Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/08040/2015

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 17 May 2017	**On 22 August 2017**

Before

UPPER TRIBUNAL JUDGE KOPIECZEK

Between

RR
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Khan, Counsel instructed by M A Consultants (London)
For the Respondent: Mr D Clarke, Home Office Presenting Officer

DECISION AND DIRECTIONS

1. After a hearing before me and Deputy Upper Tribunal Judge Monson on 14 December 2016, we decided to set aside for error of law the decision of the First-tier Tribunal Judge ("the FTJ") who heard this appellant's appeal against the respondent's decisions to refuse him asylum and to remove him to Iraq.

2. The decision setting aside that of the FTJ contains detailed reference to the circumstances of the claim, the appellant's background and the FtJ's decision. I have incorporated the material parts of the error of law decision here, and the extracts I quote set the context for my re-making of the decision.

3. At [1]-[7] of the error of law decision the background to the claim, and the FTJ's findings, are set out as follows:

> "1. The appellant is a citizen of Iraq, born on 3 September 1988. He arrived in the UK on 1 October 2012 as a Tier 4 student and made a claim for asylum on 8 November 2014. His application for asylum was refused in a decision dated 7 May 2015, and at the same time a decision made to remove him under section 10 of the Immigration and Asylum Act 1999.
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> 2. His appeal against the decision to refuse asylum came before First-tier Tribunal Judge Hembrough ("the FTJ") at a hearing on 29 September 2015 following which the appeal was dismissed on asylum, humanitarian protection and Articles 2, 3 and 8 of the ECHR grounds.
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> 3. Permission to appeal was granted in respect of the FTJ's decision and the appeal came initially before Deputy Upper Tribunal Judge O'Ryan on 15 January 2016. However, he was unable to complete a written decision within a reasonable time of that hearing. Accordingly, a transfer order was made, transferring the appeal to be heard by a differently constituted Tribunal. Thus, the appeal came before us.
>
> *The FTJ's decision*
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> 4. The FTJ recorded the basis of the appellant's claim to the effect that he would be at risk from Shia militia because he is a Sunni Muslim and his father is a retired Iraqi army major who served under Saddam Hussein's Ba'athist regime, and who has been targeted by them in the past. He also claimed to be at risk generally from various factions and militias operating in Iraq, because his aunt and two of his cousins worked as interpreters for the US Army. Subsequently, his cousins enlisted with the US Army and have served in Iraq. In addition, his parents and sisters have been granted refugee status in the USA.
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> 5. The FTJ recorded that it was accepted by the respondent that the appellant is a Sunni Muslim and that his father is a retired major of the Iraqi Army, having served under Saddam Hussein's regime. It was further accepted by the respondent in the decision letter that the appellant's parents and sisters have been granted refugee status in the USA, and that his aunt worked as a "translator" for the American military in Iraq.
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> 6. The FTJ also recorded that it was not accepted by the respondent in the decision letter that the appellant or his family were targeted by militia in Iraq. Similarly, it was not accepted that the family obtained refugee status on the basis of being at risk, but because they came under a special programme called the US Refugee Admissions Program ("USRAP"), because of their relationship to his aunt and her work as a translator. The appellant had been unable to take advantage of the Program because he was over 21 at the date of the application, and was only a nephew (of his aunt).

7. After setting out further details of the appellant's claim, and the evidence given before him, he made a number of findings of fact. These can be summarised as follows:

- The appellant is a Sunni Muslim, and his father a retired major of the Iraqi Army. His aunt and cousins worked as translators for the American military in Iraq, and the cousins have served there having enlisted in the US Army.

- His parents and sisters have been granted refugee status in the USA under the USRAP Program. This was because of the appellant's aunt's work as a translator. His father was eligible as her brother, and his mother and sisters were eligible as his father's spouse and dependent children under 21 years of age.

- The incidence of a threatening letter in 2007/2008, and a 2009 incident in which it is claimed that a shot was fired at the family home, are relatively trivial incidents which do not bear significantly on the outcome of the appeal. If true however, they may indicate that the appellant's antecedents and affiliations were known in his home area.

- Despite the claim that the appellant and his family were at risk because of his father's military service, the family were able to avoid coming to harm in Iraq, before coming to the UK in 2012, and other family members going to the USA in 2013.

- Despite living in a Shia-controlled area, the family received no threats after September 2009. Although the appellant's father spent some time outside Iraq, particularly from 2010 onwards, and the family relocated internally on several occasions, the appellant was able to complete his secondary education and his bachelor's degree at the University of Technology in Baghdad in 2011.

- The appellant went to Jordan in 2012 but returned to Iraq twice before he eventually departed for the UK.

- The appellant did not come to the UK fearing for his safety, but came to study. He did not claim asylum until two years after he entered the UK.

- The fact that the appellant's parents and sisters have been granted refugee status under the USRAP Program does not mean that the appellant is also a refugee.

- The appellant does now have a genuine subjective fear of persecution in Iraq, in the main because of the deteriorating security situation. He perceives that his father's military service and the activities undertaken by his aunt and cousins enhance the generalised risk upon return.

- Both of the appellant's cousins are also of the view that the appellant would be at risk because of his association with them. A measure of their concern is that they both flew from California to give evidence at the hearing.

- The security situation in Iraq has deteriorated significantly since the appellant's arrival in 2012.

- The appellant has a current Iraqi passport valid until 21 June 2017. If returned it would be to Baghdad, where he was born and brought up, and where he spent most of his life.

- The appellant and his family were able to live in relative safety in Baghdad in an area controlled by Shia militia for many years. Accordingly, their antecedents and affiliations were not as widely known as has been claimed.

- The appellant has never specifically been targeted because of his affiliations. There was nothing to indicate that he or any member of his family enjoyed any sort of national profile.

- The appellant's cousins were both generally credible but there was a degree of embellishment in their evidence in terms of their having become well-known in Baghdad. It is highly unlikely that they would have broadcast their affiliations in the course of their duties. Knowledge of those affiliations did not extend beyond the appellant's home area.

- As a result, the appellant would be able to relocate elsewhere in Baghdad.

- Whilst the possibility of a chance encounter with someone who is aware of, and has antipathy to, the appellant's affiliations cannot be excluded, this does not create a real risk of persecution.

- All of the appellant's family have now left Iraq and he would be without any familial support if returned to Baghdad. However, he is a young, fit and highly educated male with no encumbrances. He would be returned to the city in which he has spent most of his life."

4. The analysis of the challenge to the FtJ's decision, and the conclusions on that challenge are at [22]-[36]:

"22. As is clear from the guidance in *AA (Iraq)*, where a person's return to Iraq is found to be feasible (and it is not suggested in this case that it is not), it will generally be necessary to decide whether the person concerned has a CSID, or will be able to obtain one reasonably soon after arrival in Iraq. The decision explains the importance of that document. However, it is clear that even if a person does not have a CSID, as a general matter he should be able to obtain one using an Iraqi passport, whether current or expired. In this case, it was found by the FTJ at [64], that the appellant has a current Iraqi passport, valid until 21 June 2017. In the screening interview in answer to question 2.2, the appellant said that his national passport has been with the Home Office since August 2013. It is therefore, in the UK. On that basis, according to the guidance in *AA (Iraq)*, the appellant would be able to obtain a CSID card on return.

23. In this context we also take into account that it was accepted in submissions before us that the document copied at C8 of the respondent's bundle is in fact a copy of the appellant's CSID card. Although it was submitted that the appellant would not be able to obtain a CSID card because of the risk of harm because of the general situation in Mosul, it is apparent that the CSID card copied at C8 was issued to the appellant in Baghdad.

24. Furthermore, as is clear from [13] of the guidance in *AA (Iraq)*, an alternative Civil Status Affairs Office for Mosul has been established in Baghdad. Even if therefore, it is correct to conclude, which we do not think it is, that the appellant would have to apply for a CSID card in Mosul, such an application can be made in Baghdad.

25. Although we accept that the FTJ should have, as a matter of law, considered the issue of whether the appellant would be able to obtain a CSID card, notwithstanding that strictly the country guidance in *AA (Iraq)* was not before him on the actual date of the hearing, we do not find that there is any materiality in any error of law on the part of the FTJ in that respect.

26. In relation to the FTJ's conclusions in terms of no harm and no threats to the family from 2009 onwards, we agree with Mr Clarke's characterisation of this aspect of the grounds as simply a disagreement with the FTJ's conclusions. It is said in the grounds that the FTJ failed properly to understand the chronology of the appellant's claim, and the details of the family's movements are given in the written grounds.

27. However, between [32] and [36] the FTJ set out a summary of the appellant's account of the family's movements from August or September 2009 after a shot was fired at the family home whilst the appellant's father was in the garden. At [43] he referred to the appellant's evidence to the effect that the family had not been targeted since September 2009 because they had been moving around a lot, the appellant having said that he had travelled to Jordan in 2011 and had returned to Iraq twice before coming to the UK. The appellant's evidence also recorded by the FTJ was that on each occasion he had lived with his family in Mosul. At [58] the FTJ assessed the issue of there having been no harm or threats after September 2009 with reference to the appellant's account, accepting that the appellant's father spent some time outside Iraq, particularly from 2010 onwards, and that the family relocated internally on several occasions. He noted however, that the appellant was able to complete his secondary education and his bachelor's degree at the University of Technology in Baghdad in 2011. At [59] he referred to the appellant having gone to Jordan in 2012 and returning to Iraq twice before then coming to the UK. He concluded at [60] that the appellant did not come to the UK fearing for his safety.

28. Although the grounds contend that the FTJ failed to appreciate the chronology of the appellant's claim, that contention is simply unsustainable in the light of what is in the FTJ's decision. He plainly did appreciate the chronology, referring to it at various places in his decision. We do not consider that there is any feature of the appellant's account in this respect that has not been considered, or that the FTJ took into account material or information that he should not have done. He plainly understood the appellant's account and his explanation for the events post 2009 and came to sustainable conclusions in terms of the lack of harm or threat of harm in that period. The disagreement with the FTJ's conclusions in this respect is just that. No error of law is apparent.

29. Similarly, we see no merit in the contention that the FTJ misunderstood the evidence in relation to the appellant's family members in the USA having been granted refugee status under the USRAP Program. Despite our pressing Mr Khan to identify any documentary evidence which indicated that refugee status was granted to any member of the appellant's family on the basis of an individual-based risk assessment, he was

not able to do so. We consider that what the FTJ said at [61] in relation to this issue fully reflects the evidence that was before him. He said as follows:

> "The fact of the Appellant's parents and sisters having been granted refugee status under the USRAP program does not mean that this Appellant is also a refugee. My reading of the papers indicates that this was a special program with its own discreet eligibility criteria designed for people emanating from Iraq, Jordan and Egypt with US affiliations. If the scheme related solely to risk of persecution there could be no justification for excluding dependants over the age of 21" (our emphasis).

30. We consider that the FTJ's observation in the last sentence is particularly pertinent. The appellant would not have been excluded from the programme, as he was, if he was considered to be at risk of persecution, simply on the basis that he was over 21 years of age. No doubt the programme was designed to, and probably did, incorporate into it those who would in fact on an individual basis be at risk, perhaps the translators or interpreters themselves, and maybe even some relatives or dependants, but that does not mean to say that all those within the programme were granted refugee status because of an individualised risk of persecution or harm.

31. However, although not emphasised in the grounds, or in the written submissions before us, we do consider that the FTJ erred in law in terms of the issue of internal relocation.

32. We have rejected the argument in terms of the CSID, but there is a more nuanced argument that arises. At [69] the FTJ concluded that it was unlikely that the appellant's cousins would have broadcast their work as translators for coalition forces and he did not accept "that knowledge of the same extends beyond the Appellant's home area. As a result, he would be able to relocate elsewhere within Baghdad". In other words, it is implicit that the FTJ accepted that the appellant had established a risk of persecution in his "home area". He then went on to consider the question of internal relocation, referring at [70] to the Baghdad governate, consisting of 10 districts with a population of between 6.6 and 7.1 million, about 80% of whom are Shia. The FTJ obtained those figures from [118] of *AA (Iraq)*, as he states.

33. However, we do not find in the FTJ's decision an adequate analysis of the factors that need to be considered, as set out at [15] of the guidance in *AA (Iraq)*. Some of the factors set out in that part of the guidance are taken into account, but the issue of accommodation is not considered, and although the FTJ recognised that the appellant is a Sunni, that is not a matter that is specifically referred to in the analysis of whether it would be unreasonable or unduly harsh for the appellant to relocate within Baghdad.

34. The question of internal relocation in his particular case is also affected by what is accepted to be a genuine fear of persecution on the part of the appellant ([62]). It is not a case therefore, simply of the appellant being able to 'slot in' to some unspecified part of Baghdad, without any questions being asked about his circumstances or background. His family circumstances and background come into sharp focus in that respect.

35. We also consider that although not specifically advanced in the grounds, the question arises as to whether it can realistically be concluded that if the appellant is at risk in one part of Baghdad, the concept of internal relocation in relation to another part of Baghdad can be said to apply. We do not consider that there is an adequate analysis in the FTJ's decision of the issue of internal relocation in the respects to which we have referred.

36. Accordingly, we are satisfied that in that distinct respect the FTJ erred in law and that that error of law is such as to require the decision to be set aside."

5. The focus for the further enquiry and the re-making of the decision can thus be seen from [32]-[36] of the error of law decision.

6. Notwithstanding the directions that were given at the conclusion of that hearing, the appeal on the next occasion had to be adjourned because neither party was properly prepared for the hearing.

7. I heard submissions from the parties at the hearing on 17 May, with both parties also relying on skeleton arguments. After that hearing, the Court of Appeal found that the Upper Tribunal ("UT") had erred in its conclusions at [170] of its decision in *AA (Article 15(c)) Iraq* CG [2015] UKUT 00544 (IAC). The Court of Appeal (AA (Iraq) V Secretary of State for the Home Department [2017] EWCA Civ 944) amended the guidance that the UT had given. As a result, I issued further directions to the parties affording them an opportunity to make submissions in relation to the Court of Appeal's decision.

8. I now summarise the submissions, both written and oral, that cumulatively are put before me on behalf of the parties.

Submissions

9. At the hearing on 17 May, on behalf of the appellant the skeleton arguments both for that and the earlier, adjourned, hearing were relied on. It was submitted that both the decisions in *AA (Iraq)* and *BA (Returns to Baghdad) Iraq CG* [2017] UKUT 18 (IAC) look at Baghdad as a whole, in terms of one administration, one police force and free movement within the city. In this respect [17] of the skeleton argument dated 5 April 2017 was relied on. There is it acknowledged that at [118] of *AA (Iraq)* it was stated that Baghdad governate consists of 10 districts with a population of between 6.6 and 7 million, about 80% of whom are Shia. It is contended that it is an artificial exercise to separate out parts of the city where the appellant would be at risk and those where he would not, in circumstances where he has been found to be at risk in his home area.

10. The appellant has no home to return to in Baghdad and would have to rent accommodation, and that may be somewhere that may not be safe. In order to obtain employment he would have to move to, and through, different parts of the city.

11. At [115] of *BA* it was said that it is difficult to stay anonymous in Baghdad. It is not said on his behalf that a CSID card could not be obtained, but that it would lead to his identification.

12. Mr Clarke relied on the respondent's skeleton argument. Although the appellant relied on [115] of *BA*, the risk for him is said to be in his home area. The decision in *BA* can be distinguished in that the appellant in that case worked for a Western company. In this case the appellant had never been targeted. There had been no threats to the family since 2009 and they had lived in Baghdad until 2011.

13. The appellant has not identified exactly who his aggressors are and how they would be able to obtain information from the CSID if he lived in a Sunni majority area.

14. The skeleton argument on behalf of the appellant provided for the adjourned hearing of 30 March emphasises the importance of a family support network for a returnee, relying on aspects of *AA (Iraq)*, and the scarcity of employment opportunities. Lack of family support is also important in terms of the ability of a person to be able rent accommodation, for which the person would have to have access to employment. The UNHCR report dated 31 March 2016 ('Relevant COI for Assessments on the Availability of Internal Flight' etc.) is relied on in terms of the availability of rented accommodation.

15. The same skeleton argument refers to the importance of a CSID and the "extensive" information recorded on it, including a person's religious background, and family ties. That information could be discovered by the authorities and non-state actors such as militias. There is reference again to the UNHCR report in relation to the increased presence of Shia militias at checkpoints in Baghdad and Sunnis using, for example, forged ID cards to avoid identification.

16. It is pointed out in the skeleton argument that the appellant's family have left Iraq for the USA, and his extended family have also left. The family home in Iraq was sold by the appellant's father before he left Iraq. The appellant would not be able therefore, to rely on any family to provide him with shelter, support or protection.

17. In countering any suggestion that the appellant, being young and educated, would be able to obtain employment, it is argued that the main employer is the Iraqi state and thus it is extremely difficult to obtain employment without political or family connections.

18. At [19] of that skeleton argument the risk to the appellant is summarised. It is argued that the appellant faces a significant risk of harm if returned to Baghdad because of his family's connection to the US military and he would not be able to relocate within Baghdad. Given the information contained on the CSID and the need for it to be carried, every time the appellant applies for a job, rents property, obtains healthcare or social services, or approaches a checkpoint, he is at risk of having his family connections and background discovered. He would not be able to remain "incognito and anonymous".

19. In the appellant's skeleton argument dated 5 April 2017 reliance is placed on *BA*, in particular at [101] in terms of the appellant's religion, being a Sunni Muslim.

20. As to the concept of internal relocation, it is contended that the case law on Iraq appears generally to have considered internal relocation to Baghdad city itself, rather than to specific districts within Baghdad city. The risk must extend to the whole of Baghdad because the appellant would be easily identifiable on account of the fact that he is a Sunni and the information contained on the CSID. He would not be afforded protection by the authorities (*BA* [105]). It would not be appropriate to expect the appellant's movements to be further restricted in Baghdad outside his home area.

21. The respondent's skeleton argument relies on *AA (Iraq)* in terms of the factors to be taken into account in relation to internal relocation. The appellant would be able to obtain a CSID. His main language is Arabic. There was nothing in the reasoning in *AA (Iraq)* to indicate that a sponsor would be needed for a person to be able to obtain accommodation. A cumulative consideration of the factors identified in that decision reduces the impact of the lack of family support.

22. Although it is acknowledged that the appellant does not have family in Baghdad, that is a matter that only becomes critical in the absence of a CSID. At [198] of *AA (Iraq)* it was suggested that there are opportunities available in Baghdad for displaced persons to earn sufficient funds to enable them to be able to rent accommodation if they have a CSID. This appellant is young and educated. He has a BSc in Architectural Engineering from the University of Technology in Baghdad and had worked in the UK for a medical assistance company and for an insurance company as an operations specialist. He would be well-placed to obtain employment.

23. Furthermore, the idea of family should be considered in a wider context than just blood relatives ([84] of *BA*). Assistance from the Sunni community should be taken into account.

24. It is contended that the respondent does not have the legal burden of proving that there is a specific area of Baghdad to which the appellant could reasonably be expected to go (*AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia* CG [2011] UKUT 00445 (IAC) at [225]).

25. It would in any event be artificial to determine that internal relocation is not available purely on the basis that relocation is limited to another area of the same city. It is necessary to consider the reach and intent of the aggressors in addition to whether there is a reasonable degree of likelihood that the appellant would be recognised by chance in the new area.

26. The FTJ had found that the risk to the appellant in his home area was on account of his father's military service and his cousins' services as translators. The appellant's evidence to the FTJ was that his home area was a district adjacent to Sadr City in Baghdad. The risk is a general one from militias specifically on account of the

appellant being recognised as a relative of his father or cousins, but only within that district. There is no evidence that the militias would have the intention of looking for the appellant as the appellant has never himself been targeted. Therefore, the question was whether the militias would enter the appellant's new area, stumble upon the appellant, and recognise him.

27. Reference is made in the respondent's skeleton argument to [118] of *AA (Iraq)* in relation to Sadr City, a Shia district within Baghdad city, Sunni areas, and mixed neighbourhoods. At [119] nine districts and 89 neighbourhoods are identified within Baghdad, containing some 6.5 million people. Sadr City is in the north east of Baghdad and the Sunni district of Al Doura is in the south, and away from the appellant's home area. That there are majority areas in Baghdad reduces the risk of a chance encounter as does the number of people living in the city.

28. Further, the preserved findings of the FTJ at [58] are relied on, i.e. that there had been no threats to the family since 2009 despite living in a Shia area, and despite the appellant's father spending some time outside Iraq especially from 2010 and the family relocating internally on several occasions. Also, the appellant was able to complete his secondary education in Baghdad in 2011.

29. There was no response on behalf of the Secretary of State to my directions in relation to the Court of Appeal's decision in (*AA (Iraq)*). On behalf of the appellant it was submitted that the appellant reiterates that he is unable to apply for a CSID, either from the UK or in Iraq. The UNHCR guidance (which I have referred to above) and the updated guidance of 12 April 2017 are relied on, with relevant passages in the latter being highlighted.

Assessment

30. In *AH (Sudan) v Secretary of State* [2007] UKHL 49, Lord Bingham referred to what he had said in Januzi v Secretary of State for the Home Department [2006] UKHL 5, namely that:

> "The decision-maker, taking account of all relevant circumstances pertaining to the claimant and his country of origin, must decide whether it is reasonable to expect the claimant to relocate or whether it would be unduly harsh to expect him to do so . . . There is, as Simon Brown LJ aptly observed in *Svazas v Secretary of State for the Home Department*, [2002] 1WLR 1891, para 55, a spectrum of cases. The decision-maker must do his best to decide, on such material as is available, where on the spectrum the particular case falls. . . . All must depend on a fair assessment of the relevant facts."

31. The idea or concept of 'home area' has been adopted as a convenient means of referring to the area where a person claiming to be at real risk of harm comes from, and where the person contends he or she would be at risk if he returns. It is a term however, that is apt to mislead in some circumstances, in particular where there is dispute about what constitutes a person's home area.

32. A clearer way of looking at the issue of internal relocation is to ask simply, where does the risk arise, and could the risk be avoided by moving to another place (applying the principles outlined in *AH (Sudan)* and *Januzi*). Looking at the issue that way, it is not necessary to decide the question as to where is a person's 'home area'.

33. In principle, I do not consider it legally objectionable to find that a person could be at risk in one part of a city, but not in another. There may be physical or other practical barriers that would prevent the person at risk coming to harm from his aggressors from another part of a city. A city or district may be divided, for example physically or politically, in such a way as to mean that in practice the persecutors' reach would not extend to a different part of a city or district. Each case will be fact-specific.

34. I was not referred to any reported decision of the Tribunal or any authority in which it was accepted that a person at risk in one part of Baghdad could be said to have available to them the option of internal relocation to another part of Baghdad. The appellant relies on the contention that Baghdad has itself been seen as a place to which an individual is sometimes said to be able to relocate, but not within Baghdad itself. However, I do not consider that the absence of such an identified case takes the appellant's case on internal relocation very far. It may simply mean that the point has never been raised or reported before.

35. I have set out fully the competing arguments of the parties on the facts, and I do not need to repeat them. At [7] above I have set out from the error of law decision the findings of the FTJ. All of those findings are preserved apart from what is said about the appellant being able to relocate within Baghdad, which is the very issue which must now be determined. The FtJ accepted that the appellant has a subjective fear of return, and that he now has no family in Iraq.

36. The position advanced on behalf of the appellant in terms of whether he would be able to obtain a CSID is inconsistent. The submissions on behalf of the appellant, for example as recorded at [11] above, accept that the appellant would be able to obtain a CSID. Furthermore, as was made clear in the error of law decision at [22] and [23], the argument that the appellant would not be able to obtain a CSID is one that has been rejected in terms of any error of law on the part of the FTJ. The written submissions on behalf of the appellant in relation to the Court of Appeal's decision in *AA (Iraq)* seek to resurrect the argument about the appellant not being able to obtain a CSID, but that point has already been decided against the appellant.

37. However, having considered the parties' competing arguments, I have come to the view that not only would the appellant be at risk in the place from which he comes in Baghdad, near to Sadr City, but there is a real risk of persecution or serious harm throughout Baghdad.

38. In *BA*, a decision to which I was a party, it was recognised that the general level of violence in Baghdad city remains significant, and that sectarian violence has increased since the withdrawal of the US forces in 2012. Sunni men are more likely to

be at risk. Evidence was given in *BA* of the large number of checkpoints, both legal and illegal, manned by Shia militias (see [89]- [90], [99], and [119]).

39. The point made on behalf of the appellant in relation to the means by which he can be identified from his CSID seems to me to be a good one. The respondent's contention about the lack of potential risk from a 'chance encounter' I consider to be too simplistic an approach. It is not just a case of the appellant possibly being encountered by chance by those that might identify him (from where he lived before), but the risk of an encounter by individuals who would identify him not necessarily as a recognised individual, but in terms of his background and his family connections.

40. It may be that the appellant's relatives in the USA will be able to provide him with at least some financial support, although neither party made submissions on the point. Nevertheless, it is reasonable to assume that the appellant will seek employment, not only in order for him to be able to find accommodation, and feed and clothe himself, but also because he is used to being employed as his background and qualifications would suggest. It is also reasonable to conclude that he will have to travel within Baghdad city to seek or engage in that work. As was said by Dr George in *BA*, people do not live anonymously in Iraq and a person's background is likely to become known in a local area. Such a lack of anonymity is also reasonably likely in relation to a person travelling within Iraq whose identity and background is indicated on the all-important CSID.

41. But I do not consider that in this case one must go so far as to conclude that the appellant would be at risk even outside the area where the risk first arose, i.e. that he would be at risk throughout Baghdad. That is because, even in the alternative, I am not satisfied that it would be reasonable to expect him to relocate.

42. I have come to that view for a number of reasons. It has been found that the appellant has a subjective fear of persecution. Baghdad city still suffers from a high level of general violence, and significantly from sectarian violence. The appellant would be without family in Baghdad to support him on return. He would have to find employment and accommodation. To find employment it is doubtful as to whether he could maintain a 'low profile', even if he could be expected to do so, which in law I doubt (see *HJ (Iran) v Secretary of State for the Home Department* (Rev 1) [2010] UKSC 31). It is reasonably likely that he would be living in constant fear of exposure in terms of his background and family connections.

43. I do not consider that even by the standards of those living in Baghdad and the violence that its residents are frequently exposed to, the appellant could be said to be able to live a relatively normal life.

44. The respondent relies on the lack of harm or threats that the family were exposed to in the period before the appellant left, and his ability to have completed his secondary education in 2011 in Baghdad. However, for all that, it has nevertheless

been found that he is at risk in a particular part of Baghdad. The only issue that needs to be resolved is that of internal relocation.

45. My analysis of this appellant's particular circumstances and the background evidence as revealed by the cases to which I have referred, leads me to conclude that the appellant does not have available the option of internal relocation. In his case I am not satisfied that relocating within Baghdad means that he would be free of the real risk of harm, and in any event in the alternative, I am not satisfied that it is reasonable to expect him to do so.

46. Accordingly, I allow the appeal on asylum and human rights grounds with reference to Article 3.

Decision

The decision of the First-tier Tribunal involved the making of an error on a point of law. Its decision having been set aside, I re-make the decision by allowing the appeal on asylum grounds, and on human rights grounds with reference to Article 3 of the ECHR.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Upper Tribunal Judge Kopieczek 22/8/17