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AM (Use of Sharif name) Somalia CG [2004] UKIAT 00110

## **IMMIGRATION APPEAL TRIBUNAL**

Date of Hearing: 22 April 2004

Date Determination notified:

18 May 2004

Before:

Dr H H Storey (Vice President)

Mr G Warr (Vice President)

Mrs L Freestone

Secretary of State for the Home Department

**APPELLANT**

and

**RESPONDENT**

### Representation

For the appellant: Mr J. Gulvin, Home Office Presenting Officer

For the respondent: Mr S. Winter, Counsel, instructed by Hamilton Burns & Co.

## **DETERMINATION AND REASONS**

1. The Secretary of State appeals the determination of Mr J.G. Macdonald, who allowed the appeal of a citizen of Somalia (hereinafter referred to as the claimant) from the decision of the Secretary of State to refuse his application for asylum.
2. The only issue before the Adjudicator was whether or not the claimant was from the minority Ashraf clan in Somalia. If that was accepted then the appeal should succeed. The issue in the appeal concerns the use of the title Sharif. In this case the title was not indicated by the appellant during the course of his interview with the Home Office. While the point did not feature in the letter dated 3 October 2002, giving reasons

for refusing the claimant's application for asylum, the appellant was cross-examined on the matter before the Adjudicator.

3. Mr Gulvin, before opening his submissions, drew our attention to the fact that the claimant had dependants who, at least at some stage, had been represented by the Immigration Advisory Service. Mr Winter stated he was instructed by the claimant and not by any other person. It appears to us that the claimant's children appear only as dependants in these proceedings. The outcome of the claimant's appeal determines the position of his dependants.
4. Mr Gulvin submitted that the issue in the appeal was a narrow one. The claimant had never used the name Sharif at any stage of the asylum process and the omission was significant in the view of the Secretary of State. Mr Gulvin referred to the report on minority groups in Somalia. The report was compiled by a Joint British, Danish and Dutch Fact Finding Mission to Kenya in September 2000. The report was finalised on 24 November 2000. It is often referred to as the Minority Report. Although the report is a lengthy one we were only referred to the following extract at page 164 of the claimant's bundle:

‘The Ashraf elders trace their origin to the Prophet Mohammed, whose daughter Fatima had two sons with Ali, named Hassan and Hussein. Any member of the Ashraf community belongs to one of these two lines of descent, from Hassan or Hussein, and any Ashraf (both females and males from the age of two) is able to identify her or himself as belonging to one of these two lines. The Prophet Mohammed conferred the title “Sharif” upon Hassan and Hussein. Since that time, all their descendants have the name Sharif as part of their name, added to the personal name and the father’s and sometimes the grandfather’s, name. From this comes the name of the group, Ashraf being the plural of Sharif. Ali had children by other wives after the death of Fatima, but they were not “Sharif”.’

5. Mr Gulvin stated that the Adjudicator had wrongly found that the claimant's explanation why the name Sharif did not appear in his name was not contradicted by the objective evidence. Mr Gulvin submitted that if the claimant was Ashraf he would have used that title during the course of the asylum process.
6. Mr Gulvin referred to a report that had been lodged by the claimant after the Adjudicator hearing on 9 February 2004 prepared by Dr

Martin Orwin of the School of Oriental and African Studies. It may be helpful if we set out this report in full:

‘The word *ashraf* is of Arabic origin and is the plural of the word *sharif*, meaning “distinguished, high born, celebrated”. The word is also used as a title by people throughout the Muslim world who trace their descent to two grandsons of the Prophet Mohammed, Hussein and Hassan, both of whom were sons of the Prophet’s daughter Fatima. Among the Somalis there are certain lineages which claim this descent and hence are referred to as Ashraf. Of the two major branches of Ashraf lineages, the Hussein branch lives in the towns of the southern coast of Somalia and forms part of the group of communities referred to as the Benaadiri. The smaller Hassan branch lives mainly inland particularly, around the town of Baydhabo. Having said this, it must be borne in mind that, given the upheavals of the last fifteen years or so, there have been great movements of people, particularly of such minority lineages who have suffered persecution.

With regard to naming, the members of the Ashraf lineages follow the same practice as other mainstream Somali lineages. When an individual is born they are given their own name. The rest of their name then consists of their lineage on the father’s side. So a man with the name Mahmoud Ali Saeed was given the name Mahmoud on his birth, his father was called Ali and his grandfather was called Saeed. The majority of Somalis will then also be able to continue the chain of names right back to eponymous lineage founders, although for day to day use they generally only go back to grandfather. The same also holds for women: Jawahir Cilmi Rooble has her own name, Jawahir, her father’s name was Cilmi and her grandfather’s Rooble. She too would be able to recite the lineage. Women do not change their names or their lineage identity on marrying.

Among the Ashraf this name practice is also followed. However, since members of this lineage hold the honour of descent from the Prophet, they use the title *Sharif* along with their name. So a man

born into an Ashraf lineage, who is given the name Mohammed, may refer to himself as Sharif Mohammed, followed by the names of his father and grandfather to which *Sharif* may or may not be added. It must be born in mind that *Sharif* is not a proper name, but a title, indicating the individual's descent from the Prophet as explained above. The use of the title *Sharif* varies. Firstly, as far as I understand it, it is only men who may use the title. Secondly, the title is not always used. This seems particularly to be the case among the younger generations who will simply use their personal names in the manner mentioned above. **The fact that a man does not use the title *Sharif* in his personal name does not necessarily indicate that he is not from an Ashraf lineage.** In other words, a man who does not use the title *Sharif* in his name could still be a member of an Ashraf lineage. If asked, a man from an Ashraf lineage would generally state that he could use the title *Sharif* even though he does not use it on a daily basis. It is likely that someone from an Ashraf lineage, who is asked to recite his full lineage, would include the names with the title *Sharif* for some of his ancestors, even though he does not use it for his own name, his father's and his grandfather's names.'

7. Mr Gulvin submitted notwithstanding this report it was inconceivable that the claimant would not have used his name at some stage of the asylum process. The Adjudicator had been wrong to accept the claimant's explanation without better reasoning.
8. However, Mr Gulvin added, the Secretary of State did accept that Sharif was a title and that the use of the title varied.
9. Reference was made to the Waltham Forest Somali Community letter dated 22 January 2004 confirming that the claimant belonged to the Ashraf clan. Mr Gulvin submitted that this did not take matters much further. He did not wish to press the other grounds in the grounds of appeal.
10. Mr Winter submitted that the expert's report should be taken into account. There had been another letter from the Waltham Forest Somali Community before the Adjudicator. Taking the evidence as a whole, the claimant had demonstrated that he was from the Ashraf

clan and he had displayed a good knowledge about the clan during his interview.

11. In reply Mr Gulvin accepted that the claimant had not been asked at interview questions relating to the use of the title Sharif.
12. At the conclusion of the submissions we reserved our determination. In the refusal letter the Secretary of State disputed that the claimant was Somali at all. Paragraph 72 of the Adjudicator's determination reads as follows:

'I have no difficulty in deciding that the appellant was from Somalia and [the Home Office Presenting Officer] made it clear at the hearing that this particular part of the appellant's claim was not challenged. In his interview the appellant named all thirteen districts in Mogadishu. I am satisfied that he is a Somalian who lives in Mogadishu.'

13. The Adjudicator then explored the only issue in the case – i.e. whether or not the claimant was from the minority Ashraf clan. If he was, it was conceded that there was a real risk that he would face persecution in the future as he had done in the past. The Adjudicator's determination concluded as follows:

'74. The appellant says he was a storekeeper in Mogadishu.

75. The Benadiri work primarily in commercial occupations including business.

76. I conclude from the fact that the appellant claims to have been a storekeeper that this is consistent with being Benadiri even if he worked for someone who was from a majority clan.

77. As mentioned in answer 20 the appellant named all thirteen districts in Mogadishu.

78. At a later stage in the interview commencing at question 59 he gives more detail about the clans and explain that Ashraf is part of the Benadiri. He explains that his clan is descended from the prophet Hassan.

79. He did not know the answer to question 64 or question 67 but still provided considerable information about the clans and festivals. Those answers were not challenged in the refusal letter and I therefore take it that they are correct.
80. All the information provided by the appellant suggests to me that he is, as he claims, from a minority clan.
81. In his oral evidence he gave full answers to the questions he was asked.
82. In particular his explanation why the name "Sharif" did not appear in his name does not appear to be to be directly contradicted by the objective evidence. The appellant did not say that he did not have the name Sharif.
83. He explained, in plausible terms, why the attempt to rape his wife was not successful.
84. He explained why he was able to sell the house. It was understandable that in paragraph 8 of the refusal letter that the Secretary of State was sceptical about this but the appellant's explanation that the buyer was a good man and that the price arranged was about half the value of the true price appears to me to be plausible.
85. While it might have been expected that the appellant's wife would give evidence to supply corroboration of the fact that the appellant is from a minority clan I am, nevertheless, satisfied as to the credibility of the appellant. I conclude that his evidence is entirely consistent and consistent with the objective evidence.
86. I consider there is therefore a reasonable degree of likelihood that he is from the Ashraf minority clan as he claims.'

14. The claimant's evidence in cross-examination is recorded in paragraph 32 of the determination as follows:

'In cross-examination he said that all the incidents that had occurred to him were because he was a member of a minority Ashraf clan. He was descended from the Hassan side of the clan. With reference to Country Information (page 139 of the respondent's bundle) that all the descendants of Hassan had "Sharif" in their name, the appellant said that this was not a name given to a child when the child was born. It was a name that society conferred upon you. As such Sharif was included in his name. It was the name of his father. But he did not use the name Sharif in his name.'

15. Mr Gulvin's essential submission is that it is remarkable that a person claiming asylum would not use the name or title Sharif during the course of the interview process. He accepted that the claimant had not been asked questions probing this issue, but the claimant had, he pointed out, been invited to state his full name at the start of the interview as well as any other names. However, bearing in mind that Sharif is a title rather than a name, it is not perhaps surprising if it does not feature. More difficult questions might arise where an interviewer asks the claimant whether he, his father or his grandfather had any other names or titles. However, as Mr Gulvin accepts, the issue was not explored in any other way at the claimant's interview. It is also to be remarked that the point was not raised in the refusal letter although it was dealt with at the hearing in cross-examination.
16. Once it is accepted that Sharif is a title and that the use of the title varies then it cannot be right in our view to treat the lack of the use of the title at interview as of itself determinative of ethnicity. The use of the title varies, according to Dr Orwin, and the younger generation simply use their personal names. The claimant before us was born in October 1971.
17. The Adjudicator did not have the benefit of the expert's report. The claimant's explanation is consonant with the opinion of Dr Orwin.
18. The Adjudicator heard oral evidence from the claimant and appears to have explored the issues before him satisfactorily. He noted that the claimant had displayed significant knowledge of Ashraf related matters at interview and had answered most of the questions put to him adequately. Although paragraph 82 of the determination is somewhat short, it does appear to us that the Adjudicator was entitled to accept the claimant's explanation. We reject Mr Gulvin's submission that the lack of reference to the title during the asylum process is a feature which ought to have led to the appeal being dealt with in a

different way. We note, as we have said before, that the objection did not feature in the refusal letter. If the point was a determinative one, then one would have expected to see a reference to it there. In the refusal letter the Secretary of State acknowledges that the claimant was able to provide some information regarding the Ashraf clan but he was not satisfied that this outweighed the general implausibility of the claimant's story.

19. We feel that the Adjudicator adopted the correct approach in this case, and looked at all the evidence in the round. We need only say a few words of general guidance in all the circumstances of this case, the issues being so narrow.
20. Firstly, the absence of a reference to the title Sharif during the asylum process will not necessarily be determinative one way or the other. That is partly because it is a title and not a name and partly because the usage of the title varies. However, in a case where a claimant is asked about the matter and is ignorant of the usage of the title, that may well have a bearing on the outcome. Let us take the example of a claimant who is asked at interview whether he has any other names or titles and who replies in the negative and who, when he is further asked about any other names or titles for his father, grandfather or more distant ancestors, again replies in the negative. In such a case his negative answers may well pose difficulties for him. On the other hand, particularly in the case of a younger claimant, an explanation of the type provided by the claimant in this case may – and it will depend upon the circumstances – persuade an Adjudicator that the claimant is Ashraf as claimed. The matter needs to be looked at in the round. The Adjudicator will need to examine the credibility of the claimant's account generally together with the claimant's performance at interview when asked questions relevant to establishing his true ethnicity.
21. For the reasons we have given, the appeal of the Secretary of State is dismissed.

**G. WARR  
VICE PRESIDENT**

6 May 2004