



IAC-FH-NL-V1

**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: AA/08208/2014

**THE IMMIGRATION ACTS**

**Heard at Birmingham**

**Decision & Reasons  
Promulgated**

**On 1 March 2016**

**On 29 March 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN**

**Between**

**[N S]**

**~~(ANONYMITY DIRECTION NOT MADE)~~**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr. C. Lane, Counsel instructed by French & Company  
For the Respondent: Mr. G. Harrison, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Juss, promulgated on 8 December 2014, in which he dismissed the Appellant's appeal against the Respondent's decision to refuse to grant asylum.
2. Permission to appeal was granted as follows:

“The first ground is arguable, since it appears that the judge has not given any consideration to such matters as the claimed arrest and detention of the appellant, and the particular social group.”

3. The Appellant attended the hearing. I heard oral submissions from both representatives following which I announced that I found that the decision involved the making of a material error of law, and that my full reasons would follow.

### Submissions

4. Mr. Lane relied on his skeleton argument. He submitted that 90% of the decision was focussed on the Appellant’s claim to be a Christian, but the primary case put forward by the Appellant was in relation to her imputed political opinion. This was due to the threats she had received as a result of the murder of her father and the execution of his killer, and also due to the treatment she had received following the publication of the article relating to standards in prisons in Iran. Her claim was that the uncle of the man executed (the “uncle”) was behind the treatment she received from the publishing company which resulted from the publication of her article. Her Christianity was a secondary issue. She had not been baptised as at the date of the hearing.
5. Her interview was primarily concerned with her political claim. However the only paragraph of the decision which addressed the political claim was paragraph [20] and was woefully inadequate. The judge rejected her claim on one ground, which was that there was no reason given as to why the Appellant’s mother would have been spared. However, there was no consideration of the subsequent arrest, detention and questioning by Ettelaat referred to at paragraph [49] onwards of the reasons for refusal letter. This did not necessarily follow straight on from the threats received from the uncle. She had been arrested when working at the publishing company, but this had not been considered at all. This was an error of law.
6. Further there was an error of fact in paragraph [20] which was relevant to the issue of materiality. The judge stated that the Appellant’s mother pressed for the execution of her husband’s killer. I was referred to paragraphs [18] to [20] of the reasons for refusal letter. It was the Appellant’s paternal family who had not agreed to forgive the killer. The Appellant’s mother had wanted to forgive him and had not been pressing for his execution. Further, the Appellant, as the eldest child, was expected to carry out the execution, and for this reason she would have been the target, not her mother.
7. In relation to the particular social group, the Appellant presents herself contrary to the social norms of women in Iran. I was referred to paragraph

[19] of her statement. Objective evidence had been before the First-tier Tribunal but it had not been considered at all.

8. Mr. Harrison accepted that there were a number of deficiencies in the decision. The question was whether these were material. He accepted that the issue of the particular social group had not been considered at all. He submitted that a Christian conversion was often seen as a “trump card” in such cases which is why the judge had focussed on Christianity. However the judge had found that the claim had failed in relation to her claim to be a Christian. The issue then was whether or not adequate reasons had been given in relation to the claim relating to her imputed political opinion. The judge had made findings in paragraph [20] regarding what had happened in Iran by reference to the reasons for refusal letter.

### Error of law

9. I find that the judge has not given adequate reasons for dismissing the Appellant’s claim relating to her imputed political opinion. I have considered the skeleton argument before the First-tier Tribunal. This sets out three bases of claim, imputed political opinion, religion, and membership of a particular social group. The judge has focussed on the second of these, the Appellant’s claim to have converted to Christianity. He dismissed this claim for the reasons given.
10. The reasoning in relation to the first of basis of claim is contained in one paragraph, [20]. This states:

“First, I do not accept that the Appellant is at any risk of ill-treatment or persecution in Iran or on account of the execution of an assailant, who was only executed following a proper process of the law in a criminal trail (sic), resulting in a sentence by a properly constituted court. If the Appellant’s mother was given the option of either accepting “blood money” or of pressing for an execution, this was part of the process of the law in that country. She opted for an execution. If now the threat comes from a former judge, he of all people would be aware that the decision taken was pursuant to carrying out a sentence under law. But in any event, I see no reason why, if it was the mother who had pressed for the execution, and rejected an offer of blood money, she should be spared, and her daughter, the Appellant, be subjected to the risk of persecution or ill-treatment. This simply does not make sense. Accordingly, I accept, for the reasons set out in the refusal letter, that the claim in this respect is lacking in credibility.”
11. The claim relating to imputed political opinion was the Appellant’s primary reason for claiming asylum, yet the judge has dismissed it in one paragraph. The majority of the Appellant’s interview was concerned with her account of events in Iran, and consideration of these events ran to 18 paragraphs in the reasons for refusal letter. The judge dismisses it by reference to the reasons set out in the reasons for refusal letter, but this is not adequate, especially given that he has not accurately stated the

position of the Appellant's mother, or given any consideration to the fact that the Appellant would be the primary target for threats as she was the one expected to carry out the execution.

12. Further, there is no reference in paragraph [20] to the Appellant's claim to have been arrested, detained and questioned by Ettelaat. This part of the Appellant's claim is set out in paragraphs [49] to [56] of the reasons for refusal letter. She claims that this happened when she was employed at the publisher. While the Appellant considers that this arrest was linked to the uncle, these events do not merely flow on from the threats the Appellant received, yet there is no assessment of the evidence in relation to this part of her claim. There is no reference to the article which the Appellant claims to have written, and therefore no consideration of whether this article was the reason for the arrest.
13. I find that the judge erred by failing to engage properly with the Appellant's claim for asylum on account of her imputed political opinion. He has failed to consider the Appellant's claim to have been arrested, detained and questioned, and has failed to give adequate reasons for why this part of the Appellant's claim was rejected. I find that this is a material error of law.
14. I further find that the judge has erred by failing to address the Appellant's claim to be a member of a particular social group.
15. I have taken account of the Practice Statement dated 10 February 2010, paragraph 7.2. This contemplates that an appeal may be remitted to the First-tier Tribunal where the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for the party's case to be put to and considered by the First-tier Tribunal. Given the nature and extent of the fact-finding necessary to enable this appeal to be remade, and having regard to the overriding objective, I find that it is appropriate to remit this case to the First-tier Tribunal.

### **Notice of Decision**

The decision involves the making of material errors of law. I set the decision aside.

The appeal is remitted to the First-tier Tribunal for rehearing.

Signed

Date 11 March 2016

Deputy Upper Tribunal Judge Chamberlain