 96 of the bundle. There was no evidence that the increase in targeting and collaboration was limited to the Mosul area. Lists were used throughout Iraq and names posted in mosques were used to facilitate this and the type of attack that the appellant feared had increased. It made no difference that he had ceased doing this work. Paragraph 6.572 of the Country of Origin Information Report referred to this. Also it was the case that the Yezidi were seen as a distinct group and they had not been subsumed into the category of Kurds and the appellant did not speak Kurdish.
26. Mr Bandegani referred also to paragraph 77 of the expert report. Being a Yezidi was a risk-increasing factor. The ability to relocate in central and southern Iraq was severely inhibited by the general security situation. It could be seen from the Operational Guidance Note that there were a number of checkpoints both military and illegal and these were real limits on freedom of movement. The increase of Islamic radicalisation in Iraq point underlined the relevance of the appellant being Yezidi. He did not go to the mosque on Fridays and did not pray five times a day and he could not be expected to deny his ethnicity and religion and change to accommodate this and therefore he would be recognised as being a non-Muslim. This effected relocation and his ability to get elsewhere. There had been a significant increase in deaths in Iraq and a disproportionate number of those killed were young men like the appellant. The Operational Guidance Note did not have regard to the deterioration since January and the rise of Islamic fundamentalism. Page 6 of the skeleton and paragraph 159 of the expert report were relevant to this. More recent news reports had been put in and were to be found in the new bundle and the smaller bundle.
27. After consideration we informed the representatives that we had decided that this appeal was to be allowed and that we would provide our full reasons in a full and written determination which we now do.

CONCLUSIONS

28. In the light of the acceptance of the credibility of the appellant's account, we can go straight to the objective evidence and assess risk accordingly. Before doing so, however, it is important to set out the guiding legal principles.

The Refugee or Person in Need of International Protection (Qualification) Regulations S12006/2525 (hereafter the "Protection Regulations"), together with the Statement of Changes in Immigration Rules, Cmnd 6918 (hereafter "the Cm 6918 Rules"), which in part implement EU Council Directive 2004/93/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, came into force on 9 October 2006.

The Protection Regulations set out, inter alia, definitions of acts of persecution (Regulation 5), actors of persecution or serious harm (Regulation 3) and actors of protection (Regulation 4). Regulation 4 in its material parts states:

- “1) In deciding whether a person is a refugee or a person eligible for humanitarian protection, protection from persecution or serious harm can be provided by:
- (a) the State; or
 - (b) any party or organisation, including any international organisation, controlling the State or a substantial part of the territory of the State.
- (2) Protection shall be regarded as generally provided when the actors mentioned in paragraph 1(a) and (b) take reasonable steps to prevent the persecution or suffering of serious harm by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the person mentioned in paragraph (1) has access to such protection.
- ...”

The amended Immigration Rules (Cm6918) contain among other provisions, paragraph 339K, which deals with the approach to past persecution in the following terms:

“339K. The fact that a person has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, will be regarded as a serious indication of the person’s well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated”.

Also pertinent to this appeal is paragraph 339O headed “Internal Relocation”. This states:

- “(i) The Secretary of State will not make:
- (a) a grant of asylum if in part of the country of origin a person would not have a well founded fear of being persecuted, and the person can reasonably be expected to stay in that part of the country; or
 - (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 the person.
- (iii) (i) applies notwithstanding technical obstacles to return to the country of origin or country of return”.

In considering the proper approach to the issue of internal relocation we have also to apply the principles set out in the House of Lords judgment in Januzi [2006] UKHL 5

which adopts the criteria now contained in paragraph 339O but also contains more detailed guidance.

The new Regulations and Rules also identify the right of a person to be considered as to his or her eligibility for humanitarian protection. Paragraph 339C (in its first part) provides:

“A person will be granted humanitarian protection in the United Kingdom if the Secretary of State is satisfied that

- (i) he is in the United Kingdom or has arrived at a port of entry in the United Kingdom;
- (ii) he does not qualify as a refugee as defined in regulation 2 of the The Refugee or Person in Need of International Protection (Qualification) Regulations 2006;
- (iii) 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 such risk, unwilling to avail himself of the protection of that country; and
- (iv) he is not excluded from a grant of humanitarian protection”.

The same paragraph in its second part gives a definition of serious harm:

“Serious harm consists of:

- (i) the death penalty or execution;
- (ii) unlawful killing;
- (iii) torture or inhuman or degrading treatment or punishment of a person in the country of return; or
- (iv) serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict”.

Where below we refer to “risk” or “real risk”, this is to be understood as an abbreviated way of identifying respectively: (1) whether on return there is a well-founded fear of being persecuted under the Refugee Convention; (2) whether on return there are substantial grounds for believing that a person would face a real risk of suffering serious harm within the meaning of paragraph 339C of the amended Immigration Rules; and (3) whether on return there are substantial grounds for believing that a person would face a real risk of being exposed to a real risk of treatment contrary to Article 3 ECHR.

THE CURRENT SITUATION IN IRAQ

29. The current security situation in Iraq is highly volatile. It was said in a United Nations Security Council (UNSC) report of 3 March 2006 that: “The political transition and attempts to maintain security by the Multinational Force and Iraqi security forces have been accompanied by the development of an increasingly complex armed opposition capable of maintaining a consistently high level of violent activity across the country”. The high levels of violence continue to result in extensive infringements of human rights in Iraq. An International Crisis Group report of 27 February 2006 comments that: “Iraq’s mosaic of communities has begun to fragment along ethnic, confessional

and tribal lines, bringing instability and violence to many areas, especially those with mixed populations". A wide range of human rights problems was identified in the US State Department Report of 8 March 2006, including a pervasive climate of violence, arbitrary deprivation of life, disappearances, torture and other cruel, inhuman or degrading treatment of punishment, impunity, large numbers of internally displaced persons, a lack of transparency and widespread corruption at all levels of government, and discrimination against women, ethnic and religious minorities. Recent research (not accepted by the US and British Governments) in the form of a study produced by the Johns Hopkins Bloomberg School of Public Health in Baltimore (USA) claims that the death toll in Iraq following the invasion is over 650,000: 1 in 40 of the entire population (October 2006). In a report dated 19 May 2006, commissioned by the appellant's legal representatives, Dr Rebwar Fatah, a Middle East specialist, writer, broadcaster and journalist concludes that even if Iraq is not in a state of civil war, the security situation is extremely poor and this provides a platform for persecuting individuals and settling feuds.

30. In the Operational Guidance Note for Iraq, which is a Home Office paper issued in January 2006, and is to be read in conjunction with the Country of Origin Information Report of October 2005, it is said at paragraph 2.3 that security risk assessments in June 2005 confirmed that the level of threat remains high with a particular upsurge in violence around the country since the formation of the government in late April 2005. It is said that bombings, strikes against Iraqi and Multinational Force installations and convoys, attacks on aircraft, hostage takings and targeted assassinations against Iraqi civilians, including public figures, many of increasing scale and sophistication, continue to be centred on Baghdad, Mosul, Ramadi and Tikrit. It is to be recalled that the appellant lived in Bashika, a small town near Mosul and worked as a translator for the coalition forces in Mosul.
31. Section 3 of the Operational Guidance Note sets out the main categories of claims. Paragraph 3.8 and sub-paragraphs thereafter deal with the situation as regards perceived collaborators. Here it is said that claimants may claim that as a result of their work for the UN, NGOs or foreign contractors or because of real or perceived support for the transitional Iraqi Government they face a real risk of being targeted by insurgents. US military intelligence officials are quoted as saying that they believe that three interconnected groups are the most powerful actors in the Iraqi insurgency today. Included among these is Al-Qaeda in Iraq, and we see from the report of Dr Fatah dated 19 May 2006 that the group formerly known as Jama-at Al-Tawhid wal-Jihad after September 2004 became known as Al-Qaeda in Iraq. It is not disputed that this is the group to which the appellant referred as having threatened him on three occasions and, he believed, shot at him also. At paragraph 3.8.2 of the Operational Guidance note it is said that a loose coalition of insurgent groups including Al-Qaeda in Iraq is believed to have a continuing presence in Falluja, Ramadi, Samarra, Baqouba, Al-Qaim, Tal Afar and Mosul. Amnesty International reported on 25 July 2005 that "hundreds of Iraqis have been killed by armed groups because they were perceived as 'traitors' or 'collaborators'. Among them have been translators". There is also reference at paragraph 6.23 of the April 2006 Country of Origin Information Report to targeting by armed groups of, among others, Iraqis working with the MNF. It is said in an Amnesty International Report of 25 July 2005 that many of the killings of civilians are carried out in a perfidious way with suicide

bombers or others describing themselves as civilians, or marked by appalling brutality. A United Nations Security Council Report of 3 March 2006 includes Baghdad, Mosul and the Western Province of Al-Ambar as having been experiencing the worst of the destruction that has been taking place. A UNHCR Report of October 2005 referred to the security situation remaining highly unstable in the centre areas as well as the northern governorates of Kirkuk and Mosul. It is said at paragraph 6.55, referring again to the UNHCR Report of October 2005, that the security situation rapidly deteriorated on 10 November 2004 in Mosul when the city was overrun by armed insurgents targeting Iraqi police stations and security forces. Although the Multi-National Force/Iraqi Security Forces (including Kurdish Peshmerga units) restored control in December 2004 the security situation remained highly tense with daily security incidents. There is a reference at paragraph 6.129 to groups including Al-Tawhid wal-Jihad having repeated claimed responsibility for executing soldiers and police.

32. There is a section in the Country of Origin Information Report of April 2006 on perceived collaborators. This makes similar observations to those contained in the Operational Guidance Note. There is, for example, a quote from the UNHCR Report of October 2005 that anyone associated with or seen to be supporting the new Iraqi authorities has increasingly become the target of attacks. An Amnesty International Report of 15 July 2005 notes that the armed groups are resentful of people who cooperate with the MNF. People such as translators are seen as legitimate targets for the armed groups and the attacks on them are intended as punishment for perceived collaboration and as a warning to others who might consider such work. A Human Rights Watch Report of 3 October 2005 notes that by far the largest number of victims have been Iraqis who worked as translators or in other jobs of the Coalition Provisional Authority, the US Government or other governments in the coalition. Press reports and anecdotal evidence reveal a pattern of threats and attacks including the murder of civilians who work with foreign governments in any capacity.
33. Risk to Yazidis in Iraq was considered by the Immigration Appeal Tribunal in **NH (Iraq-Yazidis) Iraq CG [2004] UKIAT 00306** where it was concluded that a Yazidi did not face a real risk of persecution or breach of his human rights purely on account of his religion. A UNHCR report of October 2005 commented that: "the presence of radical Islamic groups and militias as well as the ongoing political power-wrangling of the various sectarian groups about Iraq's future, leave Yazidis exposed to violent assault and threats and curtails their traditional ways of living as observed for Christians, Jewish and Mandaean minorities." Attacks on, and killings of Yazidis are mentioned in that paper, and also in a Reuters Report of 18 August 2005.
34. This volume of evidence satisfies us entirely that the appellant has made out his case as regards risk to him in his home area. In the light of the volume of evidence it is perhaps unsurprising that issue was not taken with his credibility, particularly bearing in mind the point that was noted at the case management review hearing that he speaks very good English.
35. On the question of sufficiency of protection, again helpful information is to be found in the Operational Guidance Note. It is said in terms at paragraph 3.8.4 that it is accepted that the police force outside the KRG area is not effective enough to

provide security to ordinary Iraqis. The report goes on to state that sufficiency of protection in central and southern Iraq is not currently at a reasonable level. As someone who has shown he faces a real risk of persecutory harm the appellant has therefore established insufficiency of protection in his home area.

36. It is, however, important to go on and consider the possibility of relocation. It is said at the same paragraph, 3.8.6 of the Operational Guidance Note, that in the KRG area it can be argued that protection is at a reasonably effective level. The requirement as set out in paragraph 3390(i)(a) of HC 395 is that the Secretary of State will not make a grant of asylum if in part of the country of origin a person would not have a well-founded fear of being persecuted and the person can reasonably be expected to stay in that part of the country. In examining whether a part of the country of origin meets this requirement, the Secretary of State when making his decision on whether to grant asylum, will have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the person. It is said at 3.8.7 of the Operational Guidance Note that there is freedom of movement in Iraq in that there are no formal restrictions within the country, but there are limitations due to the numerous military and illegal checkpoints. Ease of movement within Iraq varies from place to place depending on security restrictions and is the same for all Iraqis.
37. Though Mr Jones in effect conceded that the appellant could not relocate to the KRG it may assist if we set out the evidence concerning the general situation in the KRG. It is said at paragraph 2.6 of the Operational Guidance Note that the general security situation in the KRG area is benign, compared to the rest of Iraq. The Kurdish Peshmerga continues to control the three Northern Governorates of Erbil, Dohuk and Sulaymaniyah, and since the fall of the Saddam Hussain regime it has also expanded its influence south into Kirkuk, Mosul and Diyala Governorates. It is said that the impact of the insurgency in the KRG area is not high. In its October 2005 report, UNHCR stated that, though there continue to be security concerns in the three Northern Governorates and the economy is still fragile, acts of violence are far less frequent than in the rest of the country, and a degree of political stability has been achieved. There remain serious protection concerns however, especially for people who do not originate from those areas.
38. In the UNHCR Guidelines of October 2005 relating to the eligibility of Iraqi asylum seekers it is suggested that relocation in the three Northern Governorates will depend on a variety of factors, the main one being whether the claimant would be allowed to enter and legally reside in the area of relocation and whether he/she has family, community and/or political links that would allow for his/her protection, economic survival and integration. Later in the same guidelines (at p.51, paragraph 8) it is said that the Kurdish authorities aim at keeping the area "Kurdish" and are in principle reluctant to accept any increase of non-Kurdish populations in their areas of influence. Hence the KRG authorities implement strict controls on the presence of non-Kurdish people in their areas. Whereas certain factors such as former Ba'ath Party membership or a criminal record would clearly entail denial of admission, otherwise it is difficult to establish clear criteria to predict who will be admitted or rejected. At times decisions seem to be taken in a discretionary manner. There are checkpoints at the unofficial borders between Central Iraq and the KRG-administered area, and the area is regularly patrolled and heavily mined. Hence entry via the

checkpoints is, practically, the only option available. At p.53-54, paragraph 21, somewhat contrasting with what was said at p.51 paragraph 8, it is said that the Kurdish parties will reject anybody who does not originate from the respective Governorate and does not have a Kurdish sponsor to guarantee his/her entry and stay (Governorates of Erbil and Dohuk), or may be considered to pose a security risk or is found to have links with the former government. It seems that there is a difference between being admitted to the KRG area and obtaining a residence permit, which has to be applied for by anyone not from the Governorate in question.

39. We go on to the issue which remained a matter of dispute between the parties and that is the ability of the appellant to relocate to the centre or south of Iraq. Mr Jones drew our attention to paragraph 65 of the Tribunal's determination in *LM [2006] UKAIT 00060* where reference is made to a number of general risk categories, which include people who are perceived as collaborating with the occupying forces. Mr Jones made the point however, as we have noted above, that there was a paucity of evidence about risk to a person in provinces which have been handed over by the multi national force to the Iraqi authorities. Mr Bandegani drew our attention to a reference in the UNHCR Country of Origin Information Report on Iraq of October 2005 at page 92 of his bundle to the use made of hit lists by insurgents in Iraq. He reminded us that the appellant's name had been put up in a mosque by the group which he feared. As regards the question of the reach of that group, he reminded us of paragraph 3.8.2 of the Operational Guidance Note, to which we have referred above, and he also referred us to the point to be found in the UNAMI Human Rights Report of 2006 that reports indicate that the militias and similar groups have increased their activities in central and southern areas of the country and there are allegations that sectors of the new security forces have been infiltrated by militias responding to parallel structures. There is also reference to increasing reports that mosques and other religious sites are allegedly used as secret prisons and operate as illegal courts. It can be seen from page 95 of the bundle which is again from the UNHCR Country of Origin Information Report on Iraq of October 2005 that there is common cause between foreign and Iraqi Islamists and former Ba'athists in wanting to disrupt and destroy the new situation in Iraq. It was accepted by the Secretary of State in the Country of Origin Information Report that part of the strategic goal is to target people who facilitate the occupation. As a consequence Mr Bandegani argued that the appellant was at risk throughout Iraq. He reminded us of the evidence concerning links between the insurgent groups including that which the appellant fears, referred to at paragraph 3.8.7 of the Operational Guidance Note. The latest assessment in the UNHCR Report to which we have referred above, at page 96 of the bundle, puts the number of insurgents at 15,000 – 20,000 individuals.
40. We accept that on the evidence there can be seen to be no reasonable expectation that the appellant can stay in the centre or south of Iraq away from his home area. It has been accepted that he is of significant interest to an important insurgent organisation which has links with other organisations and which has not simply written letters threatening him but has posted his name in a mosque, which, we accept, would lead to other terrorist organisations being alerted to an interest in him and take action against him themselves or hand him over to Al Qaeda in Iraq. There is the additional risk factor of him being a Yezidi and as we accept, being identifiable as such since he does not go to the mosque and does not pray five times a day and

is understandably not prepared to change his religion. In this context it is also relevant to note the evidence concerning the checkpoints which are operated by insurgents as well as by the security forces, on which comment can be found at page 16 of Dr Fatah's report. There is a real risk that a person in the appellant's position moving around Iraq would come to the attention of the insurgents in this manner. We do not consider it will be possible for him to maintain the kind of low profile such as to avoid this risk. In his case we conclude that being a Yezidi is an additional risk factor, but we also consider that the evidence as it is at present before us shows that a person who has worked as a translator or in any other way such as to be regarded by insurgents as a collaborator with the multi-national force and who has been targeted by a significant insurgent group, is a person who at present faces a real risk of persecution on account of perceived political opinion in his home area in Iraq. Unless he can satisfy the criteria identified in paragraph 36 above, he will be unable to access the KRG by way of relocation. Whether he can relocate elsewhere in Iraq must be a question of fact in each case, depending upon such matters as the reach of the group which has targeted him. In general, given the kind of hit lists and information networks that exist, as well as the number of illegal checkpoints, we would anticipate that a person satisfying all the other criteria set out above would usually be able to cross this threshold also. Accordingly this appeal is allowed.

Signed

Date

Senior Immigration Judge Allen

Material considered by the Tribunal

UNHCR Guidelines Relating to the Eligibility of Iraqi Asylum Seekers:	October 2005
Home Office Operational Guidance Note on Iraq:	12 January 2006
International Crisis Group Report:	15 February 2006
UNAMI (UN Assistance Mission for Iraq) Human Rights Report:	1 March – 30 April 2006
United Nations Security Council Report:	3 March 2006
US State Department Report:	8 March 2006
Home Office Country of Origin Information Report:	April 2006
Expert Report of Dr Rebwar Fatah:	19 May 2006