

Asylum and Immigration Tribunal

NA (Palestinians - risk) Iraq CG [2008] UKAIT 00046

THE IMMIGRATION ACTS

**Heard at Kings Court, North Shields
On 13th November 2007
Prepared 2nd January 2008**

Before

**SENIOR IMMIGRATION JUDGE STOREY
IMMIGRATION JUDGE GILLANCE**

Between

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr I Lewis of Counsel instructed by Arden Solicitors
For the Respondent: Miss D. Graham, Home Office Presenting Officer

In the light of recent evidence highlighting that the position of ethnic Palestinians in Iraq has worsened. IA (Ethnic Palestinian-Iraq-Objective Evidence) Iraq CG [2005] UKIAT 00045 is no longer to be considered as authoritative on this issue. Currently ethnic Palestinians in Iraq in general face a real risk of persecution and treatment contrary to Article 3 ECHR. Whilst each case is to be considered on its merits, it would only be in exceptional cases that an ethnic Palestinian would not be at real risk.

DETERMINATION AND REASONS

1. The appellant was born in Iraq on 15th August 1972 of an Egyptian mother and a Palestinian father. The appellant asserts and the respondent accepts that she is a “stateless person” whose country of former habitual residence is Iraq. In 2001 she married a citizen of Iraq and thereafter lived in Baghdad. The three children born of that marriage, all citizens of Iraq, are dependants in this appeal.
2. The decision of this Tribunal is the decision of both of us. I wish to acknowledge at the outset the very significant contribution made to its writing by Immigration Judge Gillance.

The Appeal

3. The appellant claims to have arrived in the United Kingdom on 19th September 2006, accompanied by her three dependent children and assisted by an agent who provided her with false documents with which she gained illegal entry at the airport. On 20th September 2006 she applied for asylum. Her application was refused on 13th November 2006 and directions were issued for her removal from the United Kingdom. Originally those directions were for removal to Palestine but subsequent directions were issued for her removal to Iraq. She appealed against the refusal decision.
4. The original appeal was heard before Immigration Judge Bircher sitting at North Shields on 20th December 2006, who dismissed her appeal on asylum, humanitarian protection and human rights grounds by a written determination promulgated on 9th January 2007. The appellant successfully applied for reconsideration. Following a hearing at Field House on 29 June 2007 Immigration Judge Lever concluded that the immigration judge had materially erred in law and ordered that the appeal be heard again in full. The reasons given for that decision were stated as follows.

“REASONS FOR FINDING A MATERIAL ERROR OF LAW IN THE DETERMINATION

Introduction

1. The Appellant born on 15th August 1972 is a national [sic] of Palestine (1948 Palestinian) born in Baghdad. The Appellant fled Iraq and applied for asylum in the United Kingdom on 20th September 2006 with her three dependent children. The Respondent had refused that application and had initially set removal directions for Palestine. The Appellant appealed.
2. Her appeal was heard by an Immigration Judge sitting at North Shields on 20th December 2006. At that hearing the Respondent withdrew the decision to remove to Palestine and set new removal directions to Iraq. The Appellant’s appeal was dismissed on all grounds.
3. The Appellant appealed contending that the Immigration Judge had failed to properly consider facts when indicating that the Appellant could relocate to the KRG within Iraq and had failed to take account of the fact the Appellant would be returning and relocating as a single woman with three young children.
4. This matter comes before me by virtue of an order for reconsideration dated 26th January 2007.

Submissions

5. Mr Lewis submitted that the Appellant's first problem was that she had no registration documents and the Immigration Judge had failed to make any proper findings upon that matter and the consequence on return that flowed from that lack of documentation.
6. It was further submitted that the concept of relocation to the KRG, came from the refusal letter. It was submitted that the Immigration Judge failed to have regard to the objective material on that matter and to distinguish the fact the Appellant was a single woman.
7. Mrs Kiss submitted that the Appellant's inability to register was prior to her own relocation in Iraq and she had also got her job back and accordingly it could not be said that she had a problem. Further it was submitted that it was found that she had protection from her brother-in-law in Iraq and accordingly was not a lone single woman.

Decision

8. It was accepted at the beginning of the hearing before the Immigration Judge that removal directions were set for Iraq and that was the relevant country to consider in terms of risk on return.
9. The Immigration Judge noted at paragraph 12 that the Appellant's mother was Egyptian and her father Palestinian and that she had taken her father's nationality namely Palestinian. Her parents had lived in Iraq since the 1950s.
10. At paragraph 26 the Immigration Judge found (on undisputed evidence) that the Appellant was a highly qualified university lecturer with a doctorate in physics.
11. Central to the Appellant's claim was that her husband (whom she married in 2001) was a high ranking member of the Ba'ath Party and that the Appellant herself had joined that party in 1989 and risen to the rank of active Udo by 1999. She had claimed that since the fall of the Saddam regime there had been a backlash against privileged Palestinians and Ba'ath Party members such that her husband had been abducted in July 2006 and she had received death threats and attempted attacks. It was that set of circumstances that had caused her to flee Iraq.
12. The Immigration Judge had naturally focused on that account and for reasons provided at paragraphs 26 to 38 did not find the Appellant's account to be credible. On the evidence presented and for the reasons provided by the Immigration Judge those findings were open to her.
13. Based upon those findings of adverse credibility the Immigration Judge found that the Appellant could return to Iraq. In this regard her findings are set out at paragraph 34 and 35.
14. At paragraph 34 the Immigration Judge said:

"I find that the Appellant can return to Iraq without fear of persecution and undue hardship given that there are places in Iraq where the Appellant can relocate to such as the Kurdish Regional Government who have indicated that they are seeking entry of suitably qualified professionals such as the Appellant. At the Syrian border Palestinian residents receive assistance from the UNHCR and the Syrian authorities."

At paragraph 35 the Immigration Judge referred to the case of JA CG [2005] and quoted from it thus:

“There is no subsequent adverse material which would show a worsening of the situation of ethnic Palestinians in Iraq. In so far as there are allegations of violence against Palestinian refugees following the fall of the Saddam Hussein regime it appears from the evidence before the Adjudicator that these arose primarily in circumstances of eviction from rented property”. (The Immigration Judge noted that that was not a category into which the Appellant fell.)

15. When looking at the risk on return to Iraq paragraph 34 of the Immigration Judge’s determination is significant. It is there that the finding is made that the Appellant could return. However the return as the Immigration Judge specifies was to two such areas of Iraq mainly the KRG and the Syrian border. That it seems is as a result of her analysis of the background material, parts of which she quoted at paragraphs 21 to 24. In those sections quoted she notes at paragraph 24 that the COI section latest news states that Arab families fleeing violence in Baghdad have made their way to the KRG who have welcomed professionals such as the Appellant. She further noted at paragraph 23 that on 28th April 2006 Syrian authorities confirmed they would receive a group of Palestinian refugees following UNHCR requests.
16. In dealing with relocation to the KRG the case of LM (Educated women) Iraq CG [2006] UKAIT 00060 (July 2006) is of significance both as a country guidance case determined prior to the Immigration Judge’s determination and its dealings with a professional woman (albeit a Christian). At paragraph 69 the Tribunal said this about relocation to the KRG:

“Persons with links to the KRG may be able to mitigate their position by internal relocation but entry to the northern governance is restricted. The governance are now accepting only those who have a proven link to their territories or for whom (and specific evidence is required) someone in the territory is prepared to support them. In general those who are admitted to the KRG will be of Kurdish origin and will be Kurdish speakers particularly as the evidence shows that the Northern Governance have tightened entry controls to those areas.”

Although decided after the Immigration Judge’s determination, the case of NS CG [2007] UKAIT 00046 reinforced that point made in the earlier case by stating:

“Relocation to the KRG for any Iraqis 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.”

17. The Appellant’s profile, leaving aside issues of credibility, did not indicate that she fell within those likely to be able to relocate to the KRG as indicated in the country guidance case. Further again leaving aside issues of credibility the Immigration Judge does not appear to have specifically looked at the Appellant relocating to the KRG in terms of her being a lone female with three young children.
18. When looking at relocation to the Syrian border, whilst accepting the Immigration Judge quoted objective material as to the Syrian position in April 2006 she failed to mention paragraph 32.20 indicating that the Human Rights Watch Report dated September 2006 stated “Following a request from the Palestinian authorities foreign ministry Syria allowed those Palestinians into Syria but again closed its borders to Palestinian refugees immediately afterwards.” That appears to update the position as it was in April 2006 indicating the Syrian border had been closed.
19. I find therefore that the Immigration Judge when assessing the objective material for internal relocation to the border did not fully take into account the objective material as it stood in September 2006 rather than the earlier position in April 2006. Further such relocation in any event is not essentially “internal relocation” but location to another country i.e. Syria.

20. Accordingly I find that the Immigration Judge in concluding as she did in paragraph 34 failed to take account of the relevant country guidance case and available objective material and therefore reached a conclusion on a flawed basis. For that reason I find a material error of law was made.
21. In so far as registration is concerned I do not see the Immigration Judge reached any conclusions on that matter. I accept that in terms of the Appellant living in Iraq and her credibility her registration or lack of it was perhaps secondary to the credibility findings of what she actually could or could not do. However, being as she now is outside of Iraq and in contemplation of removal from the UK back to Iraq it is in my view incumbent for a conclusion to have been reached as to her registration status and any significance that flowed from that factor. The Immigration Judge noted the Appellant's assertion in paragraph 11 to 19 being in summary as follows:
 - a) The Appellant possesses a Palestinian travel document.
 - b) Post 2003 the Appellant's application to re-register her residence permit was refused and she became illegal.
 - c) Later she tried to renew her residency and that too was refused.
22. The Immigration Judge's findings on fact and credibility do not touch directly on whether she found the above account credible or not specifically in terms of what the Appellant has said about registration. As stated above on return to Iraq as opposed to being within the country it is in my view necessary to make such findings in order to properly assess the risk on return and relocation. To that extent a failure to do so amounts to an error of law.
23. For the above reasons I find that a material error of law was made in the determination and the matter should be remitted to be heard afresh. For the avoidance of doubt whilst the findings of lack of credibility were open to the Immigration Judge it would be difficult for the Tribunal at the second stage to reconsider matters properly without themselves being the determinators of fact and credibility and in my view therefore the matter should be heard afresh as a de novo hearing.

Directions

Case to be heard at North Shields with a time estimate of 2 hours with an Arabic interpreter."

Our reconsideration

5. This appeal came before us as a second-stage reconsideration hearing. The parties confirmed that in this hearing, apart from the accepted fact that the appellant is a stateless ethnic Palestinian person from Iraq, all matters were at large. The appellant gave oral evidence. In addition we had before us several bundles of documentary evidence all of which we have read and considered. During the hearing we referred the parties to a UNHCR Report dated August 2007 and asked that they locate it and file written submissions upon it. We also asked the Respondent to clarify what arrangements existed for Palestinians in the UK to obtain travel documents. The Respondent was given leave to explain more fully the contents of a COI Service Reply and the appellant's representatives were given leave to submit a further report from the UNHCR on Palestinians in Iraq, which we were told had been written but had yet to be formally cleared by UNHCR. Whilst by a letter dated 10 December 2007 we received from Miss Graham a copy of the UNHCR August 2007 report,

together with some further submissions, we received nothing from the appellant's representatives except a letter to say that the specific report from UNHCR was still not available. Since we made clear that our decision would only be delayed to await further evidence and submissions in compliance with strict time limits, we decided, on their expiry, to proceed to determine the appeal without waiting for this report.

6. In relation to questions we had raised with the respondent concerning the position with regard to arrangements made for stateless Palestinians from Iraq to obtain travel documents whilst in the UK, we have decided, on reflection, that this is not a relevant area of inquiry for the issues we have to decide, since it concerns contingent matters: see AG (Somalia) [2006] EWCA Civ 1342. We are required to consider the position of the appellant on the basis of a hypothetical approach focussing on her situation as a stateless Palestinian if returned.

The Appellant's Evidence

7. The Appellant's account of her history which she says caused her to flee Iraq and come to the United Kingdom is set out in her three statements dated 4th October 2006, 7th December 2006 and 24th September 2007. In her evidence to us she described how her parents moved to Iraq in the 1950s where she was born and grew up with her three brothers. She married in April 2001 and has one son and two daughters. Her father had been a university lecturer in law at the University of Baghdad and also gave lectures to members of the national security forces and was highly respected by Saddam Hussein. Her father died in 1989 and her mother returned to Egypt shortly before the Allied Forces entered Iraq and removed Saddam Hussein. At the time she met her husband he was a high ranking member of the Ba'ath Party and was promoted to High Ranking Division Member in charge of Ba'ath Party headquarters in Al Sheikh Marof in 2001. She described her husband's many and varied duties with the Party from lecturing low ranking members on Party aims and objectives, arranging for attendances to celebrate Ba'ath Party festivals, being responsible for recruitment of Party members within his headquarters and helping to mobilise Iraqi people and recruit them in the Popular Army at the time of the Iran/Iraq war. He had a Masters degree in history and in addition to his Party activities worked as a teacher in a secondary school.
8. The Appellant herself joined the Ba'ath Party in 1989 as a sympathiser, was later promoted to 'Supporter' and in 1992 to 'Advanced Supporter'. In 1998 she took an intensive course on Ba'ath Party principles and objectives lasting three months and was then promoted to the rank of 'Udo' within the Party and a year later was promoted to the rank of Active 'Udo'. She described how during the reign of Saddam Hussein's regime her family had comfortable lives with many privileges and important concessions such as free accommodation and access to facilities. Following the removal of Saddam Hussein's regime on 9th April 2003 the whole situation for Palestinians in Iraq changed. In particular those who were members of the Ba'ath Party, and various militia in Iraq, launched a campaign against sections of the Palestinian community. She said that Palestinians in general were treated badly and abused by the authorities. The Interior Ministry refused to renew their residence

permits and they were unable to travel outside Iraq. With lack of residence permits their presence within Iraq became illegal. Some managed to escape and fled to Syria and Jordan but the governments of those countries refused to accept them and they were left in refugee camps in the deserts.

9. She said that her family were amongst those persecuted and subjected to ill-treatment by militia and mainstream parties within the current government such as the Al Dawa and the Supreme Council for Islamic Revolution in Iraq. As a result of all this she and her husband were forced to flee with their children to the nearby Al Ademia District of Baghdad where they stayed with her brother-in-law. After a few days her husband had to flee again from the city of Baghdad to Al Hila Province where he went into hiding on a farm owned by a friend, because of the intensification of persecution and ill-treatment against former Ba'ath Party members following the de-Ba'athification law that was passed on 5th May 2003. According to that law, the Appellant claims that her husband was a target to be killed. In May 2004 the Appellant and her children returned to their home in Mahld District of Baghdad because she was officially excluded from the de-Ba'athification law and felt it was safe to return to her home and her job. Her husband remained in hiding on the farm and made occasional visits to the family under cover of disguise.
10. Upon return to her home and her job the Appellant said that she was constantly abused verbally and referred to as an agent of Saddam Hussein as well as suffering discrimination and harassment from government authorities when she tried to obtain her residence permit or her travel documents.
11. In February 2006 threats against Palestinians significantly increased following the attack upon two sacred Shi'ite shrines in Samarra by suspected terrorists from the Sunni population. This, she says, was the turning point in the sectarian strife, and the campaign of intimidation and terror increased and intensified to what she described as 'civil war'. Palestinians were cursed and described as Sunni infidels and agents of the Ba'ath regime and she began to receive death threats in the form of notes at her university, from religious parties describing themselves as the Al Dawa Party and the Supreme Council for Islamic Revolution in Iraq. She was ordered to abandon her post and leave Iraq or face being killed. Threats were made to kidnap her children. Similar threats were made to a colleague at the university, that he must leave his post and when he refused he disappeared and his body was later found in the street. The appellant produced at interview a number of documents relating to her employment at the university and the threats she said she received in writing. Those threats impelled her to abandon her post at the university and remain at home.
12. On 1st July 2006 following a secret visit to her home, she said that her husband was kidnapped as he left the house. She believed this was the work of militia. She did not witness the kidnap but states that neighbours told her what had happened and described having seen masked men in black uniforms taking her husband. She had not seen or heard from him since. In the days which followed she toured the city's morgues, a common practice at the time for families who had lost relatives, but was unable to identify his body. She received more threatening letters. She also received

a document headed 'Announcement' purporting to be from the Al Dawa Islamic Party (which she produced to the Home Office). As a result of the intimidation and terror she went to the Palestinian Embassy in July 2006 and reported the receipt of these letters and threats. The Palestinian Embassy issued her with a letter dated 15th July 2006 in confirmation of her having reported these matters (this she also provided to the Home Office). The following day she attended the Interior Ministry and showed them the letter from the Palestinian Embassy but they nevertheless refused to renew her residency permit.

13. On 6th September 2006 she stated that she was at home during the evening when she heard people approaching the house through her front gate. The house was attacked, she summoned help from her neighbours who, using firearms, fired in the air and the attackers, whom she believed to be militia, fled. The following morning the appellant took her children and fled to the house of a friend in the Al Ademia District where she remained for two days after which her friend's husband took them to the northern city of Mosul. She remained there until 14th September 2006 during which time an agent was found to help her leave the country. On 15th September 2006 they were taken by car north into Turkey and from there, omitting the detail, to the United Kingdom. In her asylum interview when she was asked why she had not fled to Syria and Jordan (Q52). Her reply was:

"They flee and stay on the border. I cannot do that with my children. They just stay in the street."

Background Evidence

14. As it is not disputed that the appellant is a stateless Palestinian whose country of former habitual residence is Iraq, it is important that we set out some relevant background materials relating to Palestinians in Iraq.
15. The Human Rights Watch Report September 2006 entitled 'The Perilous Situation of Palestinians in Iraq' (Volume 18) recounts the drastic deterioration in security for Palestinians in Iraq following the fall of the Saddam Hussein Government. Militant groups, mostly Shi'a, targeted the predominately Sunni minority community of Palestinians, attacking their buildings, committing several dozen murders and threatening harm unless they immediately left Iraq. It is stated in addition that Palestinians were subjected to new and extremely burdensome registration requirements:

"...providing a venue for bureaucratic hostility. And unlike Iraqi citizens at risk, who are largely able to find refuge abroad, Palestinians have nowhere to flee: countries in the region (with rare, temporary exceptions) have kept their borders firmly closed to fleeing Iraqi Palestinians. And the international community has done little to help ease their plight".

In a document contained in the Home Office appeal bundle dated 19th October 2006 and headed 'Hardship goes on for Palestinians on Iraq-Syria border' it is reported that 350 Iraqi Palestinians had been stranded on the Syrian border (on the Syrian side) for almost six months and no solution to their suffering seemed to be at hand as the Syrian authorities were reluctant to admit them, fearing an exodus from war-torn

Iraq. Palestinians, fleeing sectarian violence in Iraq and threats to their lives by militants, were camping at the Tanaf checkpoint on the Syrian border in 85 tents erected for them by United Nations refugee agencies. They included 137 children and 90 women and the situation was getting worse as winter approached. The report further states that scores of Iraqis had attacked Palestinian homes in Baghdad seeing them as Saddam supporters. Many Palestinians in Iraq had been threatened by militants and told to leave the country. Many had fled Iraq or gone into hiding. Some of them had been interviewed for the purpose of this report and had said that Palestinians were considered to be terrorists by some sections of the Iraqi people. They complained that living in the camp on the border was a “real catastrophe”, there was no education for the children and the tents could not protect them from the winter cold. Others had camped on the Iraq-Jordan border where they had been stranded for two months though a few had been allowed to enter as a “humanitarian” gesture.

16. There is further background evidence before us in a report in the form of an Aide-Memoire presented by UNHCR in December 2006 headed ‘Protecting Palestinians in Iraq and seeking Humanitarian Solutions for Those Who Fled the Country’. Immediately we see reference to the concerns expressed by the Palestinian community in Baghdad over the renewal of their residence permits and the confiscation of their documents (para 3). There is further reference to Palestinians in Iraq being regarded as refugees and to the UNHCR assisting hundreds of Palestinian families who have been evicted from their homes in Baghdad and receiving many reports suggesting that Palestinians had become subject to discriminatory and violent acts, forcing some of them to leave the country in search of safety abroad. Page 2 of the report refers to deteriorating conditions, including widespread abduction, kidnapping and extra-judicial killings and at page 3 there is a ‘Section (IV)’ on the compelling situation of Palestinian refugees who fled Iraq. It is stated that almost all Palestinians in Iraq would like to leave the country. Many had turned to people smugglers to achieve this option. However, they were said to be experiencing difficulties in relocating since countries are unwilling to accept their travel documents.
17. The Aide-memoire states that as at December 2006 there were three groups of Palestinian refugees who were in a precarious situation and in need of a humanitarian solution. First, the Palestinians who fled Iraq and who were stranded in the desert no-man’s land border area between Iraq and Jordan. Some were later allowed to enter Jordan and were accommodated in a refugee camp. A limited number of others were allowed to enter based on marriages with Jordanians and another group were returned to Baghdad. 148 still remained in a camp in very harsh weather conditions, with no prospects for the future. Second, a group of about 300 Palestinians who fled Iraq were accommodated in a refugee camp in north eastern Syria. They had been allowed entry into Syria and accommodated in a camp where they received basic assistance and their freedom of movement was limited. They depended on humanitarian aid and it was not clear what status they would be granted in Syria. Third, about 320 Palestinian people were stranded in the Tanf border area between Iraq and Syria. They included children and pregnant women

who had arrived at the Syrian border in small groups following the admission of the above group into the El Hol Camp. They too complained of acts of harassment and abuse in Iraq. The Tanf site was unsuitable for the provision of adequate humanitarian assistance and lacked basic infrastructure making living conditions of the group miserable despite efforts made by UNHCR to provide basic services. Admission of the group into Syria had been denied by the Syrian authorities. With the onset of winter the living conditions of the group were expected to further deteriorate and a more prolonged stay in the area was said to be extremely difficult to sustain rendering the need for a solution to the plight of these persons urgent.

18. The UNHCR Aide - Memoire also states, as regards the issue of availability for Palestinians of a relocation alternative in the northern Governorates of Iraq, that such alternative is not feasible on an individual basis due to the lack of family links and community support, which would lead to inability to access basic services essential for livelihood. This option would only become feasible if fully endorsed by the local authorities in those three northern Governorates (KRG) and their firm commitment to grant effective protection to Palestinians and to ensure their access to basic social services and work permits.
19. The conclusion of the UNHCR in this Aide-Memoire is stated as follows. Palestinians inside Iraq as well as those who have fled into the neighbouring States were facing a dire protection situation, lacking basic protection as refugees. The situation of Palestinian refugees inside Iraq had become untenable, while those who had fled into Jordan and Syria were living in conditions which were degrading and precarious. Inside Iraq, Palestinians suffered the same insecurity affecting the entire Iraqi population, and are also specifically targeted for serious discriminatory treatment and acts of violence. Being a large foreign minority and a high profile group, and having benefited from a large number of privileges under the former regime, Palestinian refugees were particularly vulnerable to human rights violations, which could well reach the threshold of persecution. There was no adequate protection from tribal or other social affiliations, or from the state authorities.
20. A document headed 'Iraq updates' dated 23rd January 2007 at page 9 to 10 of the same bundle contains a Reuters Report from Arbil in the KRG dated 23rd January 2007. First there is reference to a Christian shopkeeper who fled Baghdad after being beaten in his shop and permanently injured. He had reached Arbil in the relatively peaceful Iraqi Kurdistan and was now begging for work. The report goes on to describe how tens of thousands of people have fled Baghdad, the "epicentre of violence of Iraq". The United Nations had launched an appeal for aid for Iraqis who had fled their homes saying that about one in eight Iraqis was now displaced, the largest exodus and long-term movement of people in the Middle East since the creation of Israel in 1948. Many, including non-Kurds, had taken refuge in Kurdistan - a largely autonomous region in the north that has been a haven from attacks plaguing other areas since the US invasion of 2003. It was reported that over the past two weeks more than 9,000 people travelled to Arbil escaping from Baghdad as refugees, mainly Sunnis and Christians. This comment is attributed to the head of the disaster relief programme in Arbil, part of the Iraqi Red Crescent. It is also

reported that the UN says that nearly 500,000 people fled to other areas within Iraq in 2006, mostly since the February bombing of the Shi'ite shrine in Samarra prompting a surge in violence. The report goes on to deal with what is described as the "brain drain". It is stated that hundreds more families – particularly of doctors, professors and businessmen – had found jobs in Arbil and had declined handouts as a result.

21. In this report there is no mention of any significant difficulty facing those fleeing to the north and no reference to any rejection or ill-treatment of any of them, although it was stated that many refugees arriving in the north lacked proper resources and help despite the authorities providing some logistical help, such as transferring ration cards so families could get subsidised food. They had urged the UN bodies in the north to help build a camp for those who could not afford to pay to rent a house. Concerned by the flood of refugees, the Kurdish authorities had imposed new restrictions on who could settle in the area, for instance requiring a Kurdish Sponsor for each family.
22. There is further assistance in the Respondent's documentary bundle, contained within the Operational Guidance Note: Iraq (OGN) (page 87). There it is reported that the security situation in the KRG-administered northern areas remains largely unaffected by the fall of the Saddam regime and relatively stable in comparison to the centre and the other Governorates of Kirkuk and Mosul. In the KRG, where insurgent attacks are markedly lower, it is said that it can be argued that protection is at a reasonably effective level and there is sufficiency of protection. It is also stated that ease of movement within Iraq varies from place to place depending on security restrictions, and is the same for all Iraqis. However, the same Note states that as a result of the recent rise in Islamic extremism single women may be unable to move around freely if unaccompanied and may not be able to settle in areas where they have no family ties as they are unlikely to be able to access resources without support.
23. In the COIS April 2007 report at page 192 it is stated that there were an estimated 34,000 Palestinian refugees living in Iraq, mainly in Baghdad, and often with a good level of education. The loss of privileges they previously enjoyed had seriously affected their ability to provide for themselves since the removal of Saddam Hussein. (32.08). There is a reference to the UNAMI Report of June 2006 stating that the situation of Palestinians in Iraq continued to be of serious concern. They had not received the same protection because segments of the Iraqi population felt that they received favourable treatment from the former regime and they had faced serious repercussions including threats and harassment (32.09). The post-Saddam Iraqi authorities had done little to protect Iraqi Palestinians and some elements within the government had actively contributed to their insecurity. The Minister of Displacement and Migration had reportedly said that Palestinians were not welcome in Iraq and should leave. Where previously they had little trouble obtaining and maintaining residency status, the Ministry of Interior had ordered them to obtain short-term residency permits, treating them as non-resident foreigners instead of recognised refugees. The residency requirements are onerous and it can take days or weeks to renew their permits which are only valid for one to two months (32.10). It

was widely reported that they were also perceived as supporters of the previous regime or the insurgency and subjected to a variety of human rights violations. There were some cases of Iraqi troops reportedly detaining Palestinians and torturing and extorting money from them.

24. We also had more recent evidence from the UNHCR in the form of its August 2007 report referred to earlier. At 'Annex IX: Attacks on Palestinian Refugees in Iraq' there is an overview of reports of attacks gathered by the UNHCR from 23 September 2006 to 28 February 2007. Said to be non-exhaustive, it sets out details of the attacks with information on abduction, persons injured and persons killed (all Palestinians). Also included are details showing that a further 678 Palestinians fled to the border camps described above, usually following traumatic events such as mortar attacks on their homes, death threats from militia, release after abduction and detention or murder of family or friends. The same report includes details of some 47 Palestinians murdered and 77 grievously injured after severe beating or torture.
25. The August 2007 report also deals with the plight of refugees in the context of internal relocation to the three Northern Governorates (KRG) at page 171-173. Whilst Palestinians are not named as a specific group, those who may not be able to find protection upon relocation in the KRG (even if they could overcome various difficulties in safely reaching there) include the following categories: those with no family, community, political or business links to the KRG; former Ba'athists, unless their background had been cleared; single women and female heads of household, if not accompanied by male relatives and/or receiving financial assistance from relatives.
26. In the same August 2007 UNHCR report there is reference to those of Sunni Arab origin, in particular Palestinians, having come under increased pressure due to their perceived affiliation with the former regime and the ongoing Sunni-led insurgency. There have been consistent allegations of Arab refugees becoming targets for false accusations in the media, arbitrary detention, extra-judicial executions and torture by militias, and evictions. Shi'ite dominated Iraqi Security Forces (ISF) and militias have been identified as the main perpetrators of the attacks. Currently it is said the Iraqi authorities are neither willing nor able to provide effective protection. Also many of these people do not hold valid documentation, limiting their freedom of movement, access to services and putting them at risk of detention. The report states that while "effective protection" should be linked to the seeking of viable durable solutions, the current security and political climate as well as economic conditions in Iraq do not allow for the refugees' local integration. Palestinian refugees make up the largest refugee group in Iraq. They have been targeted since the fall of the former regime. Security incidents against Palestinian refugees have steadily risen since the 22 February 2006 Samarra bombing and in December 2006 there was a sharp increase of reports of threats, abductions and killings. Between November 2006 and January 2007, UNHCR received reports of 37 Palestinians killed in targeted attacks. The rise in attacks has led to increasing numbers of Palestinians fleeing to the Iraqi-Syrian border. The vast majority of those who have managed to flee the country have done

so illegally through the use of false documents and through the assistance of smugglers.

27. The conclusion reached by Amnesty International in an October 2007 report is that Palestinian refugees in Iraq have been subjected to gross human rights abuses, including abduction, hostage taking, unlawful killing, torture and ill-treatment at the hands of armed militia groups said to be linked to some political parties and religious groups. They have been targeted as a minority group because of the reported preferential treatment that they received under the previous government of Saddam Hussein and because of its discrimination and human rights abuses against the Shi'a. As mainly Sunni Arabs the Palestinians have also been suspected of supporting or sympathising with Sunni Iraqis involved in the insurgency against the predominately Shi'a Government and the Multi National Forces in Iraq (MNF-I). At least 2,100 Palestinian refugees are stranded in makeshift camps on the border with Syria in what are described as "horrendous conditions" with no apparent solution for their plight. About 15,000 more Palestinians are still in Iraq and are vulnerable to attacks by armed groups and serious human rights violations by Iraqi security forces. They are in desperate need of protection according to Amnesty International. Both the Iraqi Government and the MNF, according to Amnesty International, have been unable or unwilling to provide effective protection to the Palestinian community. UNHCR was noted as having called on the Iraqi authorities and the MNF-I on numerous occasions to provide increased security and legal protection for Palestinian refugees in Iraq.
28. Another important source is the COI Service response document dated 1/11/07 which deals with the situation concerning Palestinians remaining in Iraq who must renew their residence permits every two months at the Ministry of the Interior, where they are reportedly intimidated and humiliated by staff. The COI Service states that they were not aware of any provision for the renewal of residence documents outside the country. It is stated that the general situation in respect of Palestinians whether documented or not appears to be dire, the latest evidence highlighting the fact that Palestinians within Iraq are increasingly targeted by the authorities.
29. The COI Service had been asked by the Respondent to advise on information discovered on the internet from the Institute for War and Peace Reporting (IWPR) dated 20th January 2007 concerning some 200 lecturers who had left Baghdad for the Kurdish north and the area controlled by the KRG. The reply from the COI Service dated 13/2/07 reported that the IWPR was seen as a reliable source and had been used in many COI Reports. It also pointed out that a Reuters Report, dated 23rd January 2007, had noted that tens of thousands of people had fled Baghdad, including many non-Kurds who had taken refuge in the KRG area. Hundreds more families, particularly doctors, professors and businessmen, had not registered as refugees and declined handouts because they had found jobs in the northern city of Arbil.

30. A report from the IWPR is attached to the reply from the COI Service (pages 5 to 7). That report suggests that higher education in Baghdad and other troubled cities had been dealt a blow as lecturers fled sectarian violence for the Kurdish north. There are edited reports from some of the academics involved in that migration north, describing their past work in Baghdad, the receipt of threats from radicals controlling their neighbourhood, the death of colleagues killed by extremists and their eventual flight to the north. One such teacher of engineering had moved to the capital city of Sulaimaniyah in Iraqi Kurdistan, where he was now teaching at the city's university. It is reported that some 200 lecturers and assistant lecturers had left the capital for the relatively stable Kurdish north. It is also reported that insurgents in Central and Southern Iraq seem to have declared war on the country's educational elite and 280 lecturers and other academics had been killed since Saddam was ousted in April 2003. In October 2006 militants had declared that lecturers and students would be targeted unless they stayed away from their colleges. In November the Dean of the College of Economics had been assassinated. A number of Higher Education Ministry employees were abducted in broad daylight by gunmen masquerading as Ministry of Interior Forces. One of those who had moved to the north, Abdul Yahab is quoted as having rented a house for his family in Sulaimaniya and having settled down well and feeling comfortable working there with colleagues who trust him fully. Relations between Arab and Kurdish lecturers were described as "wonderful". New universities had opened after the northern provinces of Sulaimaniya, Arbil and Dohuk acquired semi-autonomous status following the Kurdish uprising of March 1991. These new Kurdish universities mainly depended on local and "expat" Kurdish academics because they had no connection with the universities in the rest of Iraq. The relocation of Arab lecturers after 2003 had reinvigorated academic life there, prompting the Kurdish education authorities to expand several colleges to meet growing local demand for higher education. The Dean of the College of Economy and Administration in Sulaimaniya said that at that college alone there were eleven lecturers and assistant lecturers from central and southern Iraq. They were a great help, especially in supervising masters and doctoral students. It is further reported that the Kurdistan Regional Government sought to encourage Arab lecturers to relocate by offering them financial incentives. Individuals were handed bonuses while those who bring their families receive additional bonuses as a housing subsidy. There were some difficulties, not least with language because many of the students in the north speak only the Kurdish languages whereas those from Baghdad and the south speak Arabic. Nevertheless, in general it is stated that most people in the north agreed that the relocation of Arab lecturers had more pros than cons for higher education in the Kurdistan region. The Deputy Dean of the Dentistry Faculty at Sulaimaniya University, where twelve Arab lecturers taught, valued their academic skills highly.
31. As regards the position of women, a UNAMI Report of June 2006 noted that violence against women was a growing problem and that they were prevented from moving freely due to fear of harassment, abduction and rape. Many women had been attacked by religious conservatives and others had been killed outright. Amnesty International reported in 2005 that violence and threats had directly affected women

and been specifically aimed at women. UNAMI reported in December 2006 that the situation for women remained fraught and that they were reportedly living with heightened levels of threats to their lives and physical integrity and a Human Rights Report had charted an increase in kidnapping and killing of women (25.19 to 25.25).

31. We should also mention that evidence concerning the conditions in Baghdad at the material time when the appellant fled the city in September 2006, is to be found in the Human Rights Watch Report 6th October 2006 and in the August 2007 UNHCR report. This refers to death threats issued to Palestinians in Baghdad if they did not leave the country within 72 hours, underscoring the constant violence against Palestinian refugees in Iraq following the overthrow of the Saddam Hussein Government. Trucks with loud speakers were reported to have passed through Al-Dura neighbourhood on 25th and 30th September 2006 issuing death threats against Palestinians.

Existing Country Guidance

32. Risk to Palestinians in Iraq was considered by the Immigration Appeal Tribunal in JA (Ethnic Palestinian-Iraq-Objective Evidence) Iraq CG [2005] UKIAT 00045, where it was concluded that the totality of the “objective evidence” then available, did not show that a Palestinian in Iraq faced a real risk of persecution or breach of human rights purely on account of their ethnicity. We note that the Immigration Judge at the original hearing of this appeal in December 2006, noted this case and made two observations. First that reports of violence against Palestinians were based primarily on eviction from their homes and second, that there was no “subsequent adverse material” which would show a worsening of the situation of ethnic Palestinians in Iraq.

Legal framework

33. The Refugee or Person in Need of International Protection (Qualification) Regulations S12006/2525 together with the Statement of Changes in Immigration Rules, Cmnd6918, which in part implement EU Council Directive 2004/93/EC on minimum standards for the qualification and status of third country nationals of stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, came into force on 9th October 2006.
34. The Protection Regulations set out, *inter alia*, definitions of acts of persecution (reg 5), actors of persecution or serious harm (reg 3) and actors of protection (reg 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.

.....”

35. The amended Immigration Rules 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”.

36. 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”.

37. 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 judgments in Januzi [2006] UKHL 5 and AH (Sudan) [2007] UKHL 49.

38. The Regulations and Rules also identify the right of a person to be considered as to his or her eligibility for humanitarian protection and the provisions in relation thereto are set out at paragraph 339C. As we have decided that this appeal is to be allowed on asylum grounds, it is not necessary to set out particulars of paragraph 339C.

39. Throughout our consideration of this appeal we have kept in mind that the burden is on the Appellant to show as regards her asylum grounds of appeal that returning her to Iraq would expose her to a real risk of an act of persecution for a reason set out in reg 6 of the 2006 Protection Regulations and as regards her humanitarian protection

grounds of appeal, that she can show substantial grounds for believing she would face a real risk of serious harm as defined by paragraph 339C of the Immigration Rules, or a real risk of a breach of her protected human rights, in this case in particular Article 3. We have also borne in mind that great care must be taken before making adverse findings of credibility in asylum cases, and should only be made when they are justified in the light of the particular circumstances of the case under consideration judged against the situation as at the time of the hearing.

Our assessment: (a) the situation of Palestinians in Iraq

40. The current security situation in Iraq remains highly volatile. Areas of concern identified by a variety of sources, including UNHCR are summarised in the Respondent's COIR Report on Iraq (April 2007, 7.01 - 8.75) as follows:

- Torture and ill-treatment by government agents, armed groups and even the Multi National Force in Iraq (MNF).
- Extra-judicial executions, targeted and indiscriminate killings by government agents, MNF and armed groups.
- Targeted attacks against alleged supporters or associates of the Iraqi Government, the MNF and foreign construction companies.
- Disappearance and kidnapping.
- Widespread corruption and lack of transparency.
- Organised crime.
- Restrictions on freedom of movement.
- Discrimination against women, ethnic and religious minorities.
- Internal displacement. (Page 33, 7.10).

41. It will be apparent from our earlier summary of the background evidence that there is frequent reference to "Palestinian refugees", this term sometimes being used to cover those who have fled Iraq (especially to surrounding areas), yet sometimes being used to describe even Palestinians living in Iraq. Strictly speaking, of course, the term "refugee" can only apply to a person who is outside his or her country of nationality or former habitual residence, but it would seem that, probably for historical reasons relating to the context in which Palestinians were displaced from their homeland into surrounding countries, the term is used more broadly and we have sought to bear that fact in mind when analysing the materials we had before us.

42. The conclusions we reach below are based very largely on background evidence almost all of which refers to "Palestinians" or "ethnic Palestinians" without specifying whether they are or are not stateless persons. As far as we can tell, the vast majority of Palestinians in Iraq are in fact stateless persons, but, in the absence of specific data about this, we cannot rule out that there may be a small number who

have Iraqi nationality or some other nationality. However, since the background evidence identifies serious difficulties for Palestinians in Iraq, without differentiation, we do not think it would be correct to confine our findings as to the category of persons who are at risk on return to “stateless Palestinians”. But our finding about risk to ethnic Palestinians can only be about ethnic Palestinians in general. Without the benefit of more specific evidence we cannot exclude that there may be Palestinians from Iraq who have Iraqi nationality and who as a result, may, exceptionally be less at risk, because, for example, they are perceived to have integrated. We emphasise, however, that in our view it would only be in exceptional cases that an ethnic Palestinian would not be at real risk.

43. We consider it justified, on the basis of recent background reports, to conclude that among the categories of those who particularly face difficulties on return are ethnic Palestinians. Currently ethnic Palestinians in Iraq in general face a real risk of persecution and treatment contrary to Article 3 ECHR. Whilst each case is to be considered on its merits, it would only be in exceptional cases that an ethnic Palestinian would not be at real risk.
44. We reach the above conclusion for three main reasons. Each of them is informed by the knowledge that according to reliable sources the number of Palestinians in Iraq is relatively quite small compared to the population of Iraq as a whole, estimated as being in 2006 some 27 million. According to IRIN, 5 March 2006 the figures for Palestinian refugees living in Iraq were estimated at 34,000.
45. First, there is the extensive evidence indicating that Palestinians have been one of the targets for insurgent, principally Shi’ia militia, attacks. It appears that the attack in February 2006 upon two sacred Shi’ite shrines in Samarra by suspected terrorists from the Sunni population, was a cause for Palestinians to be vilified and seen as legitimate targets for Shi’ite militia attacks. These attacks have involved not only killings but also attacks on their home or other buildings and a pattern of issuing threats intended to impel the recipients to leave Iraq or face violent consequences. (see e.g. the COI report at para 32.13). Amidst the widespread politically motivated and criminal violence in Iraq, Palestinians had been targeted more than other minorities.
46. Second, with very few exceptions Palestinians in Iraq are persons classified as foreigners who face particular obstacles in obtaining documentation. We have already noted that the Interior Ministry has consistently refused to renew their residence permits and this has meant that their presence within Iraq is technically illegal. Palestinian families are required to appear before the Department of Residency every one to three months and when they do sometimes face official abuse and confiscation of their documents.
47. Third there is significant evidence of Palestinians in Iraq being forced to flee to surrounding countries and of other Palestinian finding themselves unable to flee despite serious dangers, as the only documents they had were either Iraqi travel documents or Palestinian passports and these documents were not accepted by

neighbouring countries, Jordan and Syria in particular (see COI 32.16 to 32.18). Earlier we highlighted the concerns of UNHCR and others about the plight of those Palestinian refugees who sought entry into Syria. Significantly, although UNHCR has assisted in the care of a sizeable number of Iraqis who have returned to Iraq having fled earlier, there is no indication that UNHCR has regarded Iraq as a safe place for Palestinian refugees to return.

48. We noted earlier the grim reading given in the Amnesty International Report of October 2007 which documents human rights abuses against Palestinian refugees in some detail including murder by shooting, bodies left in the street, extensive use of torture, including the drilling of holes in the body, beating with cables, electric shocks and burning with cigarettes.

Country guidance

49. We have examined the available country guidance cases on Iraq. Since the reporting of JA (Ethnic Palestinian-Iraq-Objective Evidence) Iraq CG [2005] UKIAT 00045 there has been a considerable volume of new evidence, much of which relates to events since the Samarra bombing of February 2006. In the light of that evidence, we consider that JA should no longer be treated as authoritative. We find there is a wealth of evidence before us showing how the situation in Iraq has seriously deteriorated for ethnic Palestinians since JA was heard; this evidence is no longer based primarily on eviction by landlords and others harbouring a grievance due to housing privileges granted by the former regime.
50. However, so far as the other country guidance cases referred to by the Immigration Judge in the Stage 1 determination, we are satisfied that the background evidence before us continues to fully support the guidance referred to in those cases. (Since we heard this case the Tribunal has also reported as country guidance the case of KH (Article 15(c) Qualification Directive) Iraq CG [2008] UKAIT 00023, but nothing we say is inconsistent with it.)

Our assessment: (b) the appellant's appeal

Credibility and Findings of Fact

51. The issues central to the Appellant's appeal are succinctly stated in the Respondent's skeleton argument as follows.

The Appellant states *inter alia* that she is at risk on return as a result of:

- Her alleged involvement with the Ba'ath Party.
- Her husband's alleged involvement with the Ba'ath Party.
- Her status as a single woman.
- Her status as an academic.

- Her nationality as a Palestinian.
52. The Respondent's skeleton makes clear, although no reasons are given, that she did not accept that the Appellant was a credible witness. It also contains a submission on 'internal relocation' in which it is contended that, even if she is found credible, it would not be unduly harsh for her to relocate. There then follows a reference to Palestinians whether documented or undocumented and a reference to the case of JA.
 53. A number of facts about the Appellant are not in dispute: that she is a stateless Palestinian from Iraq; that she was awarded a PhD in Physics at the University of Technology Applied Science Department, Baghdad, in 2003; that she was also employed there as a university lecturer; that she is of the Sunni Muslim faith.
 54. Having heard the Appellant give evidence, during which she was cross-examined at length, and having considered it in the light of all the documentary evidence before us and the submissions by both representatives, we have concluded that she is a credible witness. Our reasons are as follows.
 55. The evidence she gave of her and her husband's connections with the former Ba'ath Party was broadly consistent and was supported by the documents she submitted. It was also consonant with the background evidence. No serious challenge was made to her evidence that at the time of the regime change following the removal of Saddam Hussein in April 2003, her husband had reached the high rank of 'Odow Firka'. Her own position in the Party was corroborated by the document she produced at her asylum interview entitled 'Identity Card for Saddam Hussein's Friends' issued by the Central Security Office in 1998. We can find no reason to doubt the authenticity of this document which the Respondent has had the opportunity to analyse.
 56. We have paid careful attention to the submissions on behalf of the Respondent that her account of her level within the Party differed significantly between earlier and later statements. In order to assess these we need first to summarise her earliest and later accounts.
 57. Her earliest statement described her progress from 'sympathiser' in 1989 to 'Active Udo' in 1999. Closely questioned in her asylum interview about this matter (Q26-43), she explained that the main reason for joining the Party in 1989 was the desire of the Party to liberate Palestine. She said that she held a specific position in the Party namely that of 'Odow' (Q30) and described the rise in her status and responsibility from the mere attendance at meetings to the giving of lectures to members and attendance at demonstrations (Q31-33). She was asked next, "Would you say you were well-known?" (Q34). Her response was to describe the distinction between the two branches within the Party. The branch to which she was recruited was primarily for Arabs and included many Palestinians, but they were not part of, and did not meet with, the Iraqi branch, which comprised of Iraqi nationals like her husband. As a result few members, if any, of the Iraq community knew of her status within the

Party but many Palestinians did (Q34-38). She also described the rank or status of her husband as 'Odow Firka', a classification or rank which we find referred to in the background evidence as "firqa", a division - relating to all cells within a district office or factory (to which we were not referred but which is an important detail in the context of this credibility assessment).

58. In her third witness statement (24th September 2007) (Appellant's Bundle page 19 paragraph 2) she said she was unable to return to Iraq as she is a Palestinian, an academic, a single woman and "... both my husband and myself were high level members of the Ba'ath Party". At first glance that does appear to be at odds with her earliest two accounts of her status referred to above. However, to keep that statement in context, it is necessary to continue into paragraph 3 (page 20) where she again clearly relates her advancement in the Ba'ath Party but also describes how she was made a 'Friend of the President' upon attaining the rank of 'Active Udo' in 1998 (earlier she said 1999 (B24)). We conclude that she has made an error in the first statement (B24) when she described that promotion as being in 1999. We also accept that she did not state in her earlier accounts that as a 'Friend of the President' she attended about twenty marches and that the public would know that she was a 'Friend of the President'. However, we note that at her asylum interview she made it clear to the Immigration Officer that she had been awarded that status and during the interview she handed the original proof of that, in the form of the identity card, to the interviewing officer. Whilst we recognise that new facts arose in that second witness statement, that of itself does not amount to inconsistency.
59. She was cross-examined further about her status in the Ba'ath Party and how well-known this would be to the community. Miss Graham drew her attention to the earliest account she gave (statement 4th October 2006) where at paragraph 17 she described returning to her home in May 2004. Specifically her attention was drawn to the middle of the paragraph where she stated: "Therefore it was not well-known that I was a high ranking member of the Ba'ath Party as all my activities were carried out away from the Iraqi Ba'ath Party members and related only with Palestinian people." That was compared by the Presenting Officer with the answer she later gave in her account at asylum interview (Q34) where she was asked, "Would you say you were well-known?" To this she had replied ".....very little of the Iraqis know I was a member". The Appellant was invited to comment on the fact that on the one hand she appeared to be saying she was a "high ranking member" of the Ba'ath Party and later she appeared to be saying that very few Iraqi people knew she was a member of the Ba'ath Party. Her response was to explain again that there existed two sections of the Party under the old regime. The first was political and the other was national, and she was involved with the national section of the Party, her husband with the political. The following question was then put to her :

"But the tenor of your evidence in the papers is that you weren't well-known?"

Her reply was:

"I said compared with my husband - he was well-known. I wasn't as well-known as my husband."

60. Our conclusions about this area of difficulty in her accounts can be briefly stated. First the Appellant has always maintained that she reached a level within the Ba'ath Party which involved some modest promotions. She has never claimed to have had a major role or to have been active beyond demonstrations. To that extent there is no inconsistency in her accounts. Secondly, she has always been at pains to describe the difference between the two sections within the Ba'ath Party and that she was concerned not with the political section, but with the national side of the organisation of which many Palestinians were members. Thirdly, she has always been open about receiving the status of 'Friend of the President' and produced evidence of that at her interview.
61. We accept that her evidence about being a 'Friend of the President' and appearing at demonstrations appears to be inconsistent with the claim that she was not "well-known" as a member or activist within the wider community. However, when it was suggested to her by Miss Graham that the tenor of her evidence was that she was not well-known, she explained that when compared with her husband's status and role within the Ba'ath Party, she was by no means well-known. And, having looked at all that evidence in the round we reach the conclusion that by comparison with her husband she was not a significant figure in the Ba'ath Party in the same way and to the same extent. Furthermore, it has always been her case that the de-Ba'athification law, legislated on 5th May 2003, resulted in reprisal attacks against high ranking Ba'ath Party members including her husband. For that reason he was driven into hiding on the farm in Al Hila Province leaving her and the children with her brother-in-law in the Al Ademia District in May 2003. The Appellant herself not being caught by that law was able to remain with the brother-in-law and after a year returned to her own home. She gave this information in her earliest account of 4th October 2006 which was provided to the Home Office with her SEF application form, and, whilst we have not seen the actual legislation, it has never been contradicted by the Respondent.
62. Taking all those matters into account we conclude that there was a distinction between herself and her husband which permitted her to remain in the community, albeit initially with a brother-in-law in Al Ademia, whilst her husband had to remain in hiding. This of course ended when she was forced to flee after the attack upon her house on 6th September 2006.
63. Our conclusions as to her credibility concerning this central issue and her knowledge of the Ba'ath Party, lead us to conclude that her husband was involved in the Party, though to a higher degree than she was, as described in her statement. We are prepared to accept that her husband was driven into hiding as described and that he did maintain contact with her in the way she has described until his ambush and kidnap on 1st July 2006. Her evidence on this topic has been consistent throughout and is consistent with background evidence we have seen concerning the targeting of former high ranking Ba'ath Party members and the de-Ba'athification process: see Home Office OGN Iraq, February 2007).

64. There is further evidence corroborating other aspects of her account in relation to the renewal of residence permits and reported intimidation by the Ministry of Interior and staff (page 66). As already noted, the situation for Palestinians worsened considerably after the bombings in Samarra on 22nd February 2006 which triggered widespread sectarian violence between Shi'a and Sunni Muslims leading to the killing of thousands of civilians. Palestinians were not spared. On the contrary, hatred of them increased and they suffered numerous attacks in the weeks and months following the bombing (page 66).
65. In cross-examination she was questioned about why she had not fled into hiding with her husband and in line with her previous accounts she said that in the beginning those who were targeted were more prominent and known members of the 'old' Party of Saddam, like her husband, but not their families. Later the situation worsened and reprisals were aimed at anyone with "slight contact" with the old regime. If she returned now she believed that she would be remembered in her locality, for the reasons which led to her having to leave the country. We do not find any of this inconsistent with what she had said in earlier statements. She was explaining that she is in fear of return because she believed that whoever was responsible for the kidnap of her husband and of the threats to her and the attack upon her house would repeat the targeting of her. We conclude that there is no significant inconsistency about her evidence on these matters which we have analysed with great care.
66. We also accept the Appellant's account of her return home in May 2004 which was encouraged by the assurances she said she received from governing authorities, that Palestinians would not be the victims of reprisal. She also returned to her work at the university. However, she did experience discrimination in the form of verbal insults and abuse including accusations of being an agent of Saddam Hussein. She believed this was the product of the hatred of Palestinians by Shi'a militia who perceived them as having been favoured by the regime of Saddam Hussein. We do not find it surprising that she became the target of increasing abuse and threats, particularly as we have already noted, sectarian violence escalated after the attacks upon the Shi'a holy shrines in February 2006.
67. Miss Graham raised a number of challenges to this part of the Appellant's account. First, that in light of the fact that the appellant was admitting that her husband was well-known as a senior Ba'ath Party member in the area where they lived, it was not credible that she would return there in May 2004. Second, that it was not plausible that if she had returned and then experienced her husband being kidnapped and threats being made against her, she would not have relocated rather than continue to live in Baghdad. Third, if the kidnap story was true, one would have expected she would have reported it to the authorities.
68. The first of these submissions is somewhat undermined by the Respondent's own background evidence in the Iraq OGN section 3.11. which indicates that while since the fall of Saddam the level of affiliation or rank held within the Ba'ath Party has sometimes be a determining factor regarding who is targeted, it is generally difficult

to pinpoint exactly why a particular individual may be targeted. Even low ranking officials of the Ba'ath Party are said to have been targeted because of the activities they were involved in (3.11.2). Thousands of such party members are said to have lost their jobs, irrespective of their level of association with the Party. Others are said to have claimed they had been systematically targeted for assassination by militia parties. Many attacks appeared to be the result of personal vendettas against members of the Party.

69. It is also stated that the UNHCR in October 2005 noted that whilst many Iraqis suffered harassment then as a result of their previous low or mid level membership in the Party, that harassment may not necessarily reach the level of persecution (3.11.3). Reference was also made to the IAT case of OH [2004] UKIAT 00254, 15/9/2004, involving a member of the Ba'ath Party whose father had been a more senior member and whose activities had resulted in arrests, executions and deportation. The appellant had fled from Iraq after refusing to join the former Fidayi Saddam group (prior to the fall of the Saddam regime) and the IAT concluded that there would be no risk to the appellant on return in September 2004 (3.11.10). In conclusion it is noted that whilst many Iraqis today suffer harassment as a result of their previous membership of the Ba'ath Party, it is unlikely that this harassment will reach the level of persecution. To establish a well-founded fear, a claimant will need to show that their activities have brought (and will bring) them to the adverse attention of those they fear, whether locally through their direct actions, or, on a wider stage because they are inextricably associated with the abuses of the former regime (3.11.11). In the light of this background evidence, we consider that the fact that her husband was well-known as a senior Ba'ath Party member in the area where she lived, does not suffice to undermine the credibility of her account.
70. For the same and additional reasons we are unable to accept that the Appellant's credibility is undermined by the fact that she failed to relocate soon after the threats began in 2006 and her husband was then kidnapped. In cross-examination it was put to the Appellant that she could have returned to Al Ademia District to live with the brother-in-law. Asked why she did not do that, she said by early 2006 Al Ademia District had become a "war zone" with bodies everywhere, and furthermore, it was so close to her home district that those who were threatening her would know where she had gone. It is also worth noting that when she was questioned at interview (C19) as to why she did not go back to her brother-in-law's place (in Al Ademia) after the attack on her house, she said it was because she was scared they would look for her and find her there because her brother-in-law was known (Q84). She went on to add that he was a former member of the Ba'ath Party and he had to leave his home because all his friends who had been with him in the Party had been killed (Q85 to Q86). Whilst this particular part of the interview was not drawn to her attention in cross-examination, it has significance in the context of the submission that failing to relocate to Al Ademia between April and July 2006 undermined her credibility. We note that her evidence was that she did take refuge in Al Ademia the morning after she says her house was attacked, but observe that that was at the home of her friend and not her brother-in-law. (see first statement 4/10/06 paragraph 25). It was her friend's husband who took her on to Mosul two days later on 9th September 2006. It

has never been put to her that she could have lived safely with those friends in Al Ademia and, given that they were mere friends, not family members, we do not think it was reasonable to expect friends to be able to provide shelter and hiding for any significant length of time. We find that the Appellant has given a reasonable explanation as to why she remained living in her home, despite the discomfort and the danger, until 7th September 2006.

71. It was further put to the Appellant in cross-examination that she had safely relocated to Mosul. However, her evidence was only that she had gone there in order to gain assistance to leave the country.
72. We are therefore unable to give any weight to the submission by Miss Graham that her claim to be unable to relocate generally within Iraq, flies in the face of her claims that she previously relocated within Iraq successfully on three occasions. She had not.
73. As to why she did not report the kidnap to the authorities, the Appellant's response to the question she was asked about this was that she did not have any faith in the ability of the authorities to provide protection in such circumstances. Again, as we have already noted, there is an abundance of background evidence before us indicating that at this time there was widespread violence and disorder and a lack of security, particularly after the February bombing of holy shrines in Samarra which prompted a surge in violence: see e.g. the Iraq OGN 12/2/2007, particularly paragraph 3.7.3 (where it is reported that militias, at times linked to political parties which are also part of the government, continue to operate outside the law) and also paragraph 3.7.4 (where it is reported that there are growing indications that persecution by state employees, including in the form of arbitrary arrest, unlawful detention, torture, ill-treatment as well as extra-judicial executions was taking place in Iraq, in particular by Shi'ite dominated police commanders who had been accused of deliberately targeting Sunnis). The Iraqi authorities had admitted such incidents, but were not able to stop this. In particular Baghdad suffered from a high rate of criminality, with criminal gangs being involved in road ambushes, smuggling, stealing and kidnappings for high ransom. The reasons for this included general insecurity, the lack of enforcement and criminal impunity, high unemployment and a large number of criminals that Saddam Hussein freed in an amnesty in October 2002 (3.7.4). We also note that from the background evidence it is clear that there had been some infiltration of the Iraqi authorities by Shi'ite insurgents hostile to those of the Sunni faith. We do not therefore regard it as implausible that the Appellant did not report this kidnapping to the local authority.
74. As we have already noted above, the background evidence makes very clear the drastic decline in security for Palestinians after the fall of the old Saddam regime, and the hostility towards them by government officials (see also 'Iraq: Human Rights Abuses against Palestinian Refugees Amnesty International October 2007 - Respondent's documentary bundle 2 page 62). That report discloses that the forces of the Interior Ministry were directly involved in some of the abuses (page 70). When cross-examined on the point of failing to report the alleged kidnapping, the

Appellant responded, "Do you really think there is a government that will protect us?" She was not pressed further on the point. We note that in a report from Human Rights Watch October 6th 2006 headed 'Iraq: Palestinians targeted with death threats' there is evidence that over the past two years successive Iraqi Governments have done little to protect Palestinian refugees and have often displayed open hostility to them, claiming they are involved in terrorism and supporting the insurgency. The Ministry also subject Palestinians to harassment rather than affording them the treatment to which they were entitled. In the context of the background documentary evidence we are not of the view that a failure to report her husband's kidnap is a matter which can properly be held against her credibility.

75. The alleged attack upon her home on the evening of 6th September 2006 was also challenged by the Presenting Officer in cross-examination. Miss Graham asked what had happened that night and she replied that she was in the house with her children when she heard noises and voices saying "Death to all people with Saddam". She said she had a bell in the house which was connected to her neighbours and she rang the bell to alert them. Before that she had heard the front gate being opened as they approached the house. In her street there was a group of neighbours who she described as "armed neighbourhood watch" and, after raising the alarm they came to her assistance and began shooting in the air which caused the attackers to run away. Asked whether these attackers were armed, she said "Most definitely". She confirmed that the neighbours frightened them off. She was asked if she actually saw the armed attackers and said she did not but she heard them approaching when the gate opened. She said she was almost certain that they were Shi'ites who considered Palestinians like herself to be "disbelievers". That was the extent of the challenge put to her in cross-examination. In her submissions Miss Graham stated that the account of the raid on the house was not credible, first because armed men would not be frightened off by neighbours and secondly because the reference to a "special bell" had not been previously mentioned in her first witness statement or her interview.

76. The Appellant described the attack on the house in her first statement (dated 4/10/06) in the following terms:

"On 6th September 2006 an armed group attacked my house during the evening. They tried to break in however I was screaming and asking for help from the neighbours. The neighbours rushed to help me and the militia fled away. The next morning I went to stay at my friend's house in Al Ademia District. ..."

77. On 30th October 2006 she described the incident again in her asylum interview at Q65 as follows:

"My husband was kidnapped while he was coming to see us in July. In September 2006 they broke the door, entered the garden of the house, the neighbours started shooting in the sky to scare them and then the armed people they escaped and couldn't enter into the internal door".

78. Asked if it was the neighbours who scared them off she said "Exactly". She then went on to describe how she left the house the following morning taking her children and going to stay with her friend as already detailed above.

79. As already noted there is an abundance of background evidence before us as to the very poor state of security in Baghdad at that particular time. Therefore we do not find it at all surprising that members of the appellant's local community had formed a "neighbourhood watch" and that they were themselves armed. In those circumstances we have no difficulty in understanding how a group of would-be attackers could be scared off by such an armed neighbourhood watch. The matter to which we must give careful consideration is the submission that the appellant's account has been inconsistent and lacks credibility because of the mention in her oral evidence of a bell being used to alert the neighbours. It is correct, as Miss Graham pointed out, that this bell had not been mentioned in the earlier account. However, in her asylum interview no questions were put to her about how the neighbours discovered what was happening and began to shoot and in all other respects the particulars she gave of the attack have not varied in any significant detail. The noise which alerted her was the noise of the attackers approaching through the entrance gate. The voices which she heard and the words spoken were not identical but very similar. We would not expect someone in a frightening situation to be able to remember and repeat word perfect precisely what was said. She said that she immediately alerted neighbours. The neighbours rushed to help and the "militia" fled. In the interview she referred to the neighbours "shooting in the sky" as she did in her oral evidence. She did not mention the shooting in the initial statement. She did, however, say that the neighbours rushed to help and the militia fled. For these reasons and bearing in mind she was a lone woman with three small children in an area which was vulnerable to threats, attacks, kidnap etc, we do not find it implausible that she would have such a means of communicating to neighbours if she got into difficulty.
80. The more general question as to why she did not move out of her home if in fact she was receiving such dire threats as she claims between February and September 2006, and in the light of the alleged kidnap and the alleged murder of her university colleague, requires further consideration. We can do no better than point again to the background evidence in relation to Palestinians in Iraq which we set out in detail above. We do not have difficulty understanding how this particular appellant felt that there was no reasonable alternative open to her and her children and that they should remain in their home, with the support of their 'neighbourhood watch' as long as they could, despite the advancing threats to their safety.
81. In the light of that evidence we are better able to understand the reason why the Appellant stayed on for so long in her home until effectively being driven out by the attack on the house in September 2006. We also bear in mind the answer she gave when asked in interview why she had not fled Iraq earlier (Q56). She said that it was because she always had hope at the beginning that the situation would get better and she would remain in work. Then, when she eventually decided to get out, they (the Iraq authorities) refused to grant her the nationality or to use an Iraqi passport or even to renew her travel documents. We further bear in mind that it has always been her case that until July 2006 she was able to maintain contact with her fugitive husband who was visiting periodically under disguise. If that is so that was a further reason why she would want to remain in her home, difficult as it may have been.

Then in July 2006 came the kidnap of her husband whilst leaving after one of the visits. That particular part of her account is one which she has maintained from the very first opportunity to provide any explanation for leaving the country. In the screening interview of 20th September 2006 she made reference to the kidnapping of her husband on 1st July 2006 and went on to say that the reason for coming to the United Kingdom was because her life was in danger and her husband had been kidnapped.

82. Taking all those matters into account, we conclude that this Appellant with her three young children was in a very difficult situation between February and September 2006. It is clear to us, from the background evidence to which we have referred, that many other Palestinian families in Iraq, particularly in Baghdad, were in a similar dangerous and difficult situation. Some remained in Baghdad, others fled the country, and others fled to the border with Jordan or Syria. This Appellant remained in her home, as, according to background evidence already noted, so did many others, and was able to maintain contact with her husband. From the beginning of July all that changed and within two months she felt compelled to flee the country. In all the circumstances we do not find the reasons she has given for staying on so long and for not attempting to reach the border camps in no-man's-land, implausible.
83. In summary it is the Appellant's case, and always has been, that she was able to return to her job at the university whilst her husband remained in hiding. Although she suffered unpleasant discrimination, things took a drastic downward turn following the bombings at Samarra in February 2006. Thereafter sectarian violence increased to what she described as "civil war" and she began to receive death threats herself at her place of work and at home. A university colleague, who received similar threats, was found dead in the street having been tortured and murdered in May 2006. She left her university post but remained in her home and on 1st July 2006 her husband was kidnapped in the street following an undercover visit to her home. On 15th July 2006 she sought help from the Palestinian Embassy and was supplied with a letter which she provided to the Immigration Officer at interview. On 6th September 2006 came the attempted attack upon her home, which we have found is put in context by the background evidence. The following day she abandoned her home and eventually fled the country using documents provided by a smuggling agent.
84. The letter the Appellant produced dated 15th April 2006 and purporting to be from the Al Mukhtar Army was the subject of a specific challenge by Miss Graham who put it to the appellant that it "smacked" of a document specifically concocted for the hearing. This the appellant denied. The question suggested that it was a document submitted after the decision to refuse her claim and in preparation for her appeal hearing. That cannot be correct because we note from the asylum interview form at C6 that the Immigration Officer had recorded that the appellant produced to the Officer that day "three threatening letters, a copy of a degree certificate, a Ba'ath Party membership card and two university cards". Miss Graham made the submission that the document was not credible because firstly it was dated and secondly it contained details of the Appellant's employment. In response, Mr Lewis

submitted that by including specific details the authors of the letter make it clear that they know exactly who and where she is. Secondly regarding the dating of the document the author is lending credence through the use of "officialdom" to the organisation named in the letter. He submitted there was nothing about the letter which gave rise to doubts about the authenticity of it. Other documents produced by her had been accepted by the Respondent and part of the Appellant's history had been accepted on the strength of those documents. He submitted that we should draw the inference that this also was a credible document.

85. We can see no reason to doubt the authenticity of the letter by reason of the fact that the letter has been dated by the author or on the basis that the author has included details of her employment. We accept the submission of Mr Lewis, that by including details of the employment those issuing the letter made clear that they knew precisely where the Appellant worked. Bearing in mind the threat was that she must "abandon" her job and leave Iraq and also bearing in mind that she was given the ultimatum of "three days" to do this, we conclude that the inclusion of the details of her employment and the date the "ultimatum" was issued were necessary particulars for the purpose of reinforcing the threat.
86. We have also taken account of the final document in the Appellant's Bundle, the origin of which is not altogether clear but emanates from a website (evidence about which was adduced by the respondent: see paras 29-30 above) publicising a campaign against the oppression and persecution of academics in Iraq. Claiming the existence of a systematic campaign to liquidate Iraqi academics which was still continuing in 2006, a list of over 250 professors and lecturers who have been assassinated or disappeared, is produced with the report that hundreds of others have also disappeared - all seen as meaning that the Iraqi academic community was being destroyed. On that list are many from Baghdad universities but about fourteen from what is described as the 'Engineering or Technology College', two in particular being killed in May 2006 (page 168). We cannot say that this is the same Faculty as the one where the Appellant was employed, but in name it has close similarity.
87. We also have a duty to take account, as damaging the credibility of the Appellant, the fact that she entered the United Kingdom relying upon false travel documents with the assistance of an agent (Section 8(3)(b) Asylum and Immigration Tribunal (Treatment of Offenders, etc) Act 2004). Whilst we have weighed the various parts of the evidence relied upon by both sides in the manner described above, we have been careful not to reach premature conclusions. We are alert to the principle that credibility is a holistic exercise of judgment requiring us to consider all the relevant evidence in reaching a conclusion. The same is true of the documentary evidence which we have analysed in the context of the evidence as a whole. Looking at the totality of the evidence we find that in the end it hangs together as a credible and plausible account. Having regard to the findings we have made above, we do not find that the credibility of the Appellant is at all undermined by the statutory presumption in this case. For all these reasons we conclude that what the Appellant has told us is reasonably likely to have happened. In our judgment her account

provides a credible, factual basis for the asylum and human rights claims which she has made.

Risks facing the appellant

88. In the light of our findings on the Appellant's credibility we can move straight to the assessment of risk on return.
89. Miss Graham submitted that if we did find the Appellant credible, we should nevertheless find that the fear which she has expressed was of a general lack of security and not of targeted ill-treatment. It seemed to be widespread crime and violence which she feared and in any event she had lived in Al Ademia District safely for a year between May 2003 and May 2004. On her own evidence her activities were not known amongst the Iraqi community generally. From the background evidence it was clear that former Ba'athists are only at risk if they carried out activities for the Ba'ath Party, and if those activities were well known, and the appellant does not fall into that category. She could safely relocate either to the brother-in-law in Al Ademia or to the friend in the same district. Likewise she had proved that she could reach Mosul safely and it therefore followed that she could relocate and live safely there. Those she claimed to fear would not even know that she had returned. We should consider it as pure speculation that they would be able to locate her. Miss Graham further submitted that if we did not accept she could relocate to the places where she had already stayed after leaving home, she could relocate safely to the territory of the Kurdistan Regional Government (KRG) and we were referred to the COI Service Request form dated 1/2/07 and the reply dated 13/2/07 together with associated documentary background evidence. As an Arab from Baghdad, the appellant could, she submitted, relocate to the northern KRG. There was, she said, "cogent evidence" in support, namely that the KRG authorities are "actively encouraging" academics to the area. Miss Graham's submissions have now to be viewed along with the written Respondent's submissions provided post-hearing with the August 2007 UNHCR Report.
90. We were not persuaded by these submissions. As we pointed out to Miss Graham at the hearing, if we accepted the appellant as credible, she has been targeted by something like five organisations. In our view she patently experienced past acts of persecution and there are no good reasons for considering that on return she would not face a repetition of such acts in her home area.
91. Of central importance in our judgement is that the Appellant as an ethnic Palestinian will face targeting by insurgents. We have already referred to the background evidence showing that there have almost daily attacks on Palestinians. We remind ourselves that the number of ethnic Palestinians in Iraq is relatively small. In our view there are no particular facts about her that would mean that she was less at risk than are stateless Palestinians generally.
92. The findings we have just made suffice for the appellant to succeed in her appeal. For completeness, however, we would add that even if we had not found the level of difficulties facing ethnic Palestinians in Iraq currently to cross the threshold of

persecution, we would still have allowed her appeal, in view of the fact that she has several additional characteristics that would increase the risk she faces on return. We would emphasise that we do not consider that any of these, either singly or jointly, give rise to persecution; but they are relevant to her particular risk profile.

93. In the first place, she is a former member of the Ba'ath Party and the widow of a former Ba'ath Party member. Whilst the background evidence falls short of demonstrating that such persons per se face a real risk of persecution or serious harm, it does indicate that persons in this category have been among the categories of persons targeted in revenge attacks and that a significant number of them have been killed: the April COIS report informs us that in November 2006 the number killed since the start of 2006 had reached 1,556 and none of those cases had been investigated (17.25). Militiamen have demanded that former Ba'athists fly white flags to atone for their party membership and let their neighbours know they have renounced their pasts. Those who refuse often end up dead (17.26).
94. As we were preparing this determination we were aware through the latest media reports, that there have been further developments in the process of de-Ba'athification and that some former senior members of the Ba'ath Party are now being offered posts by the new government. However, none of this relates to Palestinians.
95. A further characteristic which we consider would add to the level of risk which the Appellant will face on return relates to her status as an academic. We have already set out the evidence before us in relation to the ill-treatment of academics and to the possibilities open to them of relocation. In particular we considered the Brussels Tribunal Report at page 159 to 173 Appellant's Bundle. That report claimed that there was a systematic campaign to liquidate Iraqi academics, with the assassination of over 250 academics and disappearance of hundreds of others. That Tribunal also stated that the wave of assassinations was "non-partisan and non-sectarian, targeting women as well as men, countrywide, indiscriminate of expertise: professors of geography, history and Arabic literature as well as science are among the dead". According to that Tribunal no suspects have been apprehended in connection with the assassinations as at the time of the report in early 2006. There then follows a long list of the names of the victims together with a brief résumé of their academic post, qualifications, university or college and date of the incident.
96. That evidence combined with the Respondent's own background evidence in relation to the so-called "brain drain" and the migration of academics and other professionals to the north of Iraq, indicates that the appellant's background as an academic would add to the risk she would face on return (see Respondent's Bundle (2) page 4 to 11).
97. In addition, as a further characteristic that would add to the level of risk she faced, the Appellant is a woman who will be returning as a lone woman with children. As we have already noted, there are respects in which women are more exposed to certain types of violent attacks, attacks including kidnapping, rape, forced prostitution, trafficking and murder.

98. Although the Constitution of Iraq purports to prohibit all forms of violence and abuse in the family, school and society, the lack of security and proper law enforcement and the escalation of the internal conflict have resulted in a climate of fear and violence. Within this women have become common targets of a number of types of violent attacks including kidnapping, rape, forced prostitution, trafficking and murder. The August 2007 UNHCR report in particular indicates that her position as a lone woman would add to her difficulties: this report states (see page 13) that the security, economic and human rights situation of women had dramatically declined and continues to worsen, since the fall of the previous regime
99. The volume of evidence before us satisfies us entirely that this appellant has made out her case as regards risk to her in her home area of Iraq.

Internal relocation

100. Turning to the question of whether the appellant has a viable internal relocation alternative, we have already explained why we do not consider that she had a viable option of relocation within Central or Southern Iraq. Our survey and assessment of the evidence in relation to the potential relocation to the camps on the Syrian and Jordanian border lead us to the clear conclusion that firstly these camps cannot be regarded as within the protection of the “country of origin”. In any event, even if they could be so regarded, in our judgement it would be unduly harsh in any event to expect her to go with her three children to live in such no-man’s-land camps.
101. So far as concerns whether the appellant could safely or reasonably relocate to the area of the KRG in northern Iraq, we find that her Palestinian ethnicity means that she could not. Furthermore, even if she could gain access, her being an ex-Ba’ath Party member and a single woman (with children) would be additional factors likely to compromise both her safety and the conditions in which she would have to live in the KRG.
102. Whilst we accept that many academics, especially Arab academics, have been able to relocate to the KRG there is nothing to indicate that they include Palestinians. Additionally, it would appear that those academics who have been encouraged to relocate to the KRG have done so mainly as a result of a process of recruitment that contacts them in Baghdad, whereas on our finding it would be unsafe for this appellant to return to Baghdad (or indeed anywhere else).
103. On the evidence before us we conclude that there can be no reasonable expectation that this appellant can either stay in her own home area or relocate anywhere else in Iraq. In any event, there is a real risk that a person of her profile and in her situation, in attempting to move around Iraq would come to the attention of the insurgents or be at serious risk when encountering any checkpoints.
104. In conclusion, the appellant has satisfied us to the required standard, that she is a person who at present faces a real risk of persecution on account of her husband’s alleged involvement with the Ba'ath Party combined with her own activity; her position as a stateless Palestinian who will face documentation problems; her status

as an academic and her status as a single woman (with children). She will be unable to access the KRG or any other alternative location in Iraq and even if she could, she is still likely to be targeted.

105. As we are satisfied that the appellant has made out her asylum claim it is not appropriate to deal with the question of humanitarian protection as they are mutually exclusive.
106. Under Article 3 of the ECHR we have to decide whether there is a breach of the prohibition on torture or inhuman or degrading treatment or punishment by returning the appellant to Iraq. In the light of the facts which we find established as detailed above, we find that the appellant has also established that there is a real risk she would suffer such inhuman or degrading treatment in breach of Article 3 if returned to Iraq at this time. The decision appealed against would cause the United Kingdom to be in breach of the law and its obligations under the 1950 Convention.

Decision

We allow the appeal on asylum grounds.

We allow the appeal on human rights grounds.

Signed

Senior Immigration Judge Storey

Date

Appendix: Background Country Materials

Amnesty International Report October 2007

Human Rights Watch, "Iraq: Palestinians Targeted With Death Threats", 2003

Joint British Danish Fact Finding Mission to Baghdad and Amman on Conditions in Iraq, 8th September 2004

Human Rights Watch, Nowhere to Flee: the perilous situation of Palestinians in Iraq, September 2006

UNHCR Aide-Memoire, Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country, December 2006

"Iraq Kurdistan Offers Safe Haven for Fleeing Arabs", IWPR 13.10.06

FMR 26: "Can Palestinian refugees in Iraq find protection?" by G Wengert and M Alfaro, circa 2007.

UN Assistance Mission for Iraq (UNAMI): Human Rights Report 1 April - 30 June 2007

Various press cuttings 19 October 2006- 20 January 07

COI Service Country of Origin Information Request 1.02.07 (internal relocation for Arab Academics to the KRG)

Operational Guidance Note Iraq 12.02.07

Iraq Country Policy Bulletin 1/2007 (27.02.07)

US State Department on Iraq, 6 March 2007

US State Department Report on Israel and the Occupied Territories March 2007

COI Report Iraq 30 April 2007

COI Service Country of Origin Information Request 1.11.07

Brussels Tribunal

UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers August 2007 (UNHCR August 2007 Report)