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Heard at Field House  
On 11 November 2002

APPEAL NO HX26245-2002  
RG (Sufficiency of Protection –  
Honour Killings-KAA) Iraq CG  
[2002] UKIAT 05788

**IMMIGRATION APPEAL TRIBUNAL**

Date Determination notified:

18/12/2002

**Before:**

**Mr D J Parkes (Chairman)**  
**Mr M L James**  
**Mr R Hamilton**

**Between**

**Rebwar Mohydin Gharib**

**APPELLANT**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**RESPONDENT**

**DETERMINATION AND REASONS**

1. The appellant is a citizen of Iraq. He appeals against the determination of an adjudicator, Mr A W Palmer promulgated on 13 August 2002 dismissing his appeal against the refusal of the Secretary of State on 22 February 2002 to grant him leave to enter the United Kingdom. The appellant had claimed, but had been refused, asylum, and he appealed to the Adjudicator on asylum and human rights grounds.
2. Mr R Franck of Counsel instructed by Messrs Hasan appeared for the appellant. The Secretary of State was represented by Senior Presenting Officer Miss A Holmes.

3. The appellant is from Sulaimaniyah in the Kurdish Autonomous Area. It is controlled by the PUK. In 1999 he formed a relationship with a young woman from a strictly Islamic family, supporters of IMIK. He supports the Communist Party himself.
4. When, in May or June of 2001 he asked her parents for her hand in marriage he was very firmly rebuffed by the family and he was called drunkard and her brother threatened to kill them both. Her brother beat her.
5. In July 2001 the couple ran away together to Iran but, after a couple of weeks, the girl was abducted by her family, taken back to Iraq, and he learned from a relative that she had been killed.
6. The appellant said that he had learned from his father that there was a hunt on for him and that the girl's family would kill him if he returned to Iraq and so he fled, via Turkey, to the United Kingdom. In what seems to us to be in conflict with that evidence given to the Adjudicator the appellant also told him that he had gone to the police but they could not help because the girl's parents were very powerful people.
7. The Adjudicator did not believe the appellant's account. He thought that the version given at interview was seriously inconsistent at many points, which he outlined in his determination, from what was said in evidence.
8. In one respect the Adjudicator was mistaken. When the appellant referred to the girl's family being involved in Bezuthnawar that is not in conflict with his statement that they were members of the Islamic Movement of Iraqi Kurdistan, (IMIK), they are, in fact one and the same. Where apparent discrepancies concerned dates the Appellant, because of the difficulties of translating from so different a calendar, might have been entitled to the benefit of the doubt, although to confuse 21 March 1999 with 21 March 1997 is not easily explained.
9. There remains discrepancies still unexplained, they are not minor ones. The appellant said that the girl's uncle and brother came to find her in Iran. At interview he said that it was her parents. He said that the girl was beaten up by her brother when the family learned of their relationship when he made his initial statement. He said that his girlfriend's brother and two other men threatened to kill them if they refused to end the relationship. He said nothing of any attack upon himself. When interviewed he said that he was beaten by them for ten minutes with a machine gun. We consider that it was open to the Adjudicator, and would have remained open to him making allowance for such errors as he made, to regard the Appellant's account as one about which the appellant was inconsistent because he was not relating the truth but was making it up as he went along.

10. What, however, if the account were basically the truth and the appellant has found serious disfavour with a strict Muslim family, involved with IMIK? What then?
11. We have read the skeleton argument produced by Mr Franck. He refers to the Judicial review case of Hussain as quoted in McDonald - that credibility finding is not in itself a valid and finding an over-emphasis upon it might distort an otherwise appropriate finding. He contests that there is a sufficiency of protection in the Kurdish Autonomous Area. He produced to us the Tribunal determination in Hussain Abdullah Ahmed of January 2002, although, other than the fact that in that case also IMIK were the feared protagonists, we find little in it of similarity let alone relevance unless it is to persuade us that the religious fervour of IMIK introduces a "Convention Reason". We do not adversely criticise Mr Franck for failing to make clear to us his purpose in producing the case of Ahmed. He conceded that it was of little, if any, assistance in view of the greater persuasive influence of the more recent determination in Karzan Abdullah Khalid by a Tribunal of Legal Members chaired by the Deputy President.
12. Miss Holmes also produced a Home Office Operational Guidance Note upon Iraq of October 2002 and we asked Mr Franck if he could still maintain his grounds against the material contained in these two documents. He endeavoured to do so. He suggested that the Adjudicator had produced a determination of which it could still be said that the credibility findings were wholly unsatisfactory. We have already set out our finding upon that. He pointed out that credibility is linked to the standard of proof and although there is a reasonable margin of appreciation a determination must be properly reasoned. He suggested that this appeal might be remitted to be heard afresh by a different Adjudicator.
13. We do not accept that submission. We come back to the question "If the appellant had been believed how would it have helped?"
14. In Khalid, heard on 6 September 2002, the Tribunal referred to the loss of power by IMIK and the ability of the PUK to protect. The facts, we accept, were different from the present case.
15. The guidance note to which we have referred explores the question of honour killings in the Autonomous Area. They are taken very seriously. There is a political will to do something about it. The PUK and KDP are willing to protect anyone, male or female, in fear of reprisals. They are now considered to be murder and prison sentences may be issued by the Courts.
16. As to IMIK as a result of fighting which broke out between Islamists and the PUK in October 2001 the PUK have taken from IMIK control of Halabja. IMIK has splintered into a myriad of groups. The authorities

would be willing and able to offer protection to anyone claiming to be in fear of Islamists.

17. Finally, what of those in control? Relations between the PUK and KDP have improved: they have convened a fully functioning joint Parliament.
18. That is the latest objective information. We see nothing to be gained for the appellant by remitting this appeal. It would be irresponsible of us, in our view, to do so and contrary to the approach we are required by the Procedure Rules to adopt when we can.
19. The grant of leave gave opportunity for any problems with the determination of the Adjudicator to be fully aired, explored and as we believe appropriate, remedied. For the reasons which we have now fully explained we consider that applying the lower standard of proof appropriate there is shown no reason to conclude that the refusal to grant leave to enter would involve the United Kingdom in a breach of either the Refugee or Human Rights Convention, nor, having re-considered the reasons for it, do we find it necessary or appropriate to interfere with the outcome of the appeal before the Adjudicator.

This appeal is therefore dismissed.

**D J Parkes**  
**Acting Vice-President**