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Appeal No. HX12237-2002  
NB (Mixed Ethnicity- Ethiopian-Eritrean)  
Ethiopia CG [2002] UKIAT 06526

## **IMMIGRATION APPEAL TRIBUNAL**

Date of Hearing : 27 September 2002

Date Determination notified:

14/02/2003.

Before:

Mr M W Rapinet (Chairman)  
Mrs S I Hewitt, JP

**NAJAT BASHIR**

**APPELLANT**

and

Secretary of State for the Home Department

**RESPONDENT**

### Representation

For the appellant : Ms A. Oliso of the Refugee Legal Centre

For the respondent : Miss J. Sigley, Home Office Presenting Officer

## **DETERMINATION AND REASONS**

1. The appellant is a citizen of Ethiopia who appeals by leave of the Tribunal against the determination of an Adjudicator, Mr T.J. Cary, dismissing her appeal against the respondent's decision to refuse to grant her asylum and to give directions for removal to Ethiopia.
2. The appellant arrived in this country in July last year and shortly after arrival claimed asylum.
3. The basis of her claim is that she is the daughter of a mixed marriage, her mother being Ethiopian and her father Eritrean. The family lived in Ethiopia and she has an Ethiopian passport. The appellant left Ethiopia for Saudi Arabia in May 1999 to work in that country as a domestic servant. After her departure

her father received a letter from the government requiring the family to leave Ethiopia. She has never suffered any persecution in Ethiopia and it would appear that her parents have left the country, though where they are she knows not. She has a half sister in this country with whom she is currently living. Her father had two wives and kept two establishments in Ethiopia, her sister in this country is the child of the second wife. She claims that she could not be returned to Ethiopia because she would not be allowed to enter the country as she is Eritrean and her life would be at risk in Ethiopia.

4. The Adjudicator has found that the appellant would be recognised as an Ethiopian were she to return to that country. She was born in Addis Ababa of an Ethiopia mother and an Eritrean. She had never been to Eritrea. She speaks Amharic and held an Ethiopian passport when she left the country in May 1999. She regards herself as Ethiopian. For reasons which are set out in some detail in the determination the Adjudicator finds that there was no risk that she would be persecuted were she to return to Ethiopia. These reasons are set out in paragraphs 49 to 53 of the determination. The Adjudicator has also rejected claims made under Articles 3 and 8 of the Human Rights Act.
5. Miss Oliso submitted that because the appellant is of mixed ethnicity she would be deported from Ethiopia to Eritrea and her rights under Articles 3 and 8 would be infringed. She has a half sister in this country who is recognised as a refugee and with whom she has developed a family life since her arrival. There is no family life in Ethiopia as her family has dispersed. In considering the Article 8 claim the Adjudicator had attached too much importance to the fact that the appellant and her half sister did not have a family life together in Ethiopia. Miss Oliso accepted that the half sisters had led separate lives in Ethiopia but points out that they are blood relations and the appellant herself would have no family life in Ethiopia.
6. Miss Sigley in her submissions maintained that the Adjudicator's findings are perfectly sound. There were certain discrepancies in the appellant's evidence, in particular in relation to whether or not the appellant was or was not in Ethiopia at the time the family received the expulsion letter. The appellant had no problems in Ethiopia and in Miss Sigley's submission the Adjudicator has fully considered all the objective evidence. Miss Oliso in her submissions had referred us to a letter (no. 19 in her bundle) which is from a Miss Susan Rogers who is the Country Officer for Angola, Ethiopia and Eritrea, addressed to Mr Stuart Ousley, Home Office Presenting Officer Unit in Feltham. This letter is dated 2 August 2001 and states:

‘In reply to your fax dated 12 July 2001 I regret to say that the information I have received this week indicates that deportation of Eritreans from Ethiopia are continuing as UNHCR has suggested in their letter that despite the previous information which was that they had ceased.

The current information I have is marked ‘Restricted’ so I cannot provide it for use at the hearing, however it seems

to me that in view of this it would not be proper to maintain our previous position. In this type of case it would seem that removal to Eritrea may however be appropriate and I have attached a disclosable letter from FCO on the question of Eritrean nationality which may be of assistance.'

7. As Miss Sigley points out there is no indication as to what case this letter refers (it certainly does not refer to the instant appeal) nor do we know the circumstances relative to the case to which it refers. Miss Sigley told us that she had no knowledge of the background to that letter. She referred us to the CIPU Report relating to the expulsion by Ethiopia and Eritrea of citizens of either country from their respective countries. She also referred us to 5.66 to 5.69 of the same report indicating that the government of Ethiopia stopped deporting Eritreans and Ethiopians of Eritrean origin after signing the Cessation of Hostilities Agreement in June 2000. Voluntary repatriations to Ethiopia have taken place. The other paragraphs refer to UNHCR concern with regard to the treatment of Eritreans in Ethiopia and the expulsion by Ethiopia of 772 people identified as Eritreans.
8. Turning to the human rights claim, Miss Sigley submitted that the Adjudicator's findings with regard to Article 8 are perfectly sound. The appellant and her half-sister are now adults, if there is a private life in this country it would nevertheless be proportionate for the Secretary of State to deport the appellant. The Adjudicator has taken these matters fully into consideration.
9. Miss Oliso in a final submission points out that the appellant does not currently have an Ethiopian passport and referred us to the CIPU Report emphasising the deportation of Eritreans from Ethiopia.
10. The basis of the appellant's claim is quite simply that she fears that if she were to be returned to Ethiopia she would be deported back to Eritrea as she is a person of mixed ethnicity. The Adjudicator has dealt with this perfectly adequately in paragraphs 47 to 52 of the determination. The Adjudicator finds that the appellant has never been persecuted in the past and that she would be entitled to a Ethiopian passport under Article 6 of the Ethiopian Constitution. She rightly points out that the appellant held an Ethiopian passport as recently as three years ago. There is no evidence objectively to indicate that she would not be entitled to a fresh Ethiopian passport were she to apply for one. The Adjudicator rightly points out in paragraph 48 that the appellant's claim is based solely on her mixed parentage but on her own admission she had never suffered any harassment during her time in Ethiopia and had never been arrested or detained, nor had any attempt been made to deport her. She seems to have been of no interest to the authorities prior to her departure for Saudi Arabia. The Adjudicator has fully considered the background material in paragraph 49 which includes much of the material that is before us and the UNHCR letter of 20 February this year, and as she rightly points out in paragraph 50 'There is nothing in the letter to suggest that every Ethiopian national of mixed parentage is at risk of deportation or even harassment.'

11. The relevant passage in the UNHCR letter reads:

‘There are also reports that some Eritreans and Ethiopians with Eritrean links were not called to renew their Dine Year Residents Permits which expired in April/May 2001. However, it seems that in Addis Ababa the Immigration and Nationality Department is in the process of renewing such residence permits or at least some of them. Information available in June/July indicated that radio announcements were made in Harar and Diredowa requesting Eritreans and Ethiopians with Eritreans links to renew their residence permits. But some individuals in this category may not have been able to afford the residence permit renewal fees because of loss of employment, thus becoming potentially at risk of deportation.’
12. We do not think that this in fact refers to the circumstances of this particular appellant. We bear in mind that she has never had a residence permit because she has never needed one as she already had an Ethiopian passport on which she travelled to Saudi Arabia in May 1999. Clearly her family were regarded as Ethiopian citizens at that time. Assuming the question of a residence permit even arises, it would appear that the Immigration & Nationality Department is quite prepared to grant such residence permits, publicly proclaiming this on the radio, in particular in relation to Addis Ababa and we remind ourselves that the appellant comes from that city.
13. In reviewing the determination and all the objective evidence which was before the Adjudicator and which is before us, we entirely agree with the Adjudicator's findings at paragraphs 52 that ‘I do not consider it is reasonably likely that the appellant would be of any interest to the authorities were she to return to Ethiopia now in view of the cessation of hostilities in Eritrea and Ethiopia.’ In the following paragraph she states: ‘I do not consider it reasonably likely either that the appellant will be denied readmission to Ethiopia or that her rights once there will be infringed sufficient to engage either the United Nations Convention or the ECHR.’ We entirely concur with those conclusions of the Adjudicator.
14. Turning now the question of the Adjudicator's consideration of the Article 8 appeal, as the Adjudicator rightly points out, the appellant has only been living with her half-sister for just over a year and that there was no family life between the two half sisters in Ethiopia because the father maintained two separate marital establishments and the appellant belonged to one family the half sister to another. They met at school and they occasionally met socially, but clearly there were two separate establishments and the appellant's family life was with her parents and whatever other siblings she may have had by that marriage. Both the appellant and her half sister are adults (the appellant is twenty-four this year but we do not know the age of her sister). Even if the two half-sisters have established a family life between themselves in this

country, the nature of that family life and the circumstances of this appellant are such that in our view it would not be disproportionate for the Secretary of State to deport the appellant and we entirely concur with the Adjudicator's findings in relation thereto.

15. The Article 3 claims have not been pressed by Miss Oliso and rightly so. There is no evidence that the appellant would suffer any breach of Article 3 rights were she to return to Ethiopia, for the same reasons as relate to her appeal against deportation.
16. The appeal is accordingly dismissed.

**M W RAPINET  
VICE PRESIDENT**