

AK (Iraq – Christians – risk) Iraq CG [2004] UKIAT 00298  
Heard at Field House  
On 23 August 2004

**IMMIGRATION APPEAL TRIBUNAL**

Date Determination notified:

...08.11.2004

**Before:**

**Mr D K Allen – Vice President**  
**Mr A R Mackey – Vice President**  
**Mrs M E McGregor**

**Between**

**APPELLANT**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**RESPONDENT**

**DETERMINATION AND REASONS**

1. The Appellant is a citizen of Iraq who appeals to the Tribunal with permission against the determination of an Adjudicator, Mr T S Culver, who dismissed his appeal against the Secretary of State's decision of 1 September 2003 refusing leave to enter the United Kingdom, asylum having been refused.
2. The hearing before us took place on 23 August 2004. Mr E Michaels of the MECMAC acting on behalf of Rai Solicitors, appeared on behalf of the Appellant, and Mr M Blundell appeared on behalf of the Secretary of State.
3. The Adjudicator accepted that the Appellant was raised as a Christian and considered risk to him on return to Iraq in that regard. Otherwise he found his claim to be at risk on account of his father's involvement in the Ba'ath Party to lack credibility. It can be seen

from paragraph 32 of the Adjudicator's determination that it was made clear by the Appellant's then representative that he was no longer relying on the Article 8 aspect of his appeal.

4. Permission was granted limited to the issue of risk in Iraq for Christians and perhaps particularly Assyrians such as the Appellant. The grounds of appeal adverted to the Article 8 issue but of course it can hardly be said that there was an error of law in that regard by the Adjudicator since he had specifically been told that that issue was no longer being argued. Nor was permission granted with regard to the political aspect, and at the hearing before us Mr Michaels expressly did not take that point any further, but limited his submissions to the issue of risk on return on account of the Appellant's Christianity.
5. In that regard he drew our attention to the objective evidence which showed, contrary to the figure noted by the Adjudicator at paragraph 61 of his determination that there are some 1.5 million Christians in Iraq, that the figure was now nearly 700,000, very significant numbers having fled because of persecution. He took us to the objective evidence concerning the attack on six churches in early August 2004 by Muslim fundamentalists. Nearly 4,000 families had fled Iraq to Syria, Lebanon and Jordan recently and 20 per cent of those who fled were Christians. He took us to the bundle concerning threats against the clergy and at page 113, a document from the Barnabas Fund, to the effect that there had been other attacks on churches and Christian religious buildings prior to the August 2004 attacks. The fundamentalists always resented the Christian minorities and the minority Shiites sought establishment of a Muslim state and recent events in southern Iraq were a good example of this. He took us also to pages 118-120 of the bundle which was indicative of the feelings and emotions and the degree of suffering there. This was an excerpt from the Christian Science Monitor of July 13 2004. Christians would leave if they could. The country was in chaos, and the worst was expected.
6. In his submissions Mr Blundell argued that the threshold as set out in Hariri and Batayev involving the need to show gross and systematic persecution had to be met and that threshold had not been reached in this case. Clearly there had been isolated incidents of violence towards to certain groups of Christians mainly, Mr Blundell contended, in the south. He argued that the Appellant, as an average Assyrian Christian, only risked being bombed in his church and that was not a real risk in accordance with the proper standard of proof. The particular features leading to targeting did not apply to him. Such people as eminent clerics, people who spoke English on account of their Christianity, alcohol sellers, women who would not wear headscarves and those who ran cinemas showing sexually explicit films might be at risk, but the

Appellant did not come into any of these categories. It was clear from his interview that he had been interviewed in Arabic.

7. By way of reply Mr Michaels argued that the problem was not only in the south but all over Iraq. He did not consider that it could properly be said that there had been isolated incidents of violence given the nature and degree of the attacks. As regards the Appellant speaking Arabic at interview, 95% of Immigration Officers fail to provide an Assyrian language speaking interpreter, so in effect he had had no choice. As regards the headscarves point, he questioned whether Christian women should be denied the right to wear what they liked and this was discrimination.
8. The Iraq Country Report at paragraphs 6.33 and 6.38 contains a helpful overview of the history of the situation for Christians in Iraq. We have a good deal more detail of the history of the Assyrians in the Article entitled 'Christians in Iraq' by Michael N Chancy at pages 93-97 of the bundle and in particular at pages 94-95. It is said in the Country Report that Christians are concentrated in the north of Iraq and in Baghdad according to the US State Department Religious Freedom Report of 2003. It seems clear that Christians experienced discrimination from the regime of Saddam Hussein and at times worse than that. For example it is said at page 103 of the bundle in an internet report from World Net Daily that under Saddam Hussein the Assyrians suffered severely under his discriminatory ethnic policy of Arabisation. It is said however at paragraph 6.37 of the Country Report that since the fall of Saddam Hussein Islamic radical groups have been flexing their new found muscles, and acts of violence have been committed against Christians including the killing by unknown militants of two shopkeepers in Basra for selling alcohol. UNHCR have reported systematic attacks on the minority Christian community in Basra and that most of these families have in fact left Iraq fearing the resurgence of fundamentalist religious leaders. In a document which seems to come from the Syrian International News Agency on 20 June 2004, at pages 108-109 in the bundle, there is reference to an incident of shooting where masked gunmen opened fire on Assyrians on their way to work in a district of Baghdad. Other examples are given. It is said that for the Assyrians liberation has not brought the level of security for which they had hoped. The attacks are said to be accompanied often by notes demanding that the Christian Assyrians follow the rules of Islam or face the consequences, and this has created an atmosphere of fear in the Assyrian community. There is evidence that significant numbers of Christians are concerned and are trying to leave Iraq.
9. The incident of particular significance in this regard concerns the car bombings carried outside six churches, four in Baghdad and two in Mosul in early August 2004. It is said that more than fifteen people were feared killed and scores injured in these attacks. It

also seems sufficiently clear that these were the acts of fundamentalists. A copy of "The Universe" the Catholic newspaper, of Sunday, August 8 2004, at page 91 of the bundle, quotes the Chief Shi'ite Muslim cleric in Iraq, Grand Ayatollah Ali al-Husseini al-Sistani, issuing a condemnation of the attacks and stating that he deems necessary the collaboration of everyone, both the government and the people in putting an end to aggression on Iraqis. It is also said in the Barnabas Fund document at page 113 (the Barnabas Fund works to support Christian communities mainly but not exclusively in the Islamic world where they face poverty and persecution) that the apparently coordinated attacks have been universally condemned by Muslim leaders in Iraq, both Sunni and Shia, as well as by many ordinary Muslims. That report goes on to refer to several other incidents of attacks on churches and Christian religious buildings in Iraq since the fall of Saddam Hussein, comprising a missile attack on a convent in Mosul in September 2003, the discovery of bombs at two Christian schools in Mosul and Baghdad in November 2003, accompanied by messages ordering them to convert to Islam or be killed, a bomb explosion at a church in Baghdad on Christmas Eve 2003 and in the same month a bomb discovered at a monastery in Mosul which was defused. There was also reference to many attacks on Christian shops and businesses and Christians having been threatened and victimised and several having been assassinated and that women in the south are being forced for the first time to cover their hair like Muslim women. On 4 January 2004 a group of more than 200 mainly Muslim intellectuals and political leaders from Iraq called for an end to the attacks on Christians.

10. As Mr Blundell properly accepted, there are clearly problems at least towards particular Christians in Iraq, some of which may cross the threshold of persecution or Article 3. We agree with Mr Blundell that various categories to which he referred before us, sellers of alcohol, owners of cinemas where sexually explicit films are shown, and perhaps people who speak English on account of their Christianity are at particular risk. There may be a degree of risk also to women wearing headscarves, although the evidence seems to suggest that they would be likely to risk no more than having eggs or tomatoes thrown at them. In particularly at risk are clerics of some eminence and prominence. Threats have been made among others to the Patriarch of Baghdad, as we see from page 92 of the bundle which is a copy of The Universe of Sunday, August 15 2004.
11. The Appellant does not however come into any of these categories. Even if he did come into the category for example of alcohol seller or owner of a cinema showing films offensive to Muslims, we would doubt that this gave rise to a real risk of breach of his human rights or Refugee Convention rights on return. To have to refrain from carrying on such activities in order to avoid

arousing the sensibilities of fellow citizens is not, in our view, to be equated with being precluded from expressing religious or political views. Nor does the Appellant come into the category as identified in the Christian Science Monitor extract at page 119 of the bundle of being a businessman of any kind who might be perceived as being wealthy as in the example there. He is a person who was in the army and on his account of events was accused of stealing weapons. Clearly on return he must face an element of risk. It is clear in light of the attacks on the churches and other religious buildings that a person attending a Christian church in Iraq may face some degree of risk from a car bombing or other form of attack. Sadly that is the kind of risk which in many ways the entire population of Iraq faces at the moment given the problems being caused by fundamentalists. It is clear however from the objective evidence not only that the risk emanates from the fundamentalists, but that the Shia and the Sunni authorities have condemned these attacks which can therefore in no sense said to be condoned by the government or other authorities in Iraq today. As was said by the Court of Appeal in **Batayav [2004] INLR 126** at page 138 in particular, there requires to be a consistent pattern of gross and systematic violation of rights under Article 3 for that particular threshold to be crossed. We see no evidence of that in this case given the particular circumstances of the Appellant and the risk as a consequence in the light of that which he faces. Nor do we consider that the Appellant has shown a real risk of persecution on account of his Christianity on return to Iraq. There is risk, but it is not a real risk as it is required to be. This appeal is accordingly dismissed.