



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/05561/2012
AA/05562/2012
AA/04388/2012
AA/04390/2012
AA/05564/2012

THE IMMIGRATION ACTS

Heard at North Shields
on 13th March 2014

Determination Sent
on 30th May 2014

Before

UPPER TRIBUNAL JUDGE HANSON

Between

NM
SNM
AM
HSM
KA

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Pickering instructed by Parker Rhodes Hickmotts.
For the Respondent: Mr Mangion Home Office Presenting Officer.

DETERMINATION AND REASONS

1. This is a resumed hearing in respect of the above citizens of Pakistan. NM (born 4/1978), SNM (born 6/1985), AM (born 12/1976), and HSM (born 1/1954).

They form a family unit of three sisters and their mother. KA is the son of NM and is a minor child born in 2011. Although stated to be an appellant in his own right there is no material that would permit KA to succeed on that basis and so he is, in reality, dependant upon his mother's claim. I shall therefore focus on the cases advanced by the remaining appellants.

2. The appellants have been linked for the purposes of this hearing although arrived at this point by differing routes. Following a hearing at North Shields on 12th August 2013 I found First-tier Tribunal Judge Sacks had materially erred in relation to the determination of NM, SNM and KA's claims such that his determination was set aside. The factual findings made regarding these appellants immigration history and religious identities are preserved. In the 21st October 2013, at North Shields, Judge Aitken (Deputy Chamber President – HESC) considered a challenge to the determinations written by First-tier Tribunal Judge Traynor by AM and HSM. Having found an error of law Judge Aitken set the determination aside but stated there were no preserved findings. There is however no dispute before me regarding the religious identity of these appellants either. It is accepted that the above appellants are all members of the Ahmadi faith.

Background

NM

3. In her evidence to the First-tier Tribunal NM stated that she had worked as a teacher whilst in Pakistan lecturing at the University of Architecture. She married in October 2008. Her husband travelled to the United Kingdom in July 2010 and at that time they were separated although did communicate with each other. KA is the child of this relationship. After marriage she lived with her husband's parents until she became pregnant when she moved to live with her own mother.
4. NM claims that from childhood she has faced problems in Pakistan due to her faith although from May 2011 the problems intensified both with regard to her and her sister. At this time she and her sister, SNM, moved to Karachi where they met a lady and her daughter named Arsheem. They were invited to Arsheem's house. They called in two to three days later and in general conversation NM claims she started talking about her Ahmadi faith. NM believes that Arsheem became interested. A few days after the meeting NM and SNM were on their way to a shop when they were stopped by three men who accused them of being 'qadiani' and threatened that unless they stopped preaching they will be killed. NM did not report the incident to the police and they carried on to the shop.
5. NM alleges a second incident occurred in June 2011 when she was walking home from work. Three men stopped her and made threats against her whilst

at the same time attempting to steal her purse. They were not the three individuals who had stopped her earlier.

6. NM alleges a third incident occurred about 9th June 2011 when she claims that whilst returning home from work she was stopped outside the door of her home by three more men, one of whom she recognised as one of the men who had threatened her previously. She claims on this occasion threats were issued against her son because of her faith. NM alleges she was told that the men were aware that she worked in a highly paid job and that no Ahmadi should be allowed to work in such a position.
7. NM reported the matter to the police who it is alleged were not interested and who refused to listen to them. NM also alleged that she had been followed to work by a person on a bicycle and that there were further incidents in mid-June 2011, when three people again approached her and her sister and issued threats, and on 25th September 2011 when three men approached her and her sister carrying weapons, made verbal threats, and pointed a gun towards KA although they were all allowed to return to their home.
8. NM had applied for a visa to come to the United Kingdom and she decided after the final threats to leave Pakistan. She left the accommodation in Karachi on 18 October 2011 and returned to the family home in Hyderabad where she and KA remained until 9th November 2011 when they travelled to the United Kingdom using her valid student visa. NM did not claim asylum on arrival. The second appellant, SNM, had left Pakistan and travelled to the United Kingdom earlier on 18th October 2011.
9. NM told the First-tier Tribunal that since February 2012 the people who threatened her and her sister have also begun causing problems for her family in Pakistan. She has a sister AM who works at a hospital and NM told the First-tier Tribunal that those who had been issuing the threats against her attended the hospital and made threats against her sister and told her sister they will not leave NM and KA alone. NM claimed that on 24th February 2012 an incident occurred when AM was travelling between Hyderabad and Karachi. She claimed she believed she was being followed by a car containing individuals who looked similar to those who had threatened her at work. She panicked and asked the driver to speed up at which point there was a collision. AM broke her shoulder in the accident and was admitted to hospital.
10. NM conceded that since that date there has been no specific problems other than the family being generally harassed because of their Ahmadi faith; although she fears that if returned to Pakistan she shall be targeted by those who threatened her in the past because of the fact she has been talking to people about her faith coupled with the fact that she has a good job.

11. In a supplementary witness statement dated 5th March 2014 NM claims that the family have moved from their original family home to another address within Hyderabad as they received a further threatening letter. It is claimed this move occurred in August 2012 and that they experienced no problems until people learned they are Ahmadi. She claims it is difficult for them to leave the house as people follow them, her uncle's daughter has been told not to play with some children due to her religion, and her uncle only attends the local mosque on Friday afternoon prayers due to the risk of being attacked and varies his route and tries to dress differently so as not to be recognised. Since January 2013 he has received calls from people asking to meet him in various locations to get information regarding the Ahmadi Jamaat. She states her uncle tried to leave the country but has not been successful to date.
12. NM also alleges that another cousin has been targeted due to his faith and shot dead.
13. In relation to her activities within the United Kingdom NM states that there are around 15 to 20 Ahmadi families near to where she is staying and that they meet at each other's houses once a month for religious meetings and to discuss other issues. She also states she has attended the annual convention and religious events. In October 2012 NM was nominated to provide information about the faith to new converts. She attended a Quran exhibition at Newcastle library, has distributed leaflets, and tries to preach. She has been involved in anniversary celebrations and prepared a presentation 'History of Ahmadiyya Community in the UK' which was given by the President of the Women's Group at the anniversary celebrations.
14. NM also claims to have attended the local annual female meeting held in Newcastle on 14th September 2013 where there are speech competitions, Quranic recitation competitions, reading competitions, poetry competitions and indoor games. It is attended by all Ahmadi ladies from Newcastle and NM won the speaking competition. She also attended the North East regional meeting in Bradford in September and took part in a speaking competition there in which she came third, but did not attend the National meeting in London as she has her son to care for; although she did attend the National meeting in 2012.
15. NM refers to work undertaken with a local school, further exhibitions, invitations to attend other national events in the United Kingdom which she has not attended as her son would not have stayed away from his home overnight and other family could not assist. There is an International Women's Day seminar on 12th March 2014 in Newcastle at which they hope to explore the role of women in Islam as defined by the Quran at which NM is due to speak.
16. NM claims that since arriving in the United Kingdom she is now preaching to all her friends in Pakistan and she is a lot more confident in preaching to them

as she knows she is safe in the UK. She uses an e-mail account and would never have thought of doing such in Pakistan due to the fear of retribution. NM states she is willing to talk to anybody who will listen about her faith including that of the groups and organisations who have knocked on her door attempting to convert her to Christianity. NM states that after working as a Secretary Nau Muba'ia (new converts) she was nominated as a Secretary Tabligh (preacher) in October 2013. In her previous post she would go to the homes of recent converts to the Ahmadi faith twice a month to teach the Ahmadi syllabus. In her new role she is required to encourage all the women in the Jamaat to try and preach to others.

17. In November 2013 NM became Secretary of Wagf-e-Jadid and Tehrik-e-Jadid a role which she is required to chase donations from every woman who is registered in Newcastle to give regular donations to the Ahmadi Association, an activity she continued with until January 2014.
18. On 14th January 2014 the biennial elections for the post of local Lajna President occurred. The current office holder was re-elected for a further two years and thereafter NM nominated as Secretary of Publications. This requires her to persuade others to write articles and publish them and help organise and arranging bookstores and exhibitions.
19. In paragraph 17 of the supplementary statement NM states "I never even thought of preaching in Pakistan because I knew the risks involved for us as Ahmadis. We have grown up being discriminated against and marginalised in society. We knew from growing up we were not liked as Ahmadi and that people were even killed for being Ahmadi. We therefore would not even mention that we were Ahmadi unless somebody showed a genuine interest. When I applied for my studies or work I would always mention that I am a Muslim because this is what I believe I am. However, in Pakistan, we are not recognised as Muslims. In Pakistan we are deemed to be non-Muslim (kafir). We are not even allowed to call ourselves Muslims. How could I even think about preaching when Ahmadi are not even considered to be Muslims in Pakistan."
20. NM states that she feels the aim of her life is to preach about her faith and which she wishes to do freely. Her son is also an Ahmadi who she would like to be a preacher one day but she states it will be very dangerous if they continued to remain in Pakistan, but which he can do safely in the United Kingdom.
21. NM confirmed the content of her statements are true in her oral evidence before the Upper Tribunal. In reply to questions put to her in cross-examination she confirmed she moved to Karachi in 2006 as a result of obtaining her job at the University. She was not married at that time but married in October 2008, although then asserted it was not a proper marriage but that they were contracted to marriage. She lived with her in-laws after the wedding in 2010.

She remained in Pakistan when her husband went to work in the United Kingdom although stated in her oral evidence that they are not formally separated. She claimed there was no contact but then not there was no contact but just not the type of contact that there should have been between them.

22. NM stated she rented accommodation in Karachi after the birth of her child as a result of her employment. Initially the child and her sister remained at the in-laws too but that did not work out and so they rented a place they could live in together. Her uncle had no objection as she was in Karachi where she had a job and they were not worried about them living on their own.
23. NM was asked about the threats and stated she was not threatened at her place of work but when she lived with her sister she was threatened. She gave up her work when she came to the United Kingdom, shortly before that.
24. NM stated that she was aware of relatives in Karachi but did not have much contact with them even though she had received threats.
25. NM claims that her cousin was attacked but has now recovered. He wishes to leave the country as do his family.
26. NM was asked when she made the decision to leave which she stated was when she started work and receive the threats in Karachi. That was when she made her mind up by June and decided to go with her sister. When asked why when she had decided to leave she did not return to Hyderabad, she stated that it was important to remain in Karachi for a work and claimed that people will get her there in any event.
27. NM was asked about the 2011 application to obtain a visa to study in the United Kingdom and whether it was genuine or just a method to get to the United Kingdom to which the reply was "Yes I wanted to claim asylum".
28. NM was asked if she intended to study, why her sister took an English test in February 2011 prior to the event she complains of, which NM claims was because her sister returned from the United Kingdom and wanted to test her knowledge of English. She herself undertook the test as she wanted to leave the country and her previous test expired at that stage. She claimed she had no knowledge of asylum.
29. NM claimed her mother/uncle sold the family house in May 2011 although accepted it could be later. She was therefore asked why in her visa application in September 2011 she gave the same address as her residential address which she claimed was because the address had not changed and that she used to go there to collect her mail, although then claimed she did not go there physically as

another person did. The home address was also used while she was in a hostel in Karachi as that remained her home address.

30. NM was asked why she did not claim asylum on arrival in the UK to which she replied that her sister was coming here and was not sure of the procedures and wanted to check how to apply for asylum here. When it was put to her that the reason she had not claimed was because she knew AM was intending to join her and she did not want to cause trouble for her, she claimed she was worried at the time for her and her child, but did not directly answer the question and claimed that it could be merely coincidental that she claimed asylum six days after her sister arrived in the United Kingdom.
31. NM confirm that she maintained contact with her sister after coming to the United Kingdom and that she knew she had made the visa application although claimed not to be able to remember when she learned this fact.
32. NM is asked about the comment in the asylum interview that she did not have to be qualified to be a preacher and why she therefore only started preaching when she came to the United Kingdom. She referred to the fact there is no proper training for a preacher but her knowledge of her religion is something she has and that she can speak about. She confirmed she has never met Dr Chaudhry and when asked whether her sister and mother had ever met him she referred to similar questions at the previous hearing and referred to a conversation on the telephone about the evidence, proceeding to have the evidence, and that he wanted to know how long. NM confirmed that Dr Chaudhry stated he followed his own procedures in obtaining the evidence and that she had great respect for him. She believes the evidence was obtained from Pakistan and also from Newcastle. NM was advised that the letter from Dr Chaudhry does not mention any community activities in Pakistan which she mentions, only what she has undertaken in the United Kingdom, to which she claims that in Pakistan it is impossible to obtain such material. When asked why she held no positions of responsibility in Pakistan she claimed it was because she was a female and could not do what her uncle was doing as he was able to do many things. NM confirmed she had no conversation with Dr Chaudhry regarding her uncle and did not think any of her relatives did either.
33. It was put to NM that as it is claimed there are strong family connections to the Ahmadi faith it would have been helpful to have got something regarding her uncle. She stated it was her beliefs and that she did not have to go through her uncle. He was their guardian and the family are in Sunderland because of him.
34. NM confirmed that she met Mr Tahir and she came to Newcastle. He is the President of the local Ahmadi community as a whole. He is at the centre when she attends, she has met him, and sometimes rings him when she has questions although she does not need to speak to the President directly as she is able to go

through other members such as the female President. NM was asked if it was necessary for her to go through the female President why that person was not present to give evidence for her, to which she stated she made a request for somebody to come and support them and that the President was sent.

35. There is in a bundle a letter from the Ahmadiyya Muslim Association UK dated the 7 January 2013 [section B] relating to NM written by Dr Chaudhry, the Secretary of the General Affairs Department of the Association in the UK. In relation to information derived from contacting the headquarters in Rabwah in respect of NM the letter confirms that (i) she is an Ahmadi Muslim by birth (ii) she is married (iii) the contact incorporation within the Ahmadi Muslim community was good (iv) she was good in discharging her financial obligations to the community and the duties reposed in her (v) a general moral condition was good (vi) she was connected to her auxiliary organisation (in her case the Lajna Imaillah which looks after the affairs of female members of the community) (vii) there was no case registered against her by another member of the community (viii) general impression about her within the community was good (ix) a character in borrowing and lending transactions within the community was good.
36. In relation to information obtained from the President of the Newcastle upon Tyne branch, it is said NM (i) attends congregational prayers, Eid festivals, annual convention of the community, annual gathering of the females and branches general monthly meetings (ii) participated in the preaching programmes of the branch including door-to-door distribution of leaflets and creating awareness of Islam and invite members of the public to the message of the Ahmadiyya Muslim community (iii) helping holding Quran exhibition (iv) inviting her non-Ahmadi friends to the branch's functions, and (v) performing the duties assigned to her by the community officials.

SNM

37. In her evidence to the First-tier Tribunal SNM stated that she used to go with NM and distribute leaflets at the library, in GP's surgeries, and at neighbour's houses in the UK providing leaflets regarding the Muslim faith. It is recorded that when she was asked what she did in Pakistan for the Ahmadi faith SNM stated she was not able to do anything for if anyone found out she was of the Ahmadi faith they would not react favourably or even talk to her. She states that on Friday they would say prayers and would inform other females about meetings that were being held with the female members of the faith.
38. SNM had previously travelled to the United Kingdom lawfully as a student but claims that on the occasion she last entered, it was to save her life. At a resumed hearing on 23rd February 2013 before the First-tier Tribunal, photographs relating to an art exhibition at Newcastle Civic Centre did not show SNM in any

of the photographs and it is recorded that at the earlier hearing she admitted that she had limited knowledge of the Ahmadi faith.

39. In her oral evidence SNM confirmed the contents of her witness statements was true and in reply to supplementary questions claimed she wished to convey the message of her religion to everybody as she feels that it is the message of her religion.
40. In reply to questions put in cross-examination SNM confirmed her uncle had no objection to her living with her sister in Karachi although he would ask about their well-being. She confirmed that after the first threat she told her uncle straight away who told them to return home although they did not as her sister had a job there. The uncle did not visit them as they told him not to come. She did not know whether the family had contacted anybody else to protect them. She claimed there was nobody for them to turn to in Karachi. When asked why they did not move SNM claimed there were problems with the state wherever they went.
41. SNM stated in June she decided to leave Pakistan although when asked why therefore she had taken the English language test before this date she claimed it was because she had recently returned from the United Kingdom and wished to test her level of English. SNM was asked why at the previous hearing she did not recognise her cousins name, which she claimed was because although she knew she had a cousin she had not met him. She claims not to have met any cousins in Pakistan.
42. SNM confirmed in her asylum interview that she stated the reason she did not claim asylum at the airport was because she was going to move elsewhere in a few years time, which she confirmed was correct, and that was why she therefore did not claim until after her other sister arrived. She confirmed that it was a week after her sister arrived that they made the claim. She confirmed that she was in contact with AM in the UK and the fact she had claimed asylum eleven days after her sister was granted a visa was pure coincidence.
43. SNM was asked about activities she undertook in Hyderabad which she stated was attending meetings, saying her prayers, and going with her mother. She did not preach and did not undertake religious activities discreetly. She claims to have undertaken many activities in the UK and to have held positions of responsibility such as the Secretary of Health and Safety and to have instructed members regarding their health such as the right foods and physical issues. These activities are undertaken at member's houses during the week. She claims the role was given to her by the female President of Newcastle. It was put to SNM that Mr Tahir had claimed she was elected although she claimed there was no election and that the female President decided she could to do the job which was why she was chosen. SNM also claims to teach the children in a 'Sunday

school' type structure/environment and to have distributed leaflets in the local library. It was put to SNM that at the previous hearing she had said she was not distributing leaflets. She confirmed she would take her sister to the library who would do the leafleting and that she would help her sister but that her English was not good enough. SNM was asked why as she had previously studied and undertaken examinations in the United Kingdom she did not think her English was good enough, to which she stated it was not her first language although she does hand out leaflets now and has taken a course at college.

44. SNM was asked why when she was in the United Kingdom between 2009 and 2011 as a student she did not get involved in the Association in the UK at that time. She stated it was because she was a student and she had studies and a job and no free time and that her English was not good enough, although when it was put to her that her studies and work would have been in English and that her standard must have been good enough to do that, she was unable to provide a satisfactory explanation.
45. It was also put to SNM that on the last occasion she was unable to name the head of the Newcastle branch which she stated was because she has to address him as President and that she only knew his name recently.

AM

46. It is recorded in the First-tier Tribunal determination relating to the appeals of AM and HSM that AM is a medically qualified doctor who entered the United Kingdom on 24th March 2013 having been granted entry clearance as a visitor. She was accompanied by her mother HSM and they both claimed asylum on arrival.
47. AM's case is that she was born in Hyderabad where she lived all her life. Her father died in 1989 and she lived with her parents and two sisters. After her father's death her maternal uncle came to live with them. Her two sisters NM and SNM came to the United Kingdom in October and November 2011 when they claimed asylum. At the time they left Pakistan they had been living with AM, her mother, and uncle.
48. AM states that she has been an Ahmadi Muslim since birth and the threat to her life arises as a result of her encountering problems on account of her religious beliefs. She claims that she was socially boycotted and faced discrimination at work. Her two sisters left Pakistan in 2011 as a result of problems they were experiencing on account of their religious beliefs at the hands of extremist Muslims who lived in the area and who turned against them. AM claims that her own problems were initially limited to acts of discrimination although they escalated in early 2012. AM alleges that on 7th February 2012 whilst working at the Aga Khan Hospital in Hyderabad three men entered the room where she was working posing as a patient and attendants. She claims they identified her

as Ahmadi and told her she could not be Muslim in Pakistan and that they would not leave her alone and made reference to finding "two girls" which she took to be a reference to her sisters who had previously encountered problems at the hands of Muslim extremists. She therefore believed her problems were associated with those of her sisters. After issuing threats the men left the hospital without harming her. AM claim she did not tell the hospital authorities but chose to telephone her mother and thereafter continued her work.

49. On 24th February 2012 she had been to Karachi to attend a medical event and was returning to Hyderabad in a taxi. She claimed she was being chased by the same people who had previously threatened her and requested the driver to drive faster as she feared she might be shot although the taxi collided with another vehicle, as a result of which she was knocked unconscious and injured. She was taken to hospital and treated for a damaged right arm. Her uncle reported the matter to the police who she claims viewed it as a simple road traffic accident and not one connected to any element of religious persecution. AM did not return to work or leave her home for two to three months, finally leaving it in May 2012.
50. AM then accepted in her evidence that she had in fact left the home prior to May 2012 as it was necessary for her to apply in person for her student visa which she did on 2nd April 2012. She also travelled to Islamabad on 10th April 2012 to attend an interview relevant to her entry clearance application resulting in entry clearance being granted.
51. AM claims that in March 2012 unidentified youths threw stones at the home which had attached to them notes which it is claimed contained threats to kill her and references which she believed were to her two sisters and nephew who had already fled from Pakistan in 2011.
52. AM claimed that from June 2012 to February 2013 she did not experience any 'major incident'. She did not leave her home frequently and believed there were people who wished to harm her. She claims people would stare at her and her mother who looked like the people who had previously tried to harm her.
53. In February 2013 AM travelled to Rabwah in order to marry. It was an arranged marriage and her husband is a Pakistani national who holds a Green Card entitling him to work and live in the United States of America. He travelled to Pakistan for the wedding which took place on 26th February 2013. After the wedding she stayed with her in-laws in Rawalpindi. Three to four days later her husband took her and her mother to a shopping area. She claimed she was about to get out of the car when she saw a man standing there who she felt was going to target her because he "looked that type of person". AM decided that she had to leave Pakistan. She and her mother returned to Hyderabad on 19th March 2013 and her husband returned to the USA. She claims that at the time

she was absent her uncle received threatening phone calls from what she thought was a 'jihadi' group.

54. AM experienced no further problems and left on 24th March 2013. She experienced no problems exiting Pakistan and flew to the United Kingdom. She claims that if returned to Pakistan she will be killed by the people who previously targeted her and her family solely on account of their Ahmadi faith.
55. AM advised the First-tier Tribunal that her plans are to follow her husband to the United States of America and when he gets his citizenship he will call her over. They maintain telephone contact on a daily basis and via Skype.
56. During the hearing Miss Pickering handed the Upper Tribunal a copy of a letter from the United States Department of State, National Visa Centre, addressed to AM referring to her interest in emigrating to the United States of America and informing her that visa numbers are not presently available for her use and that she will receive further notification when the authorities are in a position to process the application. The letter refers to the fact there appears to be a cap on the number of migrants permitted to enter in law and that the number of applicants exceeds the number of available visas. The letter states she has a priority date of 4th November 2013 and indicates that for some categories, such as F3 or F4, applications could take many years; although AM's category is stated to be F2A - spouses and unmarried children of permanent resident.
57. In her oral evidence to the Upper Tribunal AM confirmed the contents of her witness statements to be true. In reply to supplementary questions asked by Miss Pickering she confirmed that she will set out her religious views wherever she may be because as a Muslim this is what she has to do, which is what they were told to do by their Creator. AM stated that she was born in Pakistan but in Pakistan she did not have the freedom to discuss faith openly whereas in this country they are able to discuss their faith.
58. In cross-examination she was asked about the first occasion when she claims to have been threatened and denied saying that one of the men had a gun although she had an idea that he had a hidden weapon. It was put to her that in a letter she wrote for her sister's appeal AM had stated that she had been shown the gun and she was asked why she is now claiming it was hidden, to which her reply was that the man did not produce the gun and show it to her but that they were pointing to the gun.
59. In relation to the road traffic accident, AM was asked who was driving the car to which she stated it belonged to the hospital and was a car from the hospital. She claims to have read about the accident. The driver was unaware of any previous threats and she told the driver to speed up when she saw the people following her and she became worried. When asked where the car was that she thought

was following she stated they had left Karachi and were going to Hyderabad. She claimed she was sitting in the back seat of the car when she looked back and realised they were being followed. When asked whether the vehicle following had come along side as if to overtake them AM claimed that she saw them from the side and that this when she knew that she was being followed. It was then put to AM that in the letter written in support of her sister's appeal she had only said that the car was following and was close behind which suggested it was then she realised she was being followed. Her response was to say she was not looking backwards and that the car tried to overtake and that she told the driver to hurry up. It was also put to AM that on two occasions in interview she had said that following the accident she had not left the house for two and a half months and had not mentioned going to Islamabad which would have necessitated her leaving the house, to which her reply was that she had to go to Islamabad for an interview regarding her Visa. When she was asked why she claimed not to have left the house for two and a half months when clearly she had, she stated that she did not consider going to the interview as going out and that she was really frightened to go anywhere during that period. When asked whether other than for the Islamabad interview she had left the house during this period she claimed she did not go anywhere. AM was asked whether she had any hospital appointments regarding her injuries but claimed she contacted the hospital by telephone although it was then put to her that she had had a cyst removed within the two and a half month period, which she confirmed was the case. AM claims she never had to return to the hospital during this period despite having metal plates inserted in her body and when it was put to her there was evidence of a follow up appointment on Friday 2nd March at 9:30 AM in the documents she claimed she did not attend as she did not want to leave the house and went to a follow up appointment in Hyderabad.

60. AM was asked why she obtained a medical certificate if she had no intention of returning to work in Karachi which she claimed she needed because she had metal in her body. When asked why she had not left Pakistan as soon as she had received a Visa she claimed it was due to the accident and because she was depressed. In relation to the event in the car park after her marriage she claims she had a feeling about the man who was there. When asked whether it was due to that incident she decided to leave Pakistan she claims she explained the circumstances to her husband and the in-laws and it was decided she needed to leave the country. Her husband returned to America but she did not accompany him as she did not have a Visa and thought a visa would take a long time to acquire. AM confirmed that her husband had applied to the immigration authorities for her to join him which produced the letter referred to above from the American Department of State. She confirmed it is her intention to join her husband, whether or not she will be accompanied by her other family members.
61. AM was asked about the lack of a letter from the Ahmadi Association regarding her activities but she claimed the letter from Mr Tahir referred to her. She

claimed that during the last few years most of the activities had stopped at the Association but before that she went to a convention and worked in the Ahmadi hospital. When it was put to her that Mr Tahir had not mentioned this in his material she claims that his letter refers to the whole family. AM also referred to two letters from Dr Chaudhry and the Association and that he had been told about her activities in the United Kingdom. AM confirms that Mr Tahir would have known of her activities through the female President of the section.

62. A letter from the Ahmadiyya Muslim Association UK dated 2nd June 2013 and written by Dr Chaudhry relating to AM refers to information received from the headquarters in Rabwah stating that (i) AM is an Ahmadi Muslim by birth, (ii) she is married, (iii) the contact and corporation which the community were good, (iv) she was good in charging her financial obligations to the community and the duties assigned to her, (v) a general moral conduct was good, (vi) she was connected with her auxiliary organisations (in her case the Majlis Lajna Imaillah, the auxiliary organisation that looks after the affairs of female members), (vi) there was no case registered against her by another member of the community. There is no reference to any other activities undertaken by her in Pakistan.

HSM

63. HSM contended before the First-tier Tribunal that if she is returned to Pakistan she will face ill-treatment on account of her Ahmadi religious beliefs. She had only undertaken two or three years education in her youth but has never worked and has always been a housewife. She had no personal involvement with the Ahmadi community while she was living in Pakistan due to objections that were in place in 1984. The only occasion she had spoken about her religion to anyone was with a woman who she employed as a cleaner in her home although the conversation had not come to anything and all she had done was explain her Ahmadi faith.
64. HSM relies upon the fact that AM had been threatened at her place of work in a hospital, that stones had been thrown at their home with notes attached to them, which she stated contained threats as a result of their religious identity. She claims to have been present in Rawalpindi in February 2013 with her daughter and son-in-law when she claimed they had been followed but managed to escape. She left Pakistan with a valid visa entitling her to visit the United Kingdom and identified no other adverse incidents concerning her personal circumstances on account of her Ahmadi religious beliefs.
65. HSM advised the First-tier Tribunal that since arriving in the United Kingdom she is now actively involved with her local Ahmadi Association and referred to her other daughters who arrived in the United Kingdom in 2011 and claimed asylum. In her oral evidence she confirmed that all of her own brothers remain

in Pakistan and one sister, allegedly, encountering problems due to their Ahmadi faith. She also claims to have health problems such as diabetes, high blood pressure and heart problems and not to have a good memory.

66. HSM advised the First-tier Tribunal that she spent most of her time at home in Pakistan that she had not encountered problems from the lady who she employed and spoke to about her faith. Her brother, who assisted following the death of her husband, continues to occupy the family home in Hyderabad. He occupies his part of the home with his wife and four children, a son aged 20, daughters aged 15/16, 12 and 4 (evidence given July 2013). HSM claimed the family members have been harassed and in her witness statements and interview record claimed others had expressed interest in her and her daughter since they left Pakistan, which she clarified by reference to the fact that there was no particular interest about her or her daughters but that her brother had spoken about difficulties the Ahmadi's were facing in general.
67. In her oral evidence to the Upper Tribunal, HSM confirmed the contents of her witness statements were true and in reply to questions put in cross-examination confirmed that after her husband's death her brother moved in with her in her household. At that time there were five people in the family including her daughter's but later her brother married and lived there with his wife and children. When her daughters moved to Karachi she lived in the house with her eldest daughter, her brother, and his family.
68. HSM confirmed her brother received telephone calls from numbers threatening him although the threats were only on his mobile phone not made in person.
69. HSM was asked about activities she undertook for the community in Pakistan to which she stated she used to take part in activities for the faith but later stopped. She was asked if following the accident to her daughter they moved house to rented accommodation and that if they have, in fact, moved twice which she stated was to avoid the attention of the neighbours. The last move was in August 2012 prior to coming to the UK. HSM was asked whether she would preach or try to convert at her property which she stated she did within the household where she considered the risk to be slight. The person who worked for her work did so at two addresses.
70. HSM confirmed she has four brothers and one sister living in Hyderabad and one in another place. She claims they have all been targeted as all members of the Ahmadi community are targeted. She stated none of the siblings has attempted to leave Pakistan but are in fear. HSM confirmed she had not undertaken any activities for the Association in the UK as she claimed she cannot speak English although she would speak to an Urdu speaking family and that she does distribute leaflets.

71. The letter from the Ahmadiyya Muslim Association UK dated 2nd June 2013 regarding HSM, signed by Dr Chaudhry refers to checks undertaken with their headquarters in Rabwah from which it is said that (i) HSM is an Ahmadi Muslim by birth, (ii) her contact and corporation with the community were good, (iii) she was good in discharging her financial obligations to the community and the duties assigned to her, (iv) her general moral conduct was good, (v) she was connected with her auxiliary organisations (in her case the Majlis Lajna Imaillah, the auxiliary organisation that looks after the affairs of female members), (vi) there was no case registered against her by another member of the community (vii) the general impression about her was clear that she was good.
72. The Upper Tribunal also heard evidence from Mr Tahir who entered the United Kingdom in 2003 seeking asylum but was eventually granted ILR under the legacy scheme and who is now a British citizen. He is president of the Newcastle branch of the Association.
73. In his letter of 1st March 2014, which stands as his evidence in chief, he states that all four adult appellants are active members of the Newcastle branch especially within the auxiliary organisation relating to the female members of the community. Mr Tahir states that to the best of his knowledge each member of the family took part in all or some of the following activities (i) attending the annual regional convention in Bradford and national convention in London which is for women only together with the annual convention for every member of the Association, (ii) hold regular one-to-one discussions about Islam/Ahmadiyyat, (iii) circulate the books, leaflets to non-Ahmadis, (iv) attend Quran exhibitions organised in Newcastle libraries in addition to all exhibitions held by the women's organisation, (v) the awareness campaign in local schools about the faith, (vi) attempt to bring as many guests to their question and answer sessions in Newcastle, (vii) invite friends at home and make good relationships.
74. Mr Tahir also states that the President of the women's group has made the following appointments:

NM: Secretary Nau Maubeen (new converts) in 2002

Secretary Tabligh in 2013 for a period of one month

Secretary Tehreke Jadid/Weqfe Jadid (new scheme) in 2013

Appointed to the office of Secretary Ishaat by President of women in January 2014.

SNM:

Secretary Nasirat (young girls) in 2013.

Appointed for the office of Secretary Health and Fitness by Pres of women in January 2014.

75. In reply to supplementary questions Mr Tahir claimed that as the President of the local branch he has personal contact with each member of the community together with contact with the President of the women's side, who he asked, who did what.
76. In reply to questions put in cross-examination he confirmed he met the appellants in person in 2012 when they came to Newcastle and that he has sometimes seen them individually. When asked why the President of the women's side had not come to give evidence he claimed it was not up to him to decide who was coming as the decision was made by the main Association and that they are unable to attend without permission. He was unaware why nobody from the Association attended the previous hearing as he was unable to say whether an application was made for anybody to attend.
77. Mr Tahir was asked whether he had personally seen any of the appellants preaching in the UK. He confirmed he had not personally but what he knew he had heard from the women's President as he was not involved with the women. When he received the requests for help he contacted the women's President who told him what they had done and details of their work in the community. He stated that all activities are recorded in a book and the list of the events are recorded.

The law

78. In **MN and others (Ahmadis - country conditions - risk) Pakistan CG [2012] UKUT 00389(IAC)** the Tribunal held that (i) This country guidance replaces previous guidance in **MJ & ZM (Ahmadis - risk) Pakistan CG 2008 UKAIT 00033** and **IA & Others (Ahmadis Rabwah) Pakistan CG [2007] UKAIT 00088**. The guidance we give is based in part on the developments in the law including the decisions of the Supreme Court in **HJ (Iran) [2010] UKSC 31, RT (Zimbabwe) [2012] UKSC 38** and the CJEU decision in **Germany v. Y (C-71/11) & Z (C-99/11)**. The guidance relates principally to Qadiani Ahmadis; but as the legislation which is the background to the issues raised in these appeals affects Lahori Ahmadis also, they too are included in the country guidance stated below; (ii) (a) The background to the risk faced by Ahmadis is legislation that restricts the way in which they are able openly to practice their faith. The legislation not only prohibits preaching and other forms of proselytising but also in practice restricts other elements of manifesting one's religious beliefs, such as holding open discourse about religion with non-Ahmadis, although not

amounting to proselytising. The prohibitions include openly referring to one's place of worship as a mosque and to one's religious leader as an Imam. In addition, Ahmadis are not permitted to refer to the call to prayer as azan nor to call themselves Muslims or refer to their faith as Islam. Sanctions include a fine and imprisonment and if blasphemy is found, there is a risk of the death penalty which to date has not been carried out although there is a risk of lengthy incarceration if the penalty is imposed. There is clear evidence that this legislation is used by non-state actors to threaten and harass Ahmadis. This includes the filing of First Information Reports (FIRs) (the first step in any criminal proceedings) which can result in detentions whilst prosecutions are being pursued. Ahmadis are also subject to attacks by non-state actors from sectors of the majority Sunni Muslim population;

(ii) (b) It is, and has long been, possible in general for Ahmadis to practise their faith on a restricted basis either in private or in community with other Ahmadis, without infringing domestic Pakistan law;

(iii) (a) If an Ahmadi is able to demonstrate that it is of particular importance to his religious identity to practise and manifest his faith openly in Pakistan in defiance of the restrictions in the Pakistan Penal Code (PPC) under sections 298B and 298C, by engaging in behavior described in paragraph (ii)(a) above, he or she is likely to be in need of protection, in the light of the serious nature of the sanctions that potentially apply as well as the risk of prosecution under section 295C for blasphemy;

(iii)(b) It is no answer to expect an Ahmadi who fits the description just given to avoid engaging in behaviour described in paragraph (ii)(a) above ("paragraph (ii)(a) behaviour") to avoid a risk of prosecution;

(iv) The need for protection applies equally to men and women. There is no basis for considering that Ahmadi women as a whole are at a particular or additional risk; the decision that they should not attend mosques in Pakistan was made by the Ahmadi Community following attacks on the mosques in Lahore in 2010. There is no evidence that women in particular were the target of those attacks;

(v) In light of the above, the first question the decision-maker must ask is (1) whether the claimant genuinely is an Ahmadi. As with all judicial fact-finding the judge will need to reach conclusions on all the evidence as a whole giving such weight to aspects of that evidence as appropriate in accordance with Article 4 of the Qualification Directive. This is likely to include an enquiry whether the claimant was registered with an Ahmadi community in Pakistan and worshipped and engaged there on a regular basis. Post-arrival activity will also be relevant. Evidence likely to be relevant includes confirmation from the UK Ahmadi headquarters regarding the activities relied on in Pakistan and confirmation from the local community in the UK where the claimant is worshipping;

(vi) The next step (2) involves an enquiry into the claimant's intentions or wishes as to his or her faith, if returned to Pakistan. This is relevant because of the need to establish whether it is of particular importance to the religious identity of the Ahmadi concerned to engage in paragraph (ii)(a) behaviour. The burden is on the claimant to demonstrate that any intention or wish to practise and manifest aspects of the faith openly that are not permitted by the Pakistan Penal Code (PPC) is

genuinely held and of particular importance to the claimant to preserve his or her religious identity. The decision maker needs to evaluate all the evidence. Behaviour since arrival in the UK may also be relevant. If the claimant discharges this burden he is likely to be in need of protection; (vii) The option of internal relocation, previously considered to be available in Rabwah, is not in general reasonably open to a claimant who genuinely wishes to engage in paragraph (ii)(a) behaviour, in the light of the nationwide effect in Pakistan of the anti-Ahmadi legislation; (viii) Ahmadi who are not able to show that they practised their faith at all in Pakistan or that they did so on anything other than the restricted basis described in paragraph 2(ii) above are in general unlikely to be able to show that their genuine intentions or wishes are to practise and manifest their faith openly on return, as described in paragraph 2(a) above; (ix) A sur place claim by an Ahmadi based on post-arrival conversion or revival in belief and practice will require careful evidential analysis. This will probably include consideration of evidence of the head of the claimant's local United Kingdom Ahmadi Community and from the UK headquarters, the latter particularly in cases where there has been a conversion. Any adverse findings in the claimant's account as a whole may be relevant to the assessment of likely behaviour on return; (x) Whilst an Ahmadi who has been found to be not reasonably likely to engage or wish to engage in paragraph 2(a) behaviour is, in general, not at real risk on return to Pakistan, judicial fact-finders may in certain cases need to consider whether that person would nevertheless be reasonably likely to be targeted by non-state actors on return for religious persecution by reason of his/her prominent social and/or business profile.

79. In relation to the weight to be given to letters from the Ahmadiyya Association: in MN and others (Ahmadis - country conditions - risk) Pakistan CG [2012] UKUT 00389(IAC) the Tribunal held that evidence likely to be relevant includes confirmation from the UK Ahmadi headquarters regarding the activities relied on in Pakistan and confirmation from the local community in the UK where the claimant is worshipping. In AB (Ahmadiyya Association UK: letters) Pakistan [2013] UKUT 00511 (IAC) it was held that in deciding a claim to international protection based on a person's Ahmadi faith where credibility was in issue, the more that a letter from the Ahmadiyya Association UK contained specific information as to the claimant's activities in the United Kingdom, the more likely the letter was to be given weight.

Discussion

80. In his submissions to the Upper Tribunal Mr Magnion sought to rely upon the four recent refusal letters but not those parts of the letter alleging that there is a relocation option. He confirmed it was accepted that all appellants are Ahmadi from Pakistan and that the question was whether they are genuine Ahmadi and whether they would engage in what they cannot do on return without risk.

81. In assessing the activities and risk to each appellant I have considered the evidence in the round with the degree of care required that of the most anxious scrutiny. I do find from the evidence that there does appear to be a degree of collusion within this family unit and do not find that they have substantiated their case to the degree that they may have sought to do in their written and oral evidence, although that may not mean that they are not at risk on return. The issue in these appeals has always been what the answer is to the second key question posed in MN, namely what are the appellants intentions or wishes as to their faith, if returned to Pakistan. As found in MN this is relevant because of the need to establish whether it is of particular importance to the religious identity of the Ahmadi concerned to engage in paragraph (ii)(a) behaviour. The burden is on the claimant to demonstrate that any intention or wish to practise and manifest aspects of the faith openly that are not permitted by the Pakistan Penal Code (PPC) is genuinely held and of particular importance to the claimant to preserve his or her religious identity. The decision maker needs to evaluate all the evidence. Behaviour since arrival in the UK may also be relevant. If the claimant discharges this burden she is likely to be in need of protection.
82. This case also involves alleged acts of persecution against a highly qualified medical practitioner and university lecturer and so in addition it is necessary for me to consider whether the evidence supports the contention made by Miss Pickering in submissions that these two individuals are reasonably likely to be targeted by non-state actors on return for religious persecution by reason of their profile.
83. I make a general finding that the evidence shows that there is a family home available to any appellant who is unable to succeed. The evidence is that HSM's brother and family still live in the family home and it has not been established that any appellant who has to return to Pakistan cannot live there and do so safely. Claims that the brother or other family members have received threats I do not find to be substantiated on the evidence. The burden is upon an individual to prove what they are alleging and in relation to other family members this has not been proved to the level that would sustain a finding that they could not return to their previous home. Similarly it has not been established that AM who worked as a medical doctor and NM who is the university lecturer would not be able to re-establish their professional careers in Pakistan or that other family will be destitute or unable to support themselves, any claim to the contrary has not been substantiated.
84. The information regarding AM's application for a visa to join her husband in the United States of America has been noted but the Tribunal is required to determine the issue at the date of the hearing and so this can only be taken as an indication of a future intention to settle with her husband rather than being an offer of a life elsewhere whether she is at risk of persecution or not. I make this

finding as the removal direction to Pakistan was not withdrawn by the Secretary of State in light of this new evidence.

NM

85. NM, the university lecturer, does not specifically claim to have been targeted as a result of her status and only speaks of one event in Pakistan relating to her religious activities when she claims to have spoken to a woman by the name of Arsheen about her faith in May 2011. She claims as a result she was warned by three men and again in June and September although there is a material discrepancy in her evidence regarding the alleged incident in September. In her earlier evidence, including interview, she claimed she was threatened with a gun but, as reported above, later did not claim to have been so threatened but claimed the individual only pointed to a gun. Either she saw a gun or she did not and to have claimed she did but then did not is relevant to the weight that can be given to this element of the claim, which is not much.
86. I find that NM has not substantiated any claim to have been involved with her faith in Pakistan as a preacher, or to have practised her faith in the manner identified in the country guidance case so as to place her at risk. She states that following her leaving the United Kingdom there are no examples of attacks upon the family, rather what she describes as harassment.
87. The fact NM, an academically gifted individual, failed to claim asylum on arrival when claiming to have fled in fear of her life damages her credibility by virtue of section 8 of the 2004 Act. Claiming she did not know how to claim asylum has no merit as she could have asked at the airport when she came into contact with immigration staff, yet she did not. She entered using a visa that had been lawfully issued to her yet seems to infer that it was her intention never to return which justifies a conclusion that the visa was obtained fraudulently. If it was a genuine student visa she would have anticipated returning to Pakistan, but that is contrary to her evidence.
88. Notwithstanding the lack of any evidence of appropriate involvement in Pakistan, based upon her own evidence or the letter from the Association, it is clear from the evidence that NM more than any of the other appellants has involved herself substantially in the activities of the association in the United Kingdom. This has involved more than attending prayers and handing out leaflets but involvement with the number of committees and seeking and obtaining appointments within the various groups and undertaking work on behalf of the organisation which is corroborated by Mr Tahir.
89. Perhaps the most important part of NM's evidence is a statement that she has undertaken the work she has in the United Kingdom because she is not able to undertake such work in Pakistan as a result of the fear of retribution and threats. She indicates that she wishes to continue with such work if she was returned but

it is clear that she could not do so as work of that nature, which would require her to preach attend events/activities outside her faith group and therefore not to act discreetly, will place her at risk of persecution or ill treatment at the hands of the Muslim zealots or others within Pakistan, including potential breaches of the criminal code as identified in the country guidance case. If NM wished to continue her activities in Pakistan as she had in the United Kingdom, but did not do so solely as a result of the fear of the consequences, having demonstrated that these aspects of her faith are of importance to her, then she is entitled to succeed based upon the HJ (Iran) principal, again identified in the country guidance case.

90. Having considered the evidence in the round I find that NM has discharged the burden of proof upon her to the required standard to show that she will face a real risk on return to Pakistan and that the answer to the second question posed in MN is that whilst it may not have been the case in the past that NM has demonstrated any intention or wish to practice and manifest aspects of her faith openly that are not permitted by the Pakistan Penal Code (PPC) which are genuinely held and of particular importance to the her to preserve her religious identity which she was not able to openly expressing Pakistan, she has done since arriving in the UK at Newcastle when she has been free to undertake such activities and that her wish to be able to do so on return has been substantiated to the lower standard applicable to appeals of this nature .

SNM

91. In her evidence SNM confirmed that she had not undertaken any activities in Pakistan although did attend Friday prayer and speak to other females who attended those meetings. This is indicative of such activities being undertaken discreetly within a large group. SNM refers to the fact that had she spoke openly she may have been a risk but this does not appear to be a case of an individual wishing to do more but feeling unable to do so as a result of the risk of persecution, but of somebody who chose to act discreetly and limit their activities to those within the community.
92. SNM's case is also one in which I make adverse credibility findings. She was in the United Kingdom as a student, lawfully, previously but there is no evidence that she made any attempt during that period to join any of the Ahmadi communities in the United Kingdom which she would have been free to have done, without fear, if she was genuinely interested in her faith to the extent that she now claims. She could have engaged in any activity (within the laws of the United Kingdom) but the evidence does not even suggest she approached any of the Association groups. When asked about this she claimed it was because she was working and studying and that her English was not adequate but I find this provides no plausible explanation. SNM was studying in English and no doubt worked in an environment in which there was a need to speak English. She has not substantiated her claim that she did not have time to attend to her faith if so

required. The reality is that SNM entered the United Kingdom to study and work, and that this was more important to her than her faith or an opportunity to express her faith individually or through converting others. In addition there was the point that having returned she undertook a further test to obtain an English-language certificate. I do not find the explanation provided that she wished to test the level of English at all plausible and the fact that she took steps to obtain a further English-language certificate when the previous one had expired is indicative of a desire or intent to return to the United Kingdom at some point in the future, for which the certificate was one of the mandatory requirements.

93. I also find the chronology damages SNM's credibility. She entered the United Kingdom but only claimed asylum after her sister had obtained a visa. Although she tried to explain this away by claiming it was "a coincidence" I do not accept this explanation. This is clearly a very close family group where the sisters and their mother communicate and liaise with each other on what appears to be a regular basis and the suggestion that the real reason she delayed in making her claim was because she did not want to cause difficulties for her sister in her visa application I find to be the more likely explanation.
94. In relation to her activities in the United Kingdom, the evidence suggests that she has distributed leaflets with her sister and recently on her own and been appointed to Secretary Nasirat (young girls) in 2013 and as Secretary Health and Fitness in January 2014. I do not accept her claim regarding the lack of language skills as a plausible explanation for the lack of additional activities. These are posts within the Ahmadi community itself and there is no evidence that they involve any form of external preaching. I have taken into account the letter from the Ahmadiyya Association UK dated 7th January 2013 which confirms the lack of activities in Pakistan, and attendance at events within the community within the United Kingdom. The content of the letter is in general form rather than containing any specific particularised evidence of events which will place her at risk if repeated in Pakistan. Having considered all the evidence in the round I am not satisfied that SNM has demonstrated any intention or wish to practice and manifest aspects of the faith openly that are not permitted by the Pakistan Penal Code (PPC) as genuinely held and of particular importance to her to preserve her religious identity. I find this was an attempt to use her religion and religious activities in the UK to create a ground on which she will be permitted to remain in the United Kingdom which, despite her best attempts, has failed. I find she lacks credibility and has failed to substantiate her claim to have suffered any act of persecution in Pakistan or to be at risk on return.

AM

95. AM is highly qualified as a doctor with additional qualifications in surgery. She entered the United Kingdom with her mother HSM in March 2013 with a visit

visa but then immediately claimed asylum on arrival claiming that she fled Pakistan in fear of her life. This raises the question whether when making the visit visa application, at which point she would have told the entry clearance officer she intended to return to Pakistan, it was a valid application or whether that application was fraudulent and sought as a means to enable her to come to the United Kingdom to make the claim that she did on arrival.

96. AM claims to have suffered problems at work when men came in and harassed and threatened her and made references which she took to be to her two sisters. I find it lacks credibility that she would not have reported such issues to the hospital authorities and there are a number of other issues arising from AM's evidence that warrant adverse credibility findings being made against her. She was asked in cross-examination about a material change in evidence regarding whether the person allegedly threatening her had a gun or not and it is clear that her evidence in this respect was inconsistent. The key event that she states illustrates the risk she will face on return was the accident in the car. AM claims she was returning from a medical meeting/conference on one occasion in a taxi and elsewhere in a car owned by the hospital. She claims on one occasion that she was looking behind when she realised she was being followed as she was able to identify one of the individuals in the other vehicle, and asked her driver to go faster, but that there was an accident during which she was knocked unconscious. In another part of her evidence, however, she claimed she recognised the individual as being the one who previously approached her when the cars came alongside hers as if to overtake. This is a material discrepancy as to whether the car was behind or alongside and it is not unreasonable to expect a degree of consistency with regard to such a simple fact. AM claims that she suffered injury and had to have a metal plate inserted. It is not disputed that she was involved in a car accident or required medical treatment but this is not determinative of her claim although it appears arguable that she is using this event to bolster her claim.
97. AM was also inconsistent when she alleged that she was too frightened to leave the house and so remained in the house for two and a half months whereas the evidence indicated that this was not true. She attended an interview with the British High Commission in Islamabad during this intervening period and it is implausible that she would not have had medical checkups even though she denied attending those in relation to which evidence exists within the bundle. I find the attempt to explain away the discrepancy regarding the claim to have remained in hiding for two and a half months, that she did not consider travelling to Islamabad for the interview to amount to going out of her home, to lack all plausible or credibility, especially with such an intelligent individual.
98. AM returned home where she married but claims she felt threatened by individuals who she thought were looking at her and an individual standing around when they entered a car park with her husband and mother on a

shopping expedition. Even if true and therefore representing a subjective fear, such a claim has not been substantiated as being objectively well founded, and appear to lack any rationale at all, again bearing in mind the intellect that AM clearly possesses. I find these are accounts that she has invented, along with other aspects of her evidence, to bolster her asylum claim.

99. In relation to activities in Pakistan there is no evidence she undertook activities of the nature of those that would place her at risk in Pakistan and I do not accept she has substantiated a claim that she would face any risk as a result of her profession on the facts. In relation to activities in the United Kingdom the only evidence is that she has undertaken general tasks as identified by Mr Tahir and other family members. I am not satisfied that SNM has demonstrated any intention or wish to practise and manifest aspects of the faith openly that are not permitted by the Pakistan Penal Code (PPC) which are genuinely held and of particular importance to her to preserve her religious identity. I find, as with SNM, that this is an attempt to use her religion and religious activities to create a ground on which she will be permitted to remain in the United Kingdom which, despite the best attempt, has failed.

HSM

100. I do not find that HSM has been involved in any activities in Pakistan such as to create a real risk as her account of not doing so as a result of the outcome is not plausible. Her activities in the United Kingdom have been very limited and I do not accept her claim she does not speak English as a plausible explanation for not doing more. HSM entered in 2013 with her daughter AM and claimed asylum on arrival. As with her daughter this gives rise to the question whether the visit visa applications were in fact fraudulent if it was their intention all along to claim asylum and not return to Pakistan.
101. The claim to not to speak English as an excuse for not involving herself further is not accepted as all the appellants gave evidence through an interpreter in court and there is no indication that all members of the association in Newcastle only speak English. As a religion based in Pakistan it is more likely that members of the faith speak HSM's language and the reason she has not been involved to the extent one of the daughters has is because faith is not as important to her as she alleges. Having considered the evidence carefully I am not satisfied that HSM has demonstrated any intention or wish to practise and manifest aspects of the faith openly that are not permitted by the Pakistan Penal Code (PPC) which are genuinely held and of particular importance to her to preserve his or her religious identity. I find this was an attempt to use her religion and religious activities to create a ground on which she would be permitted to remain in the United Kingdom and no more.

KA

102. KA is the child of NM. Although due to his age there is no evidence of engagement in religious activities such as to create a real risk on return, NM is his primary carer and as she has succeeded with her appeal KA is entitled to a grant of leave to remain in the United Kingdom in line with his mother .
103. In summary, I find this is a concerted attempt by this family unit who have abandoned their lives in Pakistan and attempted to re-settle in the United Kingdom through their asylum claims. Whilst the situation in Pakistan is accepted as not being as it should be for religious minorities it is clear from the country guidance case law that the burden is upon an individual appellant to prove that what they claim regarding their entitlement to a grant of international protection is true. In this case, for the reasons stated above, NM has discharged the burden entitling KA to remain in line. The remaining appellants have not.
104. Miss Pickering asked that in the event that some appellants succeeded whilst others did not, that I give consideration to whether those who failed are able to remain on the basis of their family/private life. No further submissions were made on this issue and little evidence has been advanced. I accept that the three appellants who failed are a mother and her two adult siblings, one of whom is intending to leave the family at the first opportunity to join her husband in the United States of America in any event.
105. Even though there is no formal application under Article 8, if it is raised in an appeal I am required to give proper consideration to 276ADE and the requirements of Appendix FM. As stated no evidence has been laid regarding the rules it is considered the remaining appellants are able to meet, and for what reason, and so I have looked at the available evidence and considered the merits of the human rights claim in accordance with the approach set out by the Court of Appeal in MF (Nigeria) [2013] EWCA Civ 1192, the High Court in Nagre [2013] EWHC 720 (Admin) and by the Upper Tribunal in Gulshan [2013] UKUT 640, as confirmed by Shahzad (Art 8: legitimate aim) [2014] UKUT 00085 (IAC). These judgments have made it clear that the question of proportionality must be looked at in the context of the Immigration Rules with no need to go on to a specific assessment under Article 8 if it is clear from the facts that there are no particular compelling or exceptional circumstances requiring that course to be taken. This approach has been further confirmed by the Court of Appeal in the more recent case of Haleemundeen v SSHD [2014] EWCA Civ 558.
106. It has not been established on the evidence that either of the three appellants, SNM, AM or HSM are able to succeed under 276ADE on the basis of their private life. They have failed to identify how they are able to meet the requirements of Appendix FM and on the facts it does not appear that they are

able so to do. Having considered whether the evidence supports the existence of any particularly compelling or exceptional circumstances requiring me to consider article 8 is outside the context of the immigration rules, I find no such circumstances established. For the sake of completeness, I find that even if it had been established that family life recognised by article 8 existed within this family unit there will still be a finding that the Secretary of State had proved that the decision will be proportionate when all the facts are properly taken into account and the competing interests balanced against each other, in light of the facts as found in relation to this appeal.

Decision

107. The First-tier Tribunal Judges who considered the appeals of this family unit have been found to have materially erred in law and their determinations set aside. I remake the decisions as follows. The appeals of NM and KA are allowed. The appeals of SNM, AM and HSM are dismissed.

Anonymity.

108. The anonymity order in force shall continue pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Signed.....
Upper Tribunal Judge Hanson

Dated the 29th May 2014