



**Upper Tribunal
(Immigration and Asylum Chamber)**

EA (Sunni/Shi'a mixed marriages) Iraq CG [2011] UKUT 00342(IAC)

THE IMMIGRATION ACTS

**Heard at Field House
On 16 May 2011**

Determination Promulgated

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Before

**SENIOR IMMIGRATION JUDGE ALLEN
SENIOR IMMIGRATION JUDGE PERKINS
MR G F SANDALL (Non Legal Member)**

Between

EA

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Hashimi of Pinnacle Solicitors

For the Respondent: Ms M Tanner, Senior Home Office Presenting Officer

- (1) *In general there is not a real risk of persecution or other significant harm to parties to a Sunni/Shi'a marriage in Iraq.*

- (2) *It may, however, be shown that there are enhanced risks, crossing the relevant risk thresholds, in rural and tribal areas, and in areas where though a Sunni man may marry a Shi'a woman without risk, the converse may not pertain.*
- (3) *Even if an appellant is able to demonstrate risk in his/her home area, in general it will be feasible for relocation to be effected, either to an area in a city such as Baghdad, where mixed Sunni and Shi'a families live together, or to the Kurdistan region.*

DETERMINATION AND REASONS

1. The appellant is a national of Iraq. He appealed to an Immigration Judge against the Secretary of State's decision of 19 August 2009 to remove him as an illegal entrant from the United Kingdom. The Immigration Judge found significant aspects of the appellant's claim to lack credibility. It was accepted that the appellant is a Shi'ite Muslim and his wife is a Sunni Muslim. However the judge did not accept that they faced a real risk on return on that account. The appeal was dismissed. The appellant sought reconsideration of this decision, and reconsideration was ordered on the grounds submitted. Subsequently at a hearing before a Senior Immigration Judge it was concluded that the judge had materially erred in law in respect of failure to take into account properly the risk to the appellant on account of his religion, specifically in the context of him being a party to a mixed marriage. It was concluded that the judge had materially erred in law in failing adequately to consider the issue of the mixed marriage in the context of humanitarian protection and asylum grounds. The findings of fact of the judge were to stand.
2. In her submissions Ms Tanner relied on and developed points in her skeleton argument and also in the refusal letter. It was necessary to assess whether the appellant faced a real risk in the context of Article 15(c) of the Qualification Directive in his home area or an area of relocation. It should be recalled that the appellant had been found to lack credibility in various respects. He was only found credible in respect of the death of his brother in a terrorist attack in 2007 and this was found not to be evidence of targeting. The point was made at paragraph 15 of the refusal letter that the appellant and his wife had never had problems in Iraq.
3. The Tribunal was referred to country material on mixed marriages. First there was the Associated Press report of 7 August 2009 where it was said that mixed marriages were common. The sponsorship that existed for a while was no longer provided. It was clear that from an Iraqi's name it would be known from what sect they were. The evidence indicated a lack of clear statistics as to the numbers of mixed marriages. 2006 had been a year of high violence where there had been bombing of a mosque in Samarra.
4. In the Operation Iraqi Freedom document was evidence again relating to 2007 and this gave a historical context. The fall of Saddam Hussein had triggered the sectarian violence. It was argued that the appellant was not a refugee but an economic migrant. He had a professional status. It was reasonable to assume that he might

have a house or the means to find accommodation. He was from Baghdad and could return there. He still had a brother. This item concerned general risk rather than specific risks to parties to mixed marriages and forcible displacement which should be contrasted with the appellant's situation. There were no particular references to mixed sect problems at pages 13 and 14 in bundle 2. It was significant as providing a very detailed analysis of ethnic and other violence.

5. The Internal Displacement Monitoring Centre (IDMC) was a very detailed report with no mention of problems for those in mixed marriages. With regard to the issue of the appellant going to Basra, reference was made to the refusal letter. There were mainly Shi'as from Baghdad who might prefer to integrate in Basra rather than returning. Page 4 was of relevance to the appellant at paragraph 2.
6. The UNHCR eligibility guidelines of April 2009 did not refer to the most recent situation but the fact of its source was a consideration and there was no mention of mixed sect marriages. Again it was a very detailed report and the same was true of the US Defence Department Report of June 2010. Again there was no reference to mixed marriages. Given the general lack of statistics, any risk on account of being a party to a mixed marriage on return in an Article 15(c) sense had to be seen in the context of the general violence and general insecurity. There was an important point at page 32 concerning the immeasurability of violence against those in mixed marriages. General violence was hard to quantify. The paper entitled "Islam: Sunnis and Shi'as" (January 28, 2009) provided useful background information at page 1 at paragraph 5 and page 2. The Inspector General for Iraq Reconstruction (SIGIR) report of January 30, 2011 was very detailed. The violence recorded in the Brookings Institute report of 26 April 2011 did not specifically relate to mixed marriages and it was hard to get statistics on that and it had to be weighed against the general situation. The guidance in HM and Others (Article 15(c)) Iraq CG [2010] UKUT 331 (IAC) applied.
7. With regard to the Minority Rights Group Report of 2010, there were very few references to Shi'a/Sunni problems. Page 25 was of relevance to attempts to correct the bad relationship between them.
8. Reference was made to the FCO letters of 9 May and 7 June. The appellant had the documents. The Washington Post article of 4 March 2007 and the Telegraph article of 12 November concerned the situation in 2006 and 2007 but that should be contrasted with the situation today.
9. Bundle 7 contained the COIR. There was no reference at paragraph 7.01 to statutes or the idea that mixed marriages were a category. Paragraph 8.06 referred to the general ethnic and political divisions leading to attacks against anyone opposed to a political group but did not speak of mixed marriages. Paragraph 8.10 referred to links and difficulties in identifying causes and these were complex problems. Paragraph 8.13 referred to diminished levels of violence including the lowest violence in a year since the invasion. There was no reference to mixed marriage

attacks at paragraph 10.64 which if they were occurring would be expected to be mentioned. There was a lack of clear information to be noted at paragraph 12.03 where there was emphasis on the general nature of the attacks. At bundle 8 pages 88 and 92 there was no reference to mixed marriage problems. The Economist article dated 17 June 2010 was helpful. Inter-sect violence was best analysed in the general context of security and this supported that argument at page 5. There were no references specifically to mixed marriages in the IDMC paper of 4 March 2010. There were examples of targeting of Shi'as in the SIGIR report of April 30, 2011 page 7 but it did not say by whom. Page 70 referred to Shi'a/Sunni cooperation in the State of Law party. Page 72 was relevant to risk to the appellant on return. The Amnesty International Report of April 2010 at page 13 was plainly dealing with other minorities. The CSIS report of February 17 page 4 reiterated the findings in HM. Again there was no reference to mixed marriages at pages 13, 19 and 20.

10. The Danish Immigration Service Report of September 2010 at page 6 was referred to, in particular the final paragraph. This applied to the appellant at page 7 and page 11 where it should be borne in mind that he was not displaced. There was no mention of mixed marriages at page 14.
11. Ms Tanner then referred specifically to the skeleton argument. Weight should be placed on the references to the COIR issues. It was hard to separate criminal activity from general violence. There was also the issue of internal relocation. The appellant could return to Baghdad or relocate to Basra. In this regard what was said in HM was of relevance.
12. With regard to the appellant's skeleton argument and bundle, and in particular page 2 item 2 of the skeleton, the judge had not concluded as was contended there. It was true that no one knew why the appellant's brother was killed, except that it was in a terrorist attack, but it did not mean the appellant could say it would have been him had he been there. 4(e) did not show that HM should be departed from but was just a reference to the possibility of a worsening security situation. On behalf of the Secretary of State it was argued that there was a climate of improvement. The point at 4(f) indicated an improvement and it was speculative as to what would happen thereafter. It did not show a real risk. It did not show that parties to mixed marriages were ever at risk let alone as of today's date. Individuals might be at risk for a variety of reasons. With regard to the point at 4(h) there was no evidence of the sectarian point nor was there from the material that Ms Tanner had put forward. It was clearly true of some areas but there were mixed areas also and she had referred to these and the appellant could live in such an area, for example in Baghdad. The appeal should be dismissed.
13. In his submissions Mr Hashimi referred to and relied on his skeleton argument. The main difficulty, he said, was the lack of direct evidence of targeting of parties to mixed marriages but it was not to say it had not happened in the past, for example in 2006 after the Samara bombings. The burden of proof was a light one. The Presenting Officer had referred to the evidence more on a higher basis. The Tribunal could take

account of the appellant's history on a lower basis. There was the point in respect of the bundle at page 7 being evidence from 2006 but it was direct evidence of violence and mixed couples being forced to divorce in Iraq. It was immediately post-2006. Page 21 was concerned with 2005, but was again direct evidence. Page 19 was from 2007. Other reports from the bundle were in connection with the issue of looming violence as the deadline for US troops' departure drew closer. It was argued that the violence levels had only come down because of the surge of US troops entering the country. It was accepted that violence had decreased, but violent attacks would continue in Iraq. There was a historical perspective to mixed marriage persecution. It would be reasonable to conclude that when the US troops left there was every possibility that there would be a return to the violence. That indicated that the appellant would be under direct threat, from this historical perspective. It could not be said that such a threat currently existed however. With reference to the IRIN article at tab 61 of the Home Office bundle, that could occur over again. Likewise in respect of tab 58, which was evidence also in the appellant's bundle. Bundle 8 tab 64 page 88 showed a continuing Shi'a/Sunni hostility in Iraq and there was a tribal element. As regards the indication that a third of marriages in Iraq were mixed Sunni/Shi'a, when hostilities broke out in 2006 many couples did face difficulties. It was hard to say how many, as there were no real statistics. On behalf of the appellant it was argued that the historical perspective cast light on the future in Iraq. Reference was made to pages 1, 2 and 5 of the bundle which referred to a deep resentment between the two sects, and the USA had helped the Iraqi government to keep the peace but there were risks for the future. There was no indication of attacks on mixed couples but the Tribunal had an insight from a historical perspective so one could see a return to the events of 2006 to 2007. The appeal should be allowed.

14. We reserved our determination.
15. We think it is best to consider first of all the general situation in Iraq, then to move on to consider the more specified issue of Sunni/Shi'a sectarian violence, and then finally to consider the evidence relating specifically to risk on account of being a party to a mixed Sunni/Shia marriage.
16. In the most recent country guidance on Iraq, HM & Others (Article 15(c)) Iraq CG [2010] UKUT 331 (IAC), the Tribunal concluded that the degree of indiscriminate violence characterising the current armed conflict taking place in Iraq is not at such a high level that substantial grounds had been shown for believing that any civilian returned there would, solely on account of his presence there, face a real risk of being subject to that threat.
17. At paragraph 253 of the determination in HM, the Tribunal decided that, rather than relying on any particular set of figures it was best to have regard to them all. It was noted at paragraph 255 that the levels of violence in the peak years of 2006 and 2007 were very high and suggested that Article 15(c) was engaged in those parts of Iraq where that level of violence (or a higher level) was occurring. The Tribunal agreed however with counsel for the Secretary of State who argued that the contrast between

2006/2007 and 2009/2010 in terms of the level of violence was substantial. By way of illustration the figures for civilian deaths for 2009 ranged between 3,000 and 4,644, compared with figures for 2007 of over 20,000. Further, at paragraph 260, the Tribunal was wary of assuming that various insurgent groups would not, once again, when it suited them, revert to tactics such as the bombing of market places that maximise civilian casualties, and deploy methods best suited to achieving that, but thought that it could properly be said that in August/early September 2010 the various insurgent groups, including Al-Qaeda in Iraq, were weaker organisationally and militarily and that the evidence did not suggest that that would change in the foreseeable future. To that extent the Tribunal thought it was correct to regard the levels of indiscriminate violence as being not only lower presently but likely not to revert to anything like the levels they reached in 2006/2007. Although the US was committed to a responsible “draw down”, it was clear that there continued to be a great deal of US and international involvement in, and support for the Iraqi government. The Tribunal noted that the main Sunni and Shi’a parties and organisations appeared increasingly committed to distributing power through civil rather than military means. The Tribunal went on to say at paragraph 278(iii) that even if there were certain areas where the violence reached levels sufficient to engage Article 15(c), it considered that there was likely to be considerable scope for internal relocation to achieve both safety and reasonableness in all the circumstances. Although the current levels of violence in Iraq were unacceptably high, the consensus of the evidence was that a very significant proportion of the violence was targeted against people with specific characteristics over and above being mere civilians, such as government officials, civil servants, religious and political leaders and security personnel.

18. We turn to more recent evidence since the country guidance decision was promulgated. The Country of Origin Information Report for 25 March 2011 quotes, at paragraph 8.01, Jane’s Sentinel Country Risk Assessment of Iraq of 19 January 2011. This says the following in the executive summary:

“The government of Prime Minister Nuri al-Maliki has faced serious internal violence through its term and this violence is likely to persist for the foreseeable future as troop-contributing countries withdraw in 2009 to 2010 and the government assumes greater responsibility for security. However, since the US launched its ‘surge’ policy in mid-2007, bringing an additional 20,000 troops into Baghdad and al-Anbar province [to the west of Baghdad] violence has been at a less intensive level than in 2006 and 2007. Political violence in Iraq is being driven by a complex mesh of sectarian and factional drivers with both Sunni and Shi’a insurgents posing a security challenge to the government. ... The key problem since 2006 has instead been Iraqi on Iraqi violence. Initially this primarily comprised sectarian attacks aimed at civilians, but increasingly attacks have taken the form of factional resistance to government security forces. Certain sections of the Sunni Arab community remain highly active insurgents, with attacks most prevalent in areas where a hard core of irreconcilable former regime elements and Islamic militants pay networks of unemployed Iraqis to perform attacks. Sunni Arab resistance is particularly prevalent in areas where Sunnis fear Kurdish or Shi’a dominance. Since the withdrawal of MNF troops from Iraqi cities in June 2009, and in the weeks after the March 2010 elections, violence in Baghdad did not exceed

expected levels and remained sporadic. October 2010 saw the least number of Iraqi civilians casualties since the outbreak of the war in March 2003, according to government figures.”

19. The report also refers to the fact that the Iraqi government is recovering the monopoly over the legitimate use of force as the Iraqi army (backed by multi-national forces) increasingly asserts itself as a leading military force in most locations, and also that terrorists and insurgent groups have been whittled down to a hard core with many less committed elements pared away, although further reducing this remaining cadre will be very slow and difficult and Iraq has significant potential to become a regional hub for organised criminal elements.
20. In the Special Inspector General for Iraq Reconstruction (SIBIR) quarterly report and semi-annual report to the United States Congress, dated 30 January 2011, at page 10, it is noted that more than 3,600 civilians and ISF personnel were killed in violent incidents during 2010. For the third consecutive month, December set a 2010 record for the fewest number of people killed in attacks, down 151 from the previous month 2010, a record low of 171. There are references to violence against Christians where a Syrian Catholic Church in Baghdad was stormed on 31 October 2010 killing more than 50 people, attacks on judges and attacks on Government of Iraq officials. The Centre for Strategic and International Studies (CSIS) paper entitled Iraq’s Coming National Challenges: The Course of the Fighting and Continuing Security Threats, dated 5 January 2011, says that casualties in Iraq are dropping, noting diminishing figures in October and November 2010, although mentioning also attacks against Christian Iraqis and an increase in the number of foreign fighters in Iraq.
21. It is in our view reasonable to conclude the situation has not changed materially since the publication of the country guidance in HM as regards the general levels of violence in Iraq. Clearly there has been an improvement since 2006/2007, but equally significant problems remain and there are particularly categories of people, which we have set out above, who are at especial risk.
22. We move on to consider the evidence concerning the general situation of Sunni/Shi’a sectarian violence and risk on that account.
23. There is a very helpful paper at tab 49 of bundle 4 provided by the respondent which is a paper entitled: Islam: Sunnis and Shi’ites written by Christopher M Blanchard, an analyst in Middle Eastern affairs, provided by the Congressional Research Service. It sets out the historical background and the difference between the Sunni and Shi’ite Islamic sects and indicates not only the differences between the two sects but also the core beliefs and shared practices that they have. The point is made at page 1 of the paper that Islamic theology and sectarian considerations are rarely sufficient explanation for instances of terrorism and political violence in the contemporary Muslim world. Political, social and economic factors often determine whether a given dispute reflects sectarian identities or transcends them. It is said that Sunni and Shi’ite organisations and governments are known to collaborate when they perceive that their interests overlap and in other instances theological differences can

directly fuel sectarian hatred and violence. In Iraq, Sunni/Shi'ite relations have been complicated by the dramatic shift in power dynamics to accompany the removal of the Sunni-dominated Saddam Hussein regime, which ended centuries of Sunni political dominance. Lingering Shi'ite resentment and Sunni fears associated with this shift had helped transform local and individual political or economic disputes into broader sectarian confrontations in some cases. Both Sunni and Shi'ite insurgent groups and militias have conducted attacks on coalition and Iraqi government forces and civilians since 2003. It is said that although major Shi'ite political factions largely abandoned violent tactics in favour of political participation during 2005 and 2006, intra-Shi'ite political rivalries have led to outbreaks of violence, particularly in southern Iraq, again, from 2006 to 2008 Sunnis in Baghdad and the al-Anbar province and other areas fought against predominantly Sunni insurgent groups, foreign fighters and Al-Qaeda operators whom they held responsible for ongoing violence in their communities.

24. A document from the Minority Rights Group entitled "Still Targeted: Continued Persecution of Iraq's Minorities" dated 2010, states at page 10 that last year has actually seen a marked decline in Sunni/Shi'a violence in Iraq and the formation of more pluralist political groupings in the 2010 elections to the country's parliament. There remain, however, problems for Iraq's diverse minorities, who continued to be targeted on the basis of religion and ethnicity during 2009 and early 2010. Reference is made to tensions between Kurds and Arabs, and violence against minorities such as Christians, Yazidis, Shabaqs and Turkmen.
25. There is also an article from The Economist entitled "Sectarian Animosity still prevails" dated 17 June 2010. It is said that although a party strongly backed by the Sunni Arab minority narrowly won the most seats and votes in the March election, the two biggest mainly Shi'a alliances, which came second and third, have agreed to gang up in a wider front to form a ruling coalition in which the Sunnis may not play much of a part. The incumbent caretaker prime minister, Nuri al-Maliki, is said to be reviled as sectarian by Iraq's Sunni minority and by the leaders of influential neighbouring Sunni-led countries, especially Saudi Arabia. It is thought that Shi'a Arabs make up more than half the population, Sunni Arabs less than a quarter, Kurds (most of whom are Sunni) around one-fifth and Turkmen, Christians and others make up the rest. There is reference to a visit to the city of Fallujah which is said to confirm the intensity of Sunni provincial hostility to Iraq's new Shi'a-led establishment. Councillors in the city insisted that life was much better under Saddam Hussein, a refrain which is often said to be heard among Sunnis across Iraq. On the other hand the Shi'as tend to see Saddam's old Ba'athists around every corner, deviously preparing for a comeback. Many Shi'as are said to be irked by the frequent visits of Mr Allawi, a secular Shi'a whose Sunni backed Iraqiya Alliance won 91 seats out of parliament's 325, to the capitals of Arab countries, all governed by Sunnis, to rally support for his prime ministerial bid.
26. With regard to the insurgents, it is said that they now seem to concentrate on spectacular bombings and landmarked targets, such as ministries and hotels and that

since last August there have been at least five big waves of coordinated acts, hitting the finance and foreign ministries, among others, three of the city's best known hotels, plus softer targets such as mosques and market places in Shi'a districts. The insurgents also kill fellow Sunnis, especially those who have signed up to the "awakening councils" who have accommodated themselves, however reluctantly, with the new Shi'a led order. An example of this is a bombing that occurred in the Sunni province of al-Anbar, west Baghdad on 7 June. The targets were policemen and tribal leaders who had turned against Al-Qaeda. It is said that against this backdrop it is vital that the new parliament and the government that it evidently endorses build as wide a cross sectarian consensus as possible.

27. The Special Inspector General for Iraq Reconstruction (SIGIR)'s quarterly report for the United States Congress of 30 April 2011, refers at page 7 to suicide bombers targeting Shi'a religious pilgrims in a series of large attacks earlier during the quarter. It is relevant also to note the various parties in the government of Iraq as set out on 21 April 2011 in that report. The point is made on behalf of the Secretary of State that a number of significant figures in the government are members of the State of Law coalition which is a Shi'a/Sunni political block led by the Prime Minister, Mr al-Maliki. These include the Prime Minister himself of course who was at that date acting Minister of Interior and Minister of Defence and Minister of National Security, but also includes the Minister of Human Rights, the Minister of Youth and Sport, and the Minister of State for Women's Affairs.
28. A UPI report in the appellant's bundle dated 7 April 2010 refers to explosions over three days in and around Baghdad killing nearly 150 people, which has caused some people to worry that the sectarian violence of 2006 and 2007 might return. A report of 6 April 2010 in the New York Times, at page 2 of the bundle, refers to the same bombing incidents. There are references to the killing of 25 members of an extended family of Sunni Arab men and women and the killing of a family of six Shi'ite Arabs. The violence is said to have come against the background of continuing political instability after the 7 March parliamentary elections left no single groups able to form a government forcing a scramble to form coalitions, and reference is made to a similar political void after the 2005 parliamentary vote which preceded Iraq's bloody sectarian warfare of 2006 and 2007, from which the country has only begun to emerge. It is said that there are also new concerns that Iraq's army and police may drift back into sectarianism. A Washington Post report of 17 February 2010 concerns the killing of a Sunni man in a mostly Shi'ite neighbourhood of north west Baghdad. It is said that the death and the aftermath were reminiscent of the prelude to the sectarian war which began in late 2005 which began with a smattering of killings and threats and culminated in 100 bodies a day being dumped in the streets of the capital. With the imminent departure of American forces and the fierce competition for power ahead of general elections on 7 March, many say that sectarian strife is reigniting. There is reference to the killing of a man on 23 January 2010 whose family had no doubt that he was killed because he was Sunni. There is anecdotal evidence of hostility between the two sects and fears on the part of Sunni Arabs that the Shi'ite-led government will marginalise them.

29. There is reference in an item from Global Issues.org dated 20 April 2010, to the assassination of a prominent Sunni imam in Baghdad which raised fears of renewed sectarian violence in the wake of the 7 March elections. A further article from the Los Angeles Times, dated 3 April 2010, makes another reference to the killing of 25 people referred to above. It is said that it appeared to be designed to intimidate the Sunni population. There are concerns about Al-Qaeda in Iraq taking advantage of the situation. An Iraqi officer warned that the group would seek to exploit the absence of key Sunni leaders caught up in the government sweeps and considered that if such situations continued he would not exclude civil war, as trust between the people and the security forces disappeared.
30. We consider that the most up-to-date evidence, which shows that the government has now been formed, puts in context earlier concerns that we have set out above. There were understandable and very real concerns of a return to the levels of violence of 2006 and 2007 between the sects, and clearly problems remain. However, the passage of time has not shown a descent into the earlier problems or anything like that extent of violence. Clearly tensions remain, and are likely to do so, but equally they have to be seen in the context of the complexities of life in Iraq and the different factors that may come into play at any given time as further risk factors which may be connected to or entirely separate from Sunni/Shi'a tensions.
31. We move on now to consider the evidence concerning the specific issue in this case of mixed Sunni/Shi'a marriages. In the appellant's bundle at page 7 there is an item from IRIN of 8 November 2006 concerning a Shi'a wife and Sunni husband. They had been forced to divorce because of pressures on them from the wife's family who said the husband's family were insurgents. It is said that hundreds of such mixed couples have been forced to divorce due to pressure from insurgents, militias or families who feared that they could be singled out. It is said that prior to 2003, doctrinal differences were never a problem in Iraq. Mixed marriages between Sunnis and Shi'ites and between Sunni Kurds and Arabs of both sects were common in the days of Saddam Hussein. However, following the US led invasion of Iraq in 2003, sectarian divides began to emerge as the majority Shi'ite population which had been heavily discriminated against under Hussein's government, began to reassert itself as the dominant political power. Sectarian violence escalated considerably after the bombing by Sunnis of the revered Shi'ite shrine in Samarra in February 2006. The Iraqi court responsible for carrying out divorces said that over the past four months there had been a significant increase in the number of divorces occurring and most of them were between mixed couples. The court could not, however, confirm whether they were forced or not. Some religious leaders were calling on mixed couples to divorce for their own safety whereas others said they should not divorce if they were living in harmony. The government of Iraq estimated that 2,000,000 of Iraq's 6.5 million marriages were unions between Arab Sunnis and Arab Shi'ites. An association that had been formed by mixed couples called Union for Peace in Iraq aiming to protect such marriages from sectarian violence had been forced to dissolve after three mixed couples including founding members of the organisation were

killed. A former member of the association said there were two choices left, stay in Iraq and divorce your partner or flee to a neighbouring country.

32. There is a further item in the appellant's bundle at page 19, dated 8 March 2007 relating specifically to a Shi'ite husband and Sunni wife, who lived in a mostly Sunni neighbourhood, and where threats were addressed to the husband. A UN human rights worker, herself a product of a mixed marriage, said that in the absence of security, Iraqis were protecting themselves by turning to their sects and their tribes, and that it was becoming normal to hear about mixed families breaking down. One sees again here the reference to there being nearly a third of Iraqi marriages being unions between members of different sectarian or ethnic communities, although this is an estimate by sociologists in the absence of official statistics. It was again said that sectarian strife had risen sharply since the bombing of the Shi'ite shrine in Samarra. Since then more than 500,000 Iraqis had fled their homes, the number growing by 50,000 every month according to the United Nations. The vast majority were said to have left mixed marriages, which are described as being the main battlefields of the sectarian war. It was said that nowadays, even in a climate of deep suspicion, Iraqis of different sects mix when they can, but anecdotal evidence suggested that strife was breeding mistrust within mixed families.
33. In a Telegraph article of 18 September 2005 there is reference to the mixed weddings which helped to bind Iraq's religious communities together having all but stopped. Previously for every 50 marriages there were twenty between Shi'a men and Sunni girls, said a Shi'a Imam who had officiated over weddings for more than twenty years, but he said that perhaps now only one marriage in fifty was mixed. It was said to be a sign that the sectarian terror campaign spearheaded by the Jordanian militant Abu Musab Al-Zarqawi was gradually having its desired effect of isolating the two communities. Al-Zarqawi exhorted Sunni insurgent groups to declare war against Shi'as. Intelligence officials were said to be divided over whether many would heed the call, because a lot of Sunni insurgent groups remained secular and nationalist in nature and had no interest in killing fellow Iraqis. It was said that both Sunnis and Shi'as were gradually moving out of each other's neighbourhoods for fear of being targeted.
34. Several of these items are also to be found in the Secretary of State's bundle. It is clear that there were significant problems in 2006 and 2007 for mixed couples. However it is clearly important to consider the more up-to-date evidence. For example, an item from Islam on Line.net entitled "Mixed Sunni/Shi'a marriages are increasingly common in Iraq", dated 25 August 2009, states that though it is true that Baghdad is divided between the two main sects, Sunni and Shi'ite, and that one will find one neighbourhood predominantly Sunni or predominantly Shi'a, there were also areas where Sunni and Shi'a intermingle, though there were militias defending the major sects, namely trying to obstruct the presence of families from the other sects. It is said however that these militias never prevent marriages between the young men and women who belong to differing sects or ethnicities. It is said that the main reason is that many Iraqi families are originally mixed families and there are areas where

sectarian and ethnic exclusivity is non-existent, and that helps to bind all constituents of Iraqi society together. Moreover, religious authorities, both Sunni and Shi'ite, do not ban mixed marriages. A Sunni teacher, married to a Shi'a colleague, said that most Iraqi citizens from all sects did not accept the acts of killing and displacement that had taken place in some regions and even her husband's family embraced their neighbouring Sunni family for a few days when some militants chased them with the intention of killing them or forcing them to migrate, but they were safely smuggled from the area. She said that most educated people were dissatisfied with these acts. A judge at the Personal Status Court in the Al-Karkh area of Baghdad said that among every seventeen marriages that he signed on a daily basis, eight to ten were mixed marriages. He said that the families and relatives of the newlyweds were mostly educated people who did not see the sectarian or national differences as an obstacle to the happiness of their children. He said that he did not recall that the security incidents negatively affected the large number of people who applied for marriage certificates. A female member of parliament, a Shi'ite, denied any significant effect of the sectarian strife on Shi'ite Sunni marriages. Another Iraqi MP said that his daughters were married to Shi'ites and he was about to marry one of his sons to a Shi'a. It is said that after a peak of sixteen [percent] during the time of the toppled regime, the percentage of Sunni/Shi'ite marriages might slightly decrease due to fears of failing to build a stable Iraqi family structure, but it is said that Iraqi societal fabric remains well knitted even in the darkest of times.

35. An item from the Associated Press from 7 August 2009 refers to a period during which Iraq offered \$2,000 for mixed sect marriages. A Shi'ite cleric said that there was a time when families were reluctant to consider such marriages because of concerns from both sects. He said that that was now over and things were getting back to normal. He said that in the past two months he had married 40 to 50 Sunnis, including 20 mixed weddings. Another cleric said that hatred had eventually faded with the passage of time. Marriage in general was coming back into strong favour. A Sunni cleric and marriage official said he was marrying four to five couples a month, two or three of whom were mixed sect. Two judges in Baghdad said that more people were getting married and mixed marriages were now as common as same sect ones. It is said that violence between Shi'ite and Sunnis has dropped sharply and the inter-sect marriage programme is going strong.
36. It is also relevant to note the item at tab 15 of the first bundle of the Secretary of State's evidence, which is a paper from the Internal Displacement Monitoring Centre (IDMC) entitled "Iraq: Political wrangling leaves around 2.8 million displaced Iraqis with no durable solutions in sight". It is dated 14 December 2010. It is said that the overall rate of displacement in Iraq has decreased since 2007 when a US military "surge" coincided with the realignment of some Sunni insurgent groups and the emergence of pro-government "awakening councils". The Shi'a militia of Muqtada Al-Sadr declared a ceasefire in March 2007. It is said that in 2010 relatively few people had been newly displaced in Iraq.

37. There is a letter from the British Embassy in Baghdad, dated 9 May 2011, concerned with mixed Sunni/Shi'a marriages. It is from the Second Secretary Migration at the embassy and it is said that the Embassy consulted a senior advisor to the UK Police Advisory team currently serving in Baghdad, an intelligence analyst from a commercial company working in Baghdad and an Iraqi representative of an international NGO with offices across Iraq. It is the case that personal information relating to an individual's religious identity is not disclosed on any identification documents currently used in Iraq, though it may be disclosed for example to a police officer though an individual has the right to refuse. In practice, however, an individual's tribal name and place of birth will give a clear indication of their religious identity. The Embassy was told that there are no significant risks to mixed Sunni/Shi'a families and couples as opposed to those of the same religious affiliation. Marriages are possible through registration at a civil court ceremony without the requirement to provide evidence of one's religious identity, though a marriage certificate will indicate whether the ceremony was carried out in accordance with Sunni or Shi'a practice. Anecdotal evidence suggests that the number of such marriages is increasing (records are not maintained). According to the Embassy's contacts, there are a number of areas in central Baghdad and other major cities where mixed Sunni and Shi'a families live together. It was explained however that this was not always the case in rural and tribal areas where mixed marriages were less common. In other areas it might be possible for a Sunni man to marry a Shi'a lady, but not vice versa. In rural areas, a mixed marriage couple might also face security risks from groups such as Al-Qaeda and the Islamic State of Iraq occasionally as part of ongoing "Islamification" activities. It is said that mixed marriage couples in the Kurdistan region face no problems or security risks. It is said that the scheme that we have referred to above of the payment of US\$2,000 to a mixed marriage couple has now ended. It is also said that the Iraqi government had contributed to the creation of divisions between Sunni and Shi'a by government departments preferring to employ people from one sect or the other.
38. One can see from this survey of the evidence a significant overall improvement in the situation for parties to a mixed Sunni/Shi'a marriage today in Iraq. This mirrors to an extent the overall improvement in the security situation overall in Iraq between 2006/2007 and today. We consider that the evidence shows an improvement in the situation for couples to mixed marriages to the extent that we think it can properly be concluded that in general there is not a real risk of persecution or other significant harm to parties to a Sunni/Shi'a marriage in Iraq. This must, however, we think, be subject to the caveat set out in the letter from the British Embassy of 9 May 2011, that there may be enhanced risks in rural and tribal areas where mixed marriages are less common, and areas where though a Sunni man may marry a Shi'a woman, the converse may not be the case. This would have to be established by proof of course. Even if an appellant is able to establish that he or she would be at risk in their home area, we consider that in general a couple who were contemplating marriage together but were from a rural and tribal area would be able to relocate to an area in a city such as Baghdad where there are areas where mixed Sunni and Shi'a families live together, or alternatively relocate to the Kurdistan region where the evidence shows

that there are not problems. We do not agree with Mr Hashimi's submission that the existence of past conflicts and the tenor of the current evidence indicates a real risk on return. In our view the evidence clearly shows an improvement and a reversion to the pre-2006 situation of a lack of risk of harm to parties to mixed marriages between Shi'as and Sunnis in Iraq.

39. We conclude therefore that:

- (1) In general there is not a real risk of persecution or other significant harm to parties to a Sunni/Shi'a marriage in Iraq;
- (2) It may, however, be shown that there are enhanced risks, crossing the relevant risk thresholds, in rural and tribal areas, and in areas where though a Sunni man may marry a Shi'a woman without risk, the converse may not pertain.
- (3) Even if an appellant is able to demonstrate risk in his/her home area, in general it will be feasible for relocation to be effected, either to an area in a city such as Baghdad, where mixed Sunni and Shi'a families live together, or to the Kurdistan region.

40. The appellant lived in the Baghdad area. We see no reason why he and his wife should not be able to go back to live, given the existence of mixed Shi'a/Sunni areas in Baghdad and the general level of improvement in the background evidence as we have set out above. Accordingly this appeal is dismissed.

Signed

Date

Senior Immigration Judge Allen
(Judge of the Upper Tribunal)

APPENDIX

LIST OF DOCUMENTATION CONSIDERED

<u>No.</u>	<u>Item</u>	<u>Date</u>
1.	The Telegraph	18 September 2005
2.	IRIN	8 November 2006
3.	LATWP Mens Service	8 March 2007
4.	Islam – Sunnis and Shi’ites	January 2009
5.	Associated Press:	7 August 2009
6.	Islam on Line.net, “Mixed Sunni/Shi’a marriages are increasingly common in Iraq”	25 August 2009
7.	Minority Rights Group, “Still Targeted: Continued Persecution of Iraq’s Minorities”	2010
8.	Washington Post	17 February 2010
9.	New York Times	6 April 2010
10.	UPI	7 April 2010
11.	Global Issues Organisation	20 April 2010
12.	Economist, “Sectarian Animosity still prevails”	17 June 2010
13.	Internal Displacement Monitoring Centre (IDMC), “Iraq: Political wrangling leaves around 2.8 million displaced Iraqis with no durable solutions in sight”	14 December 2010
14.	SIGIR Report	30 January 2011
15.	COIR	25 March 2011
16.	SIGIR	30 April 2011
17.	British Embassy (letter)	9 May 2011