

Asylum and Immigration Tribunal

MJ and ZM (Ahmadis – risk) Pakistan CG [2008] UKAIT 00033

THE IMMIGRATION ACTS

Heard at Field House
On 15 November and 19 December 2007

Before

**Senior Immigration Judge Gleeson
Senior Immigration Judge Spencer
Sir Jeffrey James KBE CMG (Non-Legal Member)**

Between

**MJ
ZM**

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr T Cooray
Instructed by Thompson & Co, solicitors

For the Respondent: Mr J Hall,
Instructed by Treasury Solicitor

- 1. The finding in IA and Others (Ahmadis: Rabwah) Pakistan CG [2007] UKAIT 00088 that the existence of a majority Ahmadi community in Rabwah does not justify dismissing an appeal which would otherwise be allowed remains valid. Rabwah is no safer than elsewhere in Pakistan for Ahmadis, but the question whether it is an appropriate internal relocation option for an Ahmadi will always depend on the particular circumstances and facts of that individual's situation.*
- 2. In Pakistan as a whole, whilst it is clear that from time to time local pressure is exerted to restrict the building of new Ahmadi mosques, schools and cemeteries,*

and that a very small number of Ahmadis are arrested and charged with blasphemy or behaviour offensive to Muslims, the number of problems recorded is small and has declined since the Musharraf Government took power. Set against the number of Ahmadis in Pakistan as a whole, they are very low indeed. The courts do grant bail and all appeals against blasphemy convictions in recent years have succeeded.

- 3. There is very sparse evidence indeed of harm to Ahmadis from non-state agents (though rather more anecdotal evidence of difficulties for Christians). The general risk today on return to Pakistan for Ahmadis who propagate the Ahmadi faith falls well below the level necessary to show a real risk of persecution, serious harm or ill-treatment and thus to engage any form of international protection.*
- 4. Where, exceptionally, the facts of a particular appellant's case indicate that such an appellant cannot be returned safely to their home area, the existence of an internal relocation option, either to Rabwah or elsewhere in Pakistan, is a question of fact in each such appeal.*

DETERMINATION AND REASONS

1. The Tribunal in this determination reconsiders (on the application of the appellants) determinations which have been the subject of appeals to the Court of Appeal resulting in remittal by consent. Both appellants are Pakistani nationals and members of the Ahmadi faith from the Punjab (the first appellant is from Sargodha and the second appellant from the Jhelum area).
2. The first appellant is an Ahmadi convert; the second has always been Ahmadi. Although there have been concerns about the credibility of aspects of their accounts, at the beginning of the present hearing, Mr Hall indicated that the Secretary of State did not propose to take any credibility points on the core account of either appellant, save such as might emerge during his cross-examination of the appellants and their witnesses or in clarificatory questions from the Tribunal in the present proceedings.

Procedural history of these appeals

3. In each appeal, the Tribunal initially dismissed the appellant's challenge to the Secretary of State's decisions to refuse refugee recognition and leave to remain on human rights grounds and to set removal directions to Pakistan. In both cases, determinations of the Tribunal dismissing the appellant's respective appeals on reconsideration were quashed by the Court of Appeal and the appeals were remitted to the Tribunal for re-determination. In the case of the first appellant, the appeal was remitted:

“For re-determination on the issues of whether the appellant would be at risk if he were returned to Pakistan”

and in the case of the second appellant, on two bases, first, whether the appellant would be at risk if he were returned to Pakistan, and alternatively:

“Whether the appellant can be expected to relocate to Rabwah (to include consideration of the general safety of Rabwah for Ahmadis, as well as whether it would be unduly harsh to relocate there).”

4. These appeals were listed to follow the Tribunal’s consideration of the general safety of Rabwah in *IA and Others* (Ahmadis: Rabwah) Pakistan CG [2007] UKAIT 00088 the ratio of which is summarised in the following précis:

“Contrary to what is said in *KM* (Pakistan) [2004] UKAIT 00302, *MM* (Pakistan) CG [2002] UKIAT 05714, *KK* (Pakistan) [2005] UKIAT 00033, *MC* (Pakistan) [2004] UKIAT 00139, and *AZ* (Pakistan) CG [2002] UKIAT 02642, Rabwah does not constitute a safe haven for any Ahmadi at risk of persecution elsewhere in Pakistan and should not, without more, be treated as an appropriate place of internal relocation.”

5. Questions of internal relocation and undue harshness in relation to Rabwah are therefore questions of fact in relation to the particular circumstances of each appellant. In the first appellant’s case, Immigration Judge Billingham held (in May 2005) that he was not satisfied that the appellant was a preacher and Ahmadi convert as alleged, and that the risk to him fell below the standard required for international protection. He dismissed the appeal under the Refugee Convention and under Articles 2, 3 and 9 ECHR. On 5 October 2005, the Tribunal ordered full reconsideration on the basis that the Immigration Judge had failed to consider and weigh the oral evidence of a witness who claimed to have been converted to the Ahmadi faith by the first appellant. The Immigration Judge had also failed to consider a good deal of the documentary evidence in the first appellant’s bundle. The resultant lack of anxious scrutiny was a material error of law and fatal to that determination.
6. The appeal was heard afresh before Immigration Judges Shaerf and Glossop on 28 November 2005. They were satisfied that the appellant was indeed an Ahmadi convert but not that he was a preacher. The Tribunal considered that the appellant had not demonstrated (to the appropriate standard) a “credible record of active preaching” and doubted whether his learning in the Ahmadi faith was sufficient for the activities he claimed to have undertaken. In any event, they considered that internal relocation to Rabwah was appropriate, though they noted that “Rabwah may not be the haven previously believed by some”.
7. The first appellant now appealed to the Court of Appeal. He criticised the Tribunal’s assessment of his documentary and other evidence on grounds of perversity, and in particular a finding that there was “no evidence” that he had been involved in preaching or hit on the head. There is no doubt that there was some evidence to that effect, the appellant’s own oral evidence at the hearing. The proper approach would have been for the Tribunal to indicate whether that evidence was credible and what weight the Tribunal attached to it. The first appellant also challenged the Tribunal’s finding that he had not preached at or near Ahmadi mosques and that this part of his account was an exaggeration.
8. The first appellant gave particulars of his human rights claim at this stage, now under Articles 2, 3, 5, 9, 10, 11 and 14 ECHR, arguing that his attempts to practise his faith in the past had met with extreme opposition requiring international protection. His

case was that any Ahmadi who dared to practise his religion ran a real risk of persistent human rights breaches and that return to Pakistan would place him at grave risk of breaches of all those Articles. He reserved the right to augment his grounds of appeal later.

9. In the appeal of the second appellant, the first determination was of Adjudicator Boyd, promulgated on 2 September 2004. The Adjudicator accepted to the lower standard that the appellant had been the subject of some detentions by the Pakistani police and some adverse attention from Khatme Nabuwwat but not that he was of particular interest to either, nor that he was at risk entailing international protection in consequence of his previous experiences. The second appellants' Article 8 ECHR claim was considered "weak to say the least". The appeal was dismissed and the appellant appealed to the Immigration Appeal Tribunal, as was then the procedure. His grounds of appeal were lengthy and rather diffuse, reasserting the second appellant's claim and challenging Adjudicator Boyd's findings of fact and credibility. On 7 December 2004, Vice-President Drabu (as he then was) of the Immigration Appeal Tribunal granted permission to appeal on the basis that the Adjudicator's credibility findings were arguably flawed.
10. The reconsideration hearing took place before Immigration Judge Aujla and Mr C Thursby, Non-Legal Member, on 3 March 2006. That Tribunal accepted the appellant's account of attacks by mullahs on two occasions and two arrests by the Pakistani police. The core account was accepted, with some reservations, having regard to the lower standard of proof appropriate to international protection claims. Nevertheless, the Tribunal considered the appellant to be an "unexceptional Ahmadi" as set out in *KK (Ahmadi, unexceptional, risk on return) Pakistan [2005] UKAIT 00033*, and not to be at risk of persecution on return.
11. In the alternative, the Tribunal considered that the appellant had an internal relocation option to Rabwah and that it would not be unduly harsh to expect him to exercise it, especially as it found that the appellant would not, whether openly or discreetly, engage in preaching if returned. The Article 8 ECHR decision had not been challenged, but for completeness, the Tribunal affirmed the approach taken by Adjudicator Boyd in the 2004 determination.
12. The second appellant appealed to the Court of Appeal. The grounds of appeal were filed out of time. He argued that the question of his preaching on return had never been put to him and that the Tribunal had failed to consider up-to-date evidence on the risk on return to Rabwah. The second appellant relied on his previous history of harm from both State and non-State actors and contended that there was no change in the safety situation for Ahmadis who publicly manifested their religion in Pakistan. The Tribunal should not have dismissed the appeal, he argued.

Court of Appeal decisions

13. The Court of Appeal granted permission on both appeals. They were heard and considered together, along with other appeals, some of which in due course formed the basis of the Tribunal's country guidance decision in *IA and others (Ahmadis:*

Rabwah) Pakistan CG [2007] UKAIT 00088 as to whether Rabwah was a suitable internal relocation option.

14. On 22 September 2006, by consent of all parties, the present appeals were allowed and remitted to the AIT for hearing afresh. In the case of the first appellant, no findings of fact or credibility were preserved. In the case of the second appellant, the favourable findings in relation to his past history of attacks by the mullah and arrest by the Pakistani police were preserved but otherwise questions of fact and credibility were at large. In the first appellant's case, the Court of Appeal ordered that:

"3. The matter be remitted back to the Asylum and Immigration Tribunal for re-determination, on the issues of whether the appellant would be at risk if he were returned to Pakistan."

15. in the second appellant's case, the remittal was in identical terms, with the addition of an alternative issue:

"...whether it is open to the appellant to internally relocate to Rabwah as well as whether it would be unduly harsh to do so."

16. In the agreed Reasons accompanying those decisions, the challenges to the Tribunal's approach were summarised in each case. In the first appellant's case, the reasons related to the safety of the credibility findings. In the second appellant's case, the AIT, having accepted the fact of past persecution, there were three areas of concern: first, that the Tribunal had not put to the appellant the issue of future risk and had not considered a possible breach of Article 9 ECHR if it was the AIT's view that his previous experiences would cause the appellant to desist from manifesting his religion; second, that the appellant should not have been treated as a *KK* "unexceptional Ahmadi" on these facts; and third, that the Tribunal had given insufficient consideration to new evidence of risk on return within Rabwah.
17. In each case, the Secretary of State agreed that on the particular factual circumstances of the case the appeal should be allowed and remitted. In the second appellant's case, the respondent considered that there was merit in the appellant's contention that the AIT had not properly considered submissions and objective evidence about the safety of Rabwah and had erred in its application of *KK*.

Safety of Rabwah for internal relocation

18. The decision in *KK* was reviewed when the Tribunal considered the question of safety in Rabwah in *IA and others*. The Tribunal concluded that it was inappropriate to regard Rabwah as a reliable place of internal relocation for Ahmadis with problems elsewhere in Pakistan. At paragraph 28 of the *IA* determination, the Tribunal encapsulated its position thus:

"28. It is wrong to assume that Rabwah, because of its majority Ahmadi population, is either accessible or safe for those who, on the evidence, need a place of safety. Each case will depend on its facts but in no wise can the existence of Rabwah be regarded generally as a reason for dismissing an appeal that would otherwise be allowed."

19. The question of the safety of Ahmadis in Pakistan as a whole was expressly reserved for a future determination; the Tribunal had in mind the present appeals.

Documentary evidence before the Tribunal

20. The Tribunal had the benefit of the following documents: the April 2007 Country of Origin Information Report for Pakistan; a Human Rights Watch report dated 6 May 2007 entitled “Pakistan: Pandering to Extremism Fuels Persecution of Ahmadis”; from the United States Commission on International Religious Freedom, the section of its annual report relating to Pakistan dated May 2007 and a press release dated 11 June 2007; from the IRB of Canada, two reports, one dated 31 August 2005 on the situation of members of the Ahmadiyya movement in Islam and one of 25 May 2005 on the availability of Pakistani passports for those with a First Information Report or an outstanding warrant of arrest against them; an Amnesty International report of 15 May 2001 entitled “Pakistan: insufficient protection of religious minorities”; the United Kingdom Parliamentary Human Rights Group report “Rabwah: A Place for Martyrs”; the United Kingdom OGN for 19 June 2006; the Freedom House report on Pakistan for 2006; the US State Department Religious Freedom Reports for 2006 and 2007; and a report from the US State Department entitled “Democracy, Authoritarianism and Terrorism in Contemporary Pakistan” dated 7 November 2007.
21. We have had regard to all of this evidence, as well as the oral evidence which we heard. We have paid particular attention to the parts of the bundle to which the parties drew our attention in oral or written argument. The Tribunal heard oral evidence on the first day of hearing and then received written submissions from both parties, which by agreement we considered in chambers with the documents filed by the parties (in particular those to which our attention was drawn) before reaching the present decisions. The Secretary of State did not challenge the religious affiliation of either appellant and we approached these appeals on that basis.

Facts and chronology – first appellant

22. The first appellant is an Ahmadi convert. There are no credibility issues in relation to his core account. He was born in the Punjab into a Sunni family, but his maternal grandfather and maternal uncle were Ahmadis. In 1972, the first appellant converted to the Ahmadi religion, was disowned by his family and went to live with his Ahmadi relations.
23. In 1980 he settled in Sargodha and started a small business there in the Azad Market, where there were 450 stalls which the appellant refers to as “shops”. Initially he rented three shop units in an L-shape. The business, supplying electrical goods wholesale, was very successful and he was able to buy the shop units. He used to display Ahmadi literature such as newspapers journals and leaflets in his shop and people came to know that he was an Ahmadi.
24. The first appellant also became integrated into the local Ahmadi community. He held various positions in his local Ahmadi mosque and the wider community: Motamid in 1997; Nazim (health and physical care) in 1992; Vice-Nazim in 2001; Sardar in 2002 and Nazim again in 2004. He used to preach and on occasions he

was insulted and beaten. In 1987 two mullahs and their associates visited the shop in his absence and beat his employees, who were then detained by the police for 27 days, and released on payment of bribes.

25. In 2000, the first appellant attended a conference held jointly by the Azad Market traders and members of the Khatme Nabuwwat, at which highly charged speeches were made against him, in particular, pronouncing that as an apostate he deserved to be killed (the “fatwa”). Following a complaint, his shop was forcibly closed by the police. A local newspaper reported the alleged “fatwa”, stating that if the first appellant did not stop preaching, he would be arrested and severely punished. The first appellant kept his shop closed and his business suspended for many days, but the situation calmed down and he resumed trading. There was no trouble then for three years.
26. In March 2003, Khatme Nabuwwat mullahs and their associates attacked his family home, causing damage to it. The first appellant complained to the police but they refused to help, saying that he was an apostate and deserved it. In 2004 the first appellant’s sister’s husband, who was among the top Khatme Nabuwwat mullahs imprisoned two of his wife’s brothers. On 15 October 2004, an Islamic cleric and some associates came to the first appellant’s shops and threatened him. If he were still there by 1 December 2004, they told him that he would be killed. The appellant was concerned: on August 21 2004, unknown assailants had shot and killed Barkatullah Mangla, an Ahmadi advocate, at his home in Sargodha. No one had been arrested in the case.
27. The first appellant opted to relocate to Rabwah, 35 miles from Sargodha, although he later said that given the proximity, he was known there too. He tried to live in Rabwah but suffered hardship and had no protection as a convert. He did not try for long: the threats to the first appellant which caused his flight occurred on 15 October 2004 and he left for the United Kingdom on 26 October 2004, eleven days later. His wife and children remain in Rabwah, where the children attend Ahmadi schools. It emerged at the hearing before us that the first appellant’s wife rents out the stalls in Sargodha and their family home there, which provides more than enough money to keep the family in comfort in Rabwah, as the house in Sargodha gets a better rent than they have to pay in Rabwah.
28. The reconsidering panel found that the first appellant was an ‘unexceptional Ahmadi’ with no real propagation history and that Rabwah was a suitable refuge for him. Following *IA*, that finding is now insufficient.

First appellant's evidence

29. We heard oral evidence from the first appellant. He began testifying in a mix of Urdu and English but it was rapidly clear that he was more comfortable in Punjabi. Both the first appellant and the interpreter were satisfied that they had understood one another and that the interpretation had been satisfactory in both languages. The first appellant adopted his original witness statement of (probably) 9 October 2004, dated on its face 9 September 2004; the first appellant did not arrive in the United Kingdom until October 2004 and he says the statement is wrongly dated. Nothing turns on that.
30. The first appellant provided the following additional evidence-in-chief: he had not received payment for the various posts he held in the Ahmadiyya community. The missionary in charge and a clerical officer received payment but others who held community offices did so, like him, unpaid. They did not have personal offices within the Ahmadi mosque but there were a number of small rooms which were available for the use of the officers of the Ahmadiyya community as and when required, and they were contactable at and through the Ahmadi mosque. The preaching teams propagated the Ahmadi faith to receptive non-Ahmadis. If the first appellant were now returned, he said that he would preach and never cease to do so.
31. In cross-examination, the first appellant confirmed that his faith had remained at the same level throughout since his conversion in 1972, when he was thirteen or fourteen years old. The first appellant then explained the function of the various offices he held during his time in Pakistan:
- (a) **Motamid** - a Motamid keeps a record of the community's activities and progress, in this case the community in Sargodha. To the first appellant's recollection, there were between 500 and 1000 members of this community. The first appellant served two or three terms as Motamid, each of five years. He was the only Motamid for Sargodha.
 - (b) **Nazim** - the first appellant was a Nazim from 1992. His duties included forming preaching teams and trying to improve the health of the community, including arranging physical games to keep them in good shape (Sihat-e-Jismani). They played Kabaddi and badminton in the grounds of the Ahmadi mosque every three or six months, as directed by the community. By 2001, the first appellant was Vice-Nazim of the larger Absa Ullah Ahmadi mosque which covered a larger area, a district comprising 66 majlis, involving well over 1000 people. His job was to collect reports from throughout the district, finding out where the next preaching venue would be.
 - (c) **Sardar** - A Sardar is an Ahmadi community leader.
32. The first appellant's evidence was that his propagation activities were always prearranged: Ahmadi literature would be handed out in advance of preaching meetings, and usually they would preach in a house, having sent the individuals a letter and a text to read and study, then the preaching team would meet them there. Those attending read the texts and then asked questions. Preaching was always by

prearrangement and to people who were receptive to the possibility of Ahmadi conversion, though not yet Ahmadis. There were usually some refreshments, perhaps a cup of tea. The first appellant told us that the preaching teams had permission to enter the potential converts' private homes; they would not enter without such an invitation, otherwise they would be at risk of being killed. Sometimes, they also preached out of doors after distributing leaflets (for example, in his shop).

33. The first appellant explained more about his shop in Sargodha. It was one of about 450 shops in the Azad Market and sold electrical goods (the raw materials for switches). The shop was very successful. The first appellant was the only Ahmadi with such a shop in Azad Market. He propagated his faith openly from 1980 – 2004 at that shop, renting at first and later buying the shop. In the end he had three big stalls on three streets in an L-shape. Although the shops were briefly closed down by the mullahs, the first appellant reopened them almost immediately and after he left in 2004, his wife was able to rent them out to another shopkeeper, which provided part of her income in his absence. That is a rather different picture from that given to the previous Tribunal, which was told that the mullahs had closed down the shop, with the impression that the closure was permanent.
34. The first appellant's children remain at school in Rabwah in an Ahmadi school, where they pay a nominal fee for Ahmadi-run education. There were several Ahmadi schools in Rabwah. Two names the appellant could remember were the Musrat Academy and the Al-Sadiq Academy; it was the latter which the children attended. Both head teachers were Ahmadi. His wife lived in Rabwah, renting out the former family home in Sargodha as well as the shops; she was able to rent a property in Rabwah for less money than she received for the Sargodha house and she also had the shop income so she was quite well off. Although also an Ahmadi convert, the appellant's wife did not propagate the Ahmadi faith.
35. If the first appellant relocated to Rabwah instead of returning to his home in Sargodha, he remained of the view that he was under an obligation (da'wa) to propagate the Ahmadi faith, to non-Ahmadi friends. There were local Ahmadi administrative offices and people would come for an appointment. The preaching teams would then assess whether a person was suitable for preaching, or was a trouble maker. If the person was suitable, the first appellant would be able to invite him to his home and preach over a cup of tea. There was always a risk that they might misjudge a particular individual but the risk had to be taken; it was a duty and obligation of the Ahmadi faith. Not every Ahmadi was a preacher.
36. The first appellant reminded the Tribunal of the fate of Sardar Barkatullah Mangla, stating that it was his understanding that Mangla he was martyred at the hands of the mullahs but he said that he understood that no one had ever been arrested for the shooting.

Facts and chronology – second appellant

37. The second appellant lived and worked in Karachi where he had no problems until 1992, when he was 41 years old. His parents and younger sister came to the United

Kingdom in 1991 and in 1995, his younger brother came too; all of them have been recognised as refugees on the basis of problems with Khatme Nabuwat. Another brother is now a German national. The second appellant had a successful business in running a health and fitness club. He told the Tribunal that there were to his knowledge 20-25000 Ahmadis in Karachi.

38. In the winter of 2001, the second appellant's profile was raised when the President of his local Ahmadi community invited him to head the security team (Qhuddams) for the local Ahmadi mosque and Ahmadi community. His job would be to supervise six young men who patrolled the local Ahmadi mosque. In July 2002, two Khatme Nabuwat mullahs attacked the second appellant, punching and kicking him and warning him off his security duties. He went to the police but they would not register a First Information Report although the second appellant provided evidence of the attack.
39. In October 2002, the second appellant was accused of preaching to a Sunni Muslim, giving him books about the Ahmadi faith and seeking to convert him over a period of four months. He was arrested and detained for 14 hours, then released after payment of a bribe. He returned to his gym and his security patrolling. In April 2003, the second appellant was staying with a Sunni friend in Karimabad (in context, a suburb of Karachi, although there is another Karimabad in Pakistan near Lahore). He took his friend to an Ahmadi mosque in Karimabad for Friday prayers. The man's family complained to the local Mullahs, who came looking for the second appellant to beat him up, but he evaded them.
40. The second appellant then moved back to his ancestral village, Khewra, where his cousins lived. That city has a very ancient Ahmadi Library which is a centre for the community and where children can learn the faith. At his cousins' request, the appellant taught one (or perhaps two) children's classes. A resident nearby complained to the Khewra Mullahs. In October 2003, following that complaint, the Khewra police arrested the second appellant and detained him for two days. When released, the second appellant fled, first to Lahore where he hid for a little over two months, and then to Karachi, where with the assistance of an agent he arranged travel to the United Kingdom almost immediately. His wife and four children remained in Karachi, either in the family home or with the appellant's in-laws.

Second appellant's evidence

41. We heard oral evidence from the second appellant, which was given in Urdu. Both he and the interpreter confirmed they could understand one another and there were only minor interpreter problems during the hearing, raised and resolved at the time. At the end of the hearing, Mr Cooray confirmed that he had no outstanding objections to, or difficulties with, the interpretation and that he was satisfied the Tribunal had an accurate record of the second appellant's evidence. The second appellant adopted his witness statement of 18 May 2004 and gave the following additional evidence in chief. If returned to Pakistan today, he would face the same difficulties which had caused him to leave Pakistan. He was dedicated to his faith and would continue to propagate it, wherever he was.

42. In cross-examination, he said that his adherence to the Ahmadi faith had been at a constant level throughout his life, neither more nor less with the passage of time. The second appellant gave the name of the Ahmadi mosque he had helped guard in Karachi, an ancient building of average size, with about 500 people attending Friday prayers, including those who came from surrounding areas. He was its security guard from 2001-2002 and an Ansarullah or Khuddam, two descriptions for a person who is a full member of the Ahmadi community, signifying an ordinary Ahmadi. The only position he had held in the Ahmadi community was as a security guard. There were quite a few other Ahmadi mosques in Karachi, perhaps 15. He was aware that there were reputed to be 20-25000 Ahmadis in Karachi but had no personal knowledge of the statistics.
43. The second appellant explained how his security duties worked. The President of the Ahmadi mosque had appointed him to run security and he had five or six young men reporting to him. During the service, they would stand outside on the street and keep an eye open; the second appellant was out there too. Other Ahmadi mosques had guards as well. They wore their own clothes; they had no particular uniform. In relation to his propagation of the Ahmadi faith, the second appellant said he would invite people to his family home or visit the houses of friends or people he knew, who were interested in knowing more about the Ahmadi faith. People would put questions to him and he would answer them.
44. His fitness and bodybuilding studio (which he also described as a health club) was in the same road as the Ahmadi mosque and he had run it from 1999 until he came to the United Kingdom. His parents owned the premises then and still did, although they were in the United Kingdom now. Business was good while he was in charge of the studio but once he had to leave it in the hands of a manager because of his troubles, the business failed. It was closed down now.
45. The second appellant's wife and his children still lived in Karachi with her in-laws. His children were at school there; his father-in-law had recently retired from a Government post, though he was not sure exactly what. He had not seen much of his in-laws since the marriage. They were not Ahmadis. Neither was his wife when they married, but she had converted in 2002 and his children were all considered Ahmadi. He did not know where she or her parents worshipped now. He could not return and live with his in-laws; he would not be welcome. If he returned, he feared Khatme Nabuwwat would pursue him again. He could only relocate safely if his hands were tied and his eyes and ears covered, otherwise he would feel the need to propagate his faith.
46. The second appellant was asked if he had preached or propagated the Ahmadi faith outside Karachi. He mentioned only the teaching of children in the Khewra Library, which was entirely run by Ahmadis. His cousin had invited him to go to Khewra, which is between Lahore and Sargodha, about 600 miles from Karachi. The purpose of the invitation was to enable the appellant to preach in the Khewra Library. Other than that, his duties had been all security based; on one occasion he accompanied the President of his Ahmadi mosque on a preaching trip to Sindh, as part of a team of four or five. The President and the team would propagate the Ahmadi faith in a house to which they had been invited, as they could not do that in the open; the

second appellant took part in the preaching but it was all indoors and to an invited and receptive audience.

47. In the United Kingdom, he was taking active part in propagating the Ahmadi faith; preaching stalls were set up near Tooting Broadway underground station, and the second appellant attended and preached with the teams about once a week. He also preached a bit on his own account. If returned he would feel obliged to continue propagating the Ahmadi faith and considered that he would be at risk. The extent to which one propagated the faith was individual; some did more than he, and some less.

Skeleton arguments

48. There were no oral submissions, by agreement with the parties. We received written submissions from both sides, with Mr Cooray having a right of reply to the Secretary of State's submissions. The parties submitted as follows.

Mr Cooray's submissions

49. For both appellants, Mr Cooray argued that both appellants should be treated as credible and that no real issue of credibility arose in relation to their evidence. The first appellant was continuing to propagate his faith in the United Kingdom and would do so on return. The documentary evidence in relation to a fatwa against him should have been accepted and the absence of a supporting First Information Report was not fatal to its genuineness (*Tanveer Ahmed* [2002] UK IAT 00439 Imm A R 318).

50. Mr Cooray argued strongly, as he had done before the Tribunal in *IA and others*, that the use of the Western descriptions "preaching" and "proselytising" was linguistically too narrow to reflect the range of activities in which an Ahmadi could engage and that "propagation" was a better description. We agree with that. When cross-examined both appellants had obvious difficulty in explaining "preaching" and we have adopted "propagation" instead as a description of the range of activities they undertook.

51. Mr Cooray's skeleton argument conceded that 'the reality is that no sane Ahmadi would preach [sic] in public' and thus that distinctions between private and public preaching were otiose. He contended that the oral evidence of both appellants supported that analysis. Mr Cooray relied on charges laid against 4 Ahmadiyya under paragraph 298C of the Pakistan Penal Code for watching Ahmadiyya religious television in the home of one of the four accused. Mr Cooray asked the Tribunal to find that the first appellant had been hounded by the Khatme Nabuwat for his religious activities, both as an apostate and as a practising Ahmadi. There was no meaningful remedy from the police or the Pakistani judiciary.

52. In relation to the second appellant, Mr Cooray adopted paragraphs 2 and 4 of his 13 November 2007 skeleton argument. The only credibility concern in relation to this account was the extent of the second appellant's teaching of children in the Khewra Ahmadi Library. On the oral evidence the second appellant gave to this Tribunal, that appears to have been limited to one occasion or a very short period. Mr Cooray

highlighted various parts of the background evidence bundle which we consider below.

53. In response to the Secretary of State's submissions, Mr Cooray summarised the core of his arguments in the following helpful way:

“7. Response to the preliminary submissions of the Respondent

(a) The risk of persecution and the risk on return cannot be determined solely on the issue of preaching or proselytizing. In any event the religious obligation of Ahmadis (as indicated in the case of Mohammed Suleiman Malik and referred to in the case of Iftikhar Ahmed – at page 282 of the bundle) is to “propagate” their faith. Propagation can take place in many ways. The idea that only those who preach or proselytize are at risk is a gloss put on the obligation of Ahmadis by the Tribunal. Objective evidence indicates that Ahmadis who merely wear a badge with Koranic verse or watch Ahmadi TV can be at risk.

(b) Nor can the risk of persecution be assessed by a statistical exercise. In any event different reports give different figures and the data relied on by the Respondent are not necessarily accurate. It is not clear how the information has been gathered. Furthermore, it is important to take note of unreported incidents particularly where such incidents occur in remote areas. In any event the Appellants do not claim that every person who is an Ahmadi by birth is at risk. The most reasonable test is whether the person in question is a practising Ahmadi.

(c) Although the words “exceptional” and “unexceptional” are unhelpful, some of the categories referred to in *KK* are certainly at risk. However, the categories are too restrictive. Thus Ahmadis who are targeted by [Khatme Nabuwwat] because they regularly watch Ahmadiyya TV or those who are engaged in distribution of Ahmadi literature may not fall within the *KK* test unless they can be covered by the term “other particular feature”.

Mr Hall’s submissions

54. For the Secretary of State, Mr Hall accepted that both appellants should be treated as credible in their accounts with specific exceptions which he set out. He also accepted that the phrase “preaching” had caused misapprehension in the earlier evidence, not going to credibility. He agreed that the word “preaching” should not be used and throughout his submissions referred to “proselytising” instead. Mr Hall contended that the Tribunal should make the following specific negative credibility findings:

“(i) The first appellant had not put forward a credible explanation as to why he could not relocate to Rabwah or another part of Pakistan, or why the mullahs would track him down at a new address. Other aspects of his account now gave cause for concern: his evidence about his shop was discrepant and the position appeared to be much better than he had originally stated. The first appellant had not satisfactorily explained why he could not return to his shops in Sargodha, or go elsewhere in Pakistan, for example Rabwah.

(ii) The first appellant's evidence about the persecutory motive for the killing of Sardar Barkatullah Mangla was not supported by the First Information Report from Mr Mangla’s son, stating that he had been murdered by “some unknown assailants” and that the family had “no animosity with anyone”. The evidence did not support a finding of martyrdom of an Ahmadi Sardar as the first appellant had alleged.

(iii) The first appellant's propagation activities were not risky; they were on an invitation-only basis to willing listeners.

(iv) It appeared that the first appellant's wife and family were living openly and without difficulty in Rabwah which, although no safer than elsewhere, did have an established Ahmadi population and on the particular facts was an internal relocation option for this appellant."

55. The second appellant's assertion that he could not return and live with his wife without tying his hands and covering his ears and mouth went much too far. In the light of his earlier evidence, a narrower position should be taken. Otherwise, his account was entirely credible and should be accepted, but would not meet the standard for international protection under either Convention. On the general issues before the Tribunal, the Secretary of State structured her submissions against the second and third questions raised at paragraph 13 of *IA and others*, namely:

(a) The distribution of Ahmadis in Pakistan, there being only a small minority of all Ahmadis in Rabwah;

(b) Whether Ahmadis have a duty to preach and proselytise (propagate) the Ahmadi faith that is particular to them, and if so what is its effect in claims of this kind, bearing in mind that all Muslims have the duty of da'wa (the invitation to believe) and it might not be right to assume that an Ahmadi was more likely to propagate his faith than an ordinary Muslim.

56. The Secretary of State also asked the Tribunal to consider the scale of the Ahmadi population of Pakistan, and a question posed in the Respondent's preliminary submissions, namely -

(c) If all Ahmadis must propagate the Ahmadi faith, and preaching entails ill-treatment from State and non-State agents, how could one explain the large number of Ahmadis who remained in Pakistan (between 2,000,000 and 5,000,000)?

(a) **Distribution of Ahmadis in Pakistan**

57. Mr Hall submitted that whilst the country background evidence did not assist in identifying places in Pakistan outside Rabwah with a majority of Ahmadis, or where historically there was greater tolerance of Ahmadis than in Pakistan as a whole, the oral evidence of these appellants reflected background evidence showing the existence of active Ahmadi communities in villages, town and cities of all sizes, from Khewra, Sargodha, Pind Thatha, Bhalwal, Khushub, Shahpur, to large cities like Lahore, Karachi, and Gujranwala. Khewra, although only a village, had a long-established Ahmadi Library. On the appellants' evidence, there were over 1000 Ahmadis in Sargodha alone, and in Karachi 15 Ahmadi mosques serving 20-25000 Ahmadis. The Ahmadi mosque where the appellant was a member was so well-established that he described it as "ancient" and attracted 500 regular worshippers. Lahore and Gujranwala also had significant Ahmadi populations. As to Rabwah, the appellants' evidence was that it had at least two Ahmadi-run schools with Ahmadi headmasters.

58. In each of these towns, the Ahmadi communities had an organised structure, with office holders, paid and unpaid. Motamids kept the written records; Nazims performed a variety of functions including propagation of the faith and supervision of the community's physical health; Sardars were area Presidents. Office holders' rôles and spheres of influence were proportionate to the population and the size of the area covered, including the surrounding countryside. Qhuddams organised the security for the Ahmadi mosques and their officials, especially during Friday prayers and when the preaching teams were travelling.

(b) Scope of the duty to propagate the Ahmadi faith

59. This was the crucial question, in the Secretary of State's submission. Both appellants had indicated that individual Ahmadis took the duty more or less seriously according to their own views and the strength of their devotion. Paragraphs 3 and 4 of the appellants' 13 November 2007 skeleton argument were now unacceptably general. It was clear from the evidence of both witnesses that considerable care was taken to protect Ahmadis when at the Ahmadi mosque or propagating their religion in people's homes. Mr Hall accepted that this did demonstrate a level of threat to the Ahmadi community but argued that the propagation system operated by the preaching teams was capable of protecting them and did not necessitate international protection.

60. The evidence was that some literature was handed out on street corners, but it would of course depend which street corner was chosen. The first appellant had used his own three stalls in the Azad Market in Sargodha. He described Rabwah as an open town and the vetting of possible converts in the local Ahmadi administrative office before any propagation took place, to exclude troublemakers. On that basis, risk would be a question of fact based on the individual behaviour of particular members of the Ahmadiyya community and it should not be assumed that the da'wa duty imposed on the community meant that individuals would necessarily propagate the Ahmadi faith at all, let alone in a manner likely to entail a risk of persecution or a breach of the United Kingdom's humanitarian protection and human rights obligations.

(c) The size of the Pakistani Ahmadi population and safety

61. Estimates of the Ahmadi population ranged from 2 million to 5 million individuals in Pakistan, as Mr Hall noted. 286000 were prepared to declare themselves Ahmadi on the census, but most did not. Not every non-Ahmadi Muslim would view the Ahmadiyya community with equal hostility; considerations of kinship, business, relative secularity, indifference or even sporting interests might lead some to overlook faith differences. Both appellants had spent a long time in Pakistan without encountering problems before the difficulties which caused them to come to the United Kingdom.

62. The respondent would rely on the US State Department Report on Religious Freedom in Pakistan (September 2007) at pages 252-274 of the bundle. That Report reflected the following events –

- 8 arrests in 2004, many on blasphemy charges;
- 1 murder between 2005 and 2006, despite noting that Ahmadis and Christians were the primary targets of religious attack in Pakistan in that period;
- 25 blasphemy arrests in the reporting period (presumably 2005-6);
- 11 blasphemy arrests or grants of bail in 2006;
- an incident in June 2006 which led to 2 injured, 11 arrested (presumably the same 11) and 75 moved for their own safety;
- 1 death in 2006 and 5 attacks, whether or not on religious grounds; and
- 2 murdered (one with torture) in 2007.

The respondent contended that although every one of these examples was deplorable, taken together (and allowing for some overlap in the figures) the percentage of the 2-5 million Ahmadis who experienced difficulty, injury, or death in that three-year period was minute.

63. Mr Hall relied upon an observation in the US State Department Report Religious Freedom Report that “the Government took steps to bolster religious freedom” during the period covered by the report, albeit not always successfully. In January 2007, the report records a pro-Christian judgment in the Peshawar High Court. The respondent relies in particular on the following passage from the Religious Freedom Report:

“Ahmadi individuals and institutions long have been victims of religious violence, much of which organised religious extremists instigated. Ahmadi leaders charged that in previous years, militant Sunni mullahs and their followers staged sometimes violent anti-Ahmadi marches through the streets of Rabwah, a predominantly Ahmadi town and spiritual centre in central Punjab. Backed by crowds of between 100 and 200 persons, the mullahs reportedly denounced Ahmadis and their founder, a situation that sometimes led to violence. The Ahmadis claimed that police generally were present during these marches but did not intervene to prevent violence. *In contrast with the previous reporting period, there were no such reports during this reporting period.*”

[*Emphasis added*]

64. Mr Hall relied on paragraph 23 of *KK* and on paragraph 26 of *IA and others*, and asked the Tribunal to find that for Ahmadis in difficulty in their home area internal relocation was a realistic option; that systemic discrimination against Ahmadis, which she accepts exists in Pakistan, did not in general translate into ill-treatment amounting to persecution and/or Article 3 ECHR breaches; and that, in contrast with the position of the Ahmadiyya community in Pakistan in general, those Ahmadis who were at real risk of persecution or serious harm requiring international protection would have a profile or past history with specific risk factors making them very different from that community.
65. Mr Hall accepted the *IA and others* finding that Rabwah provided no more protection than elsewhere. Nevertheless, he argued, it retained a sizeable established Ahmadi population and the first appellant could, without undue harshness, be expected to join his wife and children there. The second appellant had accepted that it was a possibility for him to return to Karachi where his wife, also an apostate, was living and worshipping in apparent safety.

66. The Secretary of State accepted that the concept of the “unexceptional Ahmadi” in *KK* was no longer a useful test. Analysis of the position of Ahmadis in Pakistan had been complicated by the “preaching” test which both representatives and the Tribunal now agreed was an unhelpful way of viewing a wider obligation to propagate the Ahmadi faith (da’wa). Similarly, the evidence did not support a finding that occupying one of the Ahmadi community rôles such as Nazim, Motamid, Sardar, or being a Quddam was risk-free. Each case would turn on the risk factors for the individual Ahmadi and his profile with Khatme Nabuwwat or other potential persecutors. The right question, Mr Hall argued, was not whether a person was an official, a preacher, or a convert, but whether he had in fact been targeted and if so, whether that was likely to have persisted in his absence or be soluble by internal relocation. Past persecution was a factor but was not determinative.

Discussion

67. The Tribunal considered that on the evidence before us in these two leading cases, it is time to revisit the analysis of Ahmadi da’wa (the obligation to propagate) and the profile of those Ahmadis who would now be at risk. We have been greatly assisted by the much more detailed picture of the daily life of an Ahmadi in Pakistan which the oral evidence of these appellants provided.

68. We considered the materials in the country background bundle, in particular those to which the parties directed us, beginning with the Country of Origin Information Report for Pakistan of April 2007. That remains the most up-to-date country report prepared by the Secretary of State today, although another is due this month. Much of the material reviewed in that report is now rather old. The country evidence bundle included several versions of the US State Department Report on Religious Freedom, all of which highlighted societal difficulties and discrimination against Ahmadis but recorded very low levels of reported arrest and harm from non-state actors. Ahmadis had only limited access to Government jobs and universities and also found the court system frustratingly slow. Ahmadis attended Ahmadi-run schools where possible, to avoid being forced to study mainstream Islam. Ahmadis were prevented in some places from building new Ahmadi mosques, but, as the evidence in this case shows, there were many long-established Ahmadi mosques and religious facilities all across Pakistan.

69. The latest Religious Freedom Report, which covers 2007, says this:

“The Government took steps to bolster religious freedom during the period covered by this Report... The Government continued to include human rights awareness as part of its police training program... Relations between the country's religious communities remained tense. Violence against religious minorities and between Muslim sects continued. Most believed that a small minority were responsible for attacks; however, discriminatory laws and the teaching of religious intolerance created a permissive environment for attacks. Police often refused to prevent violence and harassment or refused to charge persons who commit such offenses.

Mobs occasionally attacked individuals accused of blasphemy, their family, or their religious community prior to their arrest. When blasphemy and other religious cases were brought to court, extremists often packed the courtroom and made public threats

against an acquittal. Religious extremists continued to threaten to kill those acquitted of blasphemy charges. High-profile accused persons often went into hiding or emigrated after acquittal.

...Ahmadi individuals and institutions long have been victims of religious violence, much of which organized religious extremists instigated. Ahmadi leaders charged that in previous years militant Sunni mullahs and their followers staged sometimes violent anti-Ahmadi marches through the streets of Rabwah, a predominantly Ahmadi town and spiritual center in central Punjab. Backed by crowds of between 100 and 200 persons, the mullahs reportedly denounced Ahmadis and their founder, a situation that sometimes led to violence. The Ahmadis claimed that police generally were present during these marches but did not intervene to prevent violence. In contrast with the previous Report, there were no such reports during this reporting period.”

70. The Report contains examples of problems for Ahmadis with the Government and non-state actors, but which are somewhat chaotically and anecdotally set out. Put in order, they come to this:

- (i) In 2004 the police seized land on which a makeshift Ahmadi mosque had formerly stood. They still hold it. In the second half of that year, there were at least eight arrests of Ahmadis, many on blasphemy charges, but -

“In most cases, police released the victim or dismissed the charges without trial.”

- (ii) In 2005, there were no Ahmadi examples given.
- (iii) In 2006, four Ahmadis were arrested in Sialkot and police prevented construction of a new Ahmadi school there, destroying the partially erected building. The same happened with another small Ahmadi mosque on the land of an Ahmadi President (but the area is not indicated).

At the end of April 2006, four Ahmadis were in prison on blasphemy charges; one was in prison and two more were out on bail facing murder charges that the Ahmadiyya community claimed were falsely brought due to their religious beliefs.

Seven more criminal cases, ranging from murder to destruction of property, were filed against prominent members of the Ahmadi community in 2006. The cases remained unprosecuted and the accused were allowed to post bail.

Eight more Ahmadis, two of them journalists, were released on bail charged with various offences.

In December 2006, relatives of one woman in an unspecified village had difficulty getting permission to bury her in the common graveyard. The local mullah in that village persuaded police to close a local Ahmadi mosque.

There were six attacks by non-state actors on Ahmadis across Pakistan (against a national total of 2-5 million Ahmadis)

- (iv) In 2007, the local clerics in Lahore prevented construction of a new Ahmadi cemetery and pressed police into destroying it. One man who ran an Ahmadi prayer centre at his home was killed by non-state actors, and one apostate was murdered by a former police officer.

71. Those are all the incidents reported in the US State Department Religious Freedom Report as at December 2007. They do not come to much, either in total or annually; there are significantly more examples of serious problems for Christians and Hindus.
72. The next document relied on by the appellant is a Report from Human Rights Watch of May 6 2007 entitled “Pakistan: Pandering to Extremists fuels Persecution of Ahmadis” (pp. 98-99 of the bundle). We have not been greatly assisted by this. It contains the same anecdotal evidence already summarised above, together with general statements that the Pakistani authorities continue to arrest, jail and charge Ahmadis for blasphemy and other offences because of their religious beliefs. An example is given of an incident in the Punjab in June 2006 where a mob burned down Ahmadi shops and homes, and over 100 Ahmadis fled, with the police standing by. The Ahmadis had subsequently returned home although the situation remained tense. On October 7 2005, there was an incident in which masked gunmen attacked an Ahmadi mosque in the Punjab.
73. The Human Rights Watch Report stated that since 2000, an estimated 350 Ahmadis were charged in criminal cases, including blasphemy. That is not a particularly useful statistic since presumably the criminal courts in Pakistan deal also with matters other than blasphemy. The Report does not say how many of the cases were blasphemy as opposed to normal criminal charges, nor how many Sunni Muslims were charged in criminal cases for the same period. The Report states that ‘several have been convicted’ but not how many. It is very difficult to assess real risk in a population of millions of Ahmadis based on an unspecified proportion of an unspecified level of blasphemy charges out of about 50 cases a year against persons who are Ahmadis. The risk identified in that report appears to us to fall well below the standard required for international protection.
74. The Amnesty International Report of 23 May 2007 (at page 115 of the bundle) does not mention Ahmadis at all. It does mention that the blasphemy laws were “used to persecute members of religious minorities” but nothing more specific than that. It also states that 446 people were sentenced to death “mostly for murder” and 82 executed, mostly in Punjab province, but there is no indication in this Report that any of those convicted or executed were Ahmadis, still less charged under the blasphemy laws.
75. A list of prisoners of conscience is given in an Amnesty International Report of 15 May 2001 (page 120-126), which is seriously out of date now. Three Ahmadis had been convicted in 2000 of religious offences, serving terms between one and two years. Two more, convicted before the change of Government, had appeals pending (which subsequently succeeded). Sixty other religious offence charges were pending, some of them against Ahmadis, some against Christians. Some at least of the charges related to Ahmadi mosque building. Examples of several Ahmadis to whom bail was refused are given. Details of a blasphemy case in Sargodha in 2000-2001 are interesting: four Ahmadis were charged. The supposed convert denied on oath that he had been converted. All four were bailed. Bail was revoked for two but Amnesty International did not know whether they had been arrested. In another case, three men were accused of blasphemy and offending the feelings of Muslims (watching an Ahmadi television channel in the garage where they worked, with the door open

because it was a hot day). One man was not even present; he was released. Charges were pending against the other two.

76. In the 2001 Amnesty International Report (page 130-131), details are given of local problems between Ahmadis and Khatme Nabuwwat in that year. Given the US State Department Report comment that in 2007 the Government was seeking to improve religious freedom, the 2001 Amnesty evidence is of only limited assistance now. Page 134 sets out the application of the blasphemy law before General Musharraf came to power; it also sets out his publicly declared intention in April 2000 to introduce procedural changes to ensure that a First Information Report was registered on blasphemy matters “only after a preliminary investigation and scrutiny by the Deputy Commissioner [of Police]”. After threats of a countrywide strike by Islamists, that pledge was retracted, but the strike proceeded anyway. It is clear that there were considerable tensions with the change of Government over that year.
77. At p159-164 of the appellant’s bundle is the report of the Parliamentary Human Rights Group which visited Pakistan in early 2007 (*Rabwah: A Place for Martyrs?* 26 January 2007). That Report deals only with Rabwah and was the subject of oral evidence in *IA and others*, leading to the following conclusions by that panel:

“14. ...The principal and perhaps most important element of the documentary evidence is a Report dated 26 January 2007 by the (United Kingdom) Parliamentary Human Rights Group entitled “Rabwah: A place for martyrs”. There is no doubt about the purpose of that report. It was designed to meet the Tribunal’s conclusion that Rabwah was a place of safety for Ahmadis because of its majority Ahmadi population.

15. Dr Ensor, who gave oral evidence before us, was one of the researchers. He did not purport to be an expert on Ahmadiyya or on Rabwah. He put himself forward as an expert in research techniques; and it was very noticeable and very creditable that he was clear about the purposes of the research and did not attempt to take the evidence which had been obtained further than it was intended to go. For example, he was asked about the process by which he had identified individuals to talk about their experiences in Rabwah, having come there from other parts of Pakistan. He indicated clearly and frankly that he had not attempted to survey such individuals and he agreed, that so far as that element of the report is concerned, the material is purely anecdotal. What he did say was that the report was designed to examine the governmental structure of Rabwah. Was it right to say that because there was a large majority of Ahmadis a person could obtain protection in Rabwah that was unavailable elsewhere? Was it right to assume, as the Tribunal had assumed in previous guidance, that a large majority in Rabwah necessarily meant a local government and local officials who were Ahmadis? The research embodied in the report is directed to informing conclusions on that issue. Other issues came to mind but the report was not designed to deal with them and Dr Ensor did not pretend that it did deal with them.”

78. Pages 211-217 of the bundle, to which Mr Cooray referred us, are part of the 2006 Religious Freedom US State Department Report. There is nothing additional there.

Decision

79. The Court of Appeal last considered the question of internal relocation for Ahmadis within Pakistan in *Secretary of State for the Home Department v Ahmed* [1999]

EWCA Civ 3003. Simon Brown LJ set out the basis of the conflict between Sunni and Ahmadi Muslims concisely, thus:

“Put at its very simplest, the Ahmadis have been in long-standing dispute with mainstream Sunni Islam on the question of religious authority. The majority of Islam regards Mohammed as the last prophet: the Ahmadis claim to have received divine revelation since. Professor Friedmann records that:

“One of the essential differences between [the Ahmadis] and other contemporary Muslim movements is that the Ahmadis consider the peaceful propagation of their version of Islam among Muslims and non-Muslims alike to be an indispensable activity; in this they are persistent and unrelenting.”

On 26th April 1984 the President of Pakistan published an Ordinance, No XX of 1984, imposing severe curbs on the practice of the Ahmadi religion. The most important prohibition reads as follows:

“Any person of the Qadiani group or the Lahori group (who call themselves Ahmadis or by any other name), who, directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith by words, either spoken or written, or by visible representations, or in any manner whatsoever, outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which extend to three years and shall also be liable to fine.”

A further paragraph prohibits the sect from using any title or form of address appropriate to the Muslim religion in any part of its hierarchy. The decree was obviously directed to preventing the sect either practising the Muslim religion, calling themselves Muslim, or seeking converts on the basis that they were themselves Muslims.”

80. The Court of Appeal in *Iftikhar Ahmed* was considering an appeal from the Immigration Appeal Tribunal, which reversed the decision of an Adjudicator allowing the appellant’s appeal without (at least on the face of the determination) dealing with the question whether an internal relocation option was available and if so, whether it was reasonable to expect him to exercise it. There, as here, the appellant had come to the United Kingdom, leaving a wife and family in Pakistan and apparently not in danger.

81. The Immigration Appeal Tribunal criticised and reversed the Adjudicator’s determination; Simon Brown LJ presumed that the internal relocation argument had been considered and rejected.

“The present case, however, seems to me strikingly different. This appellant, it is common ground, has suffered persecution in his own country, often daily, over a period of years. His religion requires him to proselytise, although it is true not all - indeed, perhaps few - Ahmadis carry that obligation to the lengths he does. His assertion that “If he returned to Pakistan and went to live in a different part of the country he would still follow the command of his spiritual leaders and still be vocal in his proclamation of Ahmadi beliefs” is in these circumstances highly likely to be true. After all, had he wished to avoid persecution in the past he could always simply have ceased his activities. Moreover, not only is his assertion inherently credible, but in any event his evidence was

accepted by the special adjudicator and, as I understand it, was assumed to be truthful by the IAT.

I return finally to the IAT's determination, the critical paragraph of which I have already quoted. To my mind it simply never addresses the all-important question as to whether, if returned, the appellant would indeed act in such a way as to be persecuted. ...”

82. The *Iftikhar Ahmed* decision was published just a few weeks after General Musharraf came to power in Pakistan. The evidence before us, nine years later, indicated that the propagation question would more properly be approached on a case-by-case basis with the risk dependent on the lengths to which an individual Ahmadi carried his da'wa observance. We remind ourselves of the Tribunal's finding in *IA and others*:

“26. That is not to say that every Pakistani Ahmadi is at risk of persecution and is a refugee. As Mr Waite pointed out, the evidence of serious harm to Ahmadis in Rabwah is relatively sparse. ... The incidence of actual harm to Ahmadis is, on the evidence, not high in Rabwah, and, on the evidence, is not high elsewhere in Pakistan. ...

27. The Tribunal will look in due course at the other issues relating to Ahmadis. In the meantime, however, we draw attention to one comment in particular in the evidence given by the Human Rights Commission of Pakistan to the Parliamentary Human Rights Group and recorded at paragraph 4.1 of the latter document.

“... The HRCP stated that safety in Rabwah depends on the nature of the persecution and/or the influence of the persecutor. For example, if a neighbour wishes to take over an Ahmadi's business by capitalising on anti-Ahmadi sentiment, then the job of the persecutor is complete once the Ahmadi has left the local community. However, should the persecutor be a person of influence or means, they may use this to follow their target to Rabwah as well.”

There is therefore a difference between those who are targeted or pursued, in particular those in respect of whom there is some institutional pursuit on the one hand, and those who are merely the victims of local Sunnis who want to take advantage of restrictions on Ahmadis in order to secure some financial or other advantage for themselves.

28. It is wrong to assume that Rabwah, because of its majority Ahmadi population, is either accessible or safe for those who, on the evidence, need a place of safety. Each case will depend on its facts but in no wise can the existence of Rabwah be regarded generally as a reason for dismissing an appeal that would otherwise be allowed.”

83. On the evidence before us, that analysis remains good. Whilst it is clear that local pressure is exerted to restrict the building of new Ahmadi mosques, schools and cemeteries from time to time, and some Ahmadis are arrested and charged with blasphemy or behaviour which is offensive to Muslims, the numbers recorded are small and have declined since the Musharraf Government took power. Set against the number of Ahmadis in Pakistan as a whole, they are very low indeed.

84. There is very sparse evidence indeed of harm to Ahmadis (though rather more anecdotal evidence of difficulties for Christians). We note the great care exercised by the preaching teams who operate out of private homes, by invitation only and after careful vetting of those to whom they propagate the Ahmadi faith. We remind ourselves of the number of small Ahmadi mosques with established officers and

security guards in the towns about which we heard evidence, large and small. We remind ourselves that the first appellant was able to hand out leaflets on his stall openly without harm for many years. We note that the courts do grant bail and that all appeals against blasphemy convictions have succeeded in recent years. We consider that the risk today on return to Pakistan for Ahmadis who propagate the Ahmadi faith falls well below the level necessary to show a real risk of persecution, serious harm or ill-treatment and thus to engage any form of international protection.

85. It may be, as the Tribunal said in *IA and others*, that in some individual cases the level of risk can be shown to be sufficiently enhanced on the particular facts to indicate that that individual cannot be returned safely to their home area. Whether or not there is an internal relocation option, either to Rabwah or elsewhere in Pakistan, will then be a question of fact in relation to that individual. Rabwah is no safer than elsewhere in Pakistan for Ahmadis, but the question whether it is an appropriate internal relocation option for an individual Ahmadi will always depend on the particular circumstances and facts of that individual's situation.

86. We therefore consider the individual situation of each of the appellants below.

First appellant

87. Mr Hall accepted that the first appellant's account was credible save in certain respects. We share his concern about the first appellant's contradictory position on the shops in the Azad Market. The first appellant's case now is that he had reopened the shops himself before he came to the United Kingdom and that his wife rented them out and lived in Rabwah on the rent from the shops and his house. That contrasts with his earlier clear position that the shops had been closed down for good; it indicates that the appellant was prepared to exaggerate the seriousness of his position.

88. Although we accept the general credibility of the first appellant's account, we consider that he exaggerated the seriousness of the threat to his safety overall. Despite a degree of intermittent opposition he had been able to run a very successful business for 24 years in Sargodha. Periodically, the first appellant attracted the adverse interest of local mullahs, probably on account of his openly displaying Ahmadi literature on his shop premises. Although his shop was closed after the Khatme Nabuwat and Azad Market traders' conference in 2000, and despite the publication of the newspaper "fatwa", the first appellant was able to reopen his shops very soon afterwards, and to continue trading just as he had done before. We consider that he would not have done this if he had believed that there was a serious threat against his life.

89. Four years later in October 2004, and despite the threats that he then received, the first appellant reopened his shops before leaving Pakistan so that his wife was able to let them and use the rent for her support while living in Rabwah. We take the view that had the mullahs been serious in seeking his death as an apostate they would not have allowed him to leave Sargodha alive or to re-open his shops so that his wife could let them. On the first appellant's own account he did not actually experience

any difficulties in Rabwah. He was hardly there long enough; a few days at most. We have no reason to think that if he had stayed longer, there would have been any greater risk, especially in view of the safety in Rabwah of the first appellant's wife and children thereafter.

90. The assertion that Barkat Ullah Mangla was murdered by Sunni Muslims is not borne out by the FIR dated 21 August 2004 filed by Mangla's son, which referred to his being killed by unknown assailants and confirmed that the Mangla family had no animosity with any one. In our view it is significant that apart from his claim in relation to Barkat Ullah Mangla the first appellant has not suggested that any of the other holders of the various Ahmadi offices which he mentioned were at any time persecuted on account of the positions which they held or the activities which they undertook.
91. We are not satisfied that the first appellant was ever at risk on account of his proselytising activities, which were carried on privately in the sense in which we have explained above. We conclude that the objective of the Khatme Nabuwwat mullahs in Sargodha was limited to stopping the open advertisement of the Ahmadi religion in the first appellant's shop, in which they were successful. The fact that they did not pursue the first appellant and his wife to Rabwah in our view is an indication of their limited and localised adverse interest.
92. We cannot exclude the possibility that if the first appellant were to reappear in Sargodha, re-establish his business and continue to advertise the Ahmadi religion he might again attract the adverse interest of the local Khatme Nabuwwat mullahs who know him. The evidence before us is not sufficient, however, to establish even to the appropriate lower standard of proof that if the first appellant were to relocate to another part of Pakistan, such as Rabwah or Karachi, he would be at any greater risk than any other devout Ahmadi who was inclined to proselytise. We are not satisfied that the Sargodha Khatme Nabuwwat mullahs would become aware that the first appellant had returned or that even if they did they would have any greater adverse interest in him than they appear to have in other Ahmadi officeholders in Sargodha.
93. We do not, therefore, consider that it would be unsafe or unduly harsh to expect the first appellant to exercise his internal relocation option within Pakistan if he considers that he remains at risk of harassment or difficulties in Sargodha.

Second appellant

94. The second appellant's account is credible; there is no issue about that. However, it is not an account of national pursuit by the Khatme Nabuwwat; the difficulties he had in Karimabad and Khewra were wholly unconnected with those which he had in Karachi and also with each other. He was not sought out in either place on account of events which had occurred in Karachi.
95. In Karimabad, the appellant took a man to an Ahmadi mosque and the man's wife's brother complained about that. In Khewra, a resident nearby complained to a Khatme Nabuwwat mullah when the appellant took the children's classes at the local Ahmadi Library. It does not appear that similar difficulties were encountered by

other who previously taught children's classes at the Ahmadi Library, an established institution dating back to pre-Partition days. It is not suggested that the second appellant's cousin had any similar difficulty.

96. The difficulties in Karachi, Karimabad and Khewra were distinct and fortuitous, with no relation with each other; that is not evidence to any standard that the second appellant risks further adverse interest shown in him if he returns to Pakistan for any of those reasons.
97. The appellant accompanied the Ahmadi mosque President and a preaching team on a trip to Sindh without coming to any harm. His position in cross-examination was that his propagation of the Ahmadi faith was discreet and privately carried out. He would always do it indoors and always to an invited individual or audience, not to people at large. In these circumstances, if the second appellant were unable to return to live in Karachi, we consider that he could relocate to an area of Pakistan where he was not known. In so doing, he would be at no greater risk than any other devout Ahmadi who was inclined to propagate the Ahmadi faith.
98. The second appellant's dramatic claim that he could return to Pakistan only if his hands were tied and his eyes and ears covered is an exaggeration. Of course there remains a risk that the second appellant's propagation activities might come to the attention of Khatme Nabuwwat mullahs but the risk of this happening is so small, given the manner in which the proselytising would be undertaken, that it does not amount to a real risk. As far as safety is concerned, there is no indication that it would be unsafe for him to return to Pakistan now.
99. There remains the question of reasonableness of internal relocation. The second appellant does not want to go back to his home area of Karachi, but his reason is that he would not wish to live with his wife's parents there, as do his wife and children at present. Save for the suggestion that he would have to remain silent about his religion, the second appellant did not put forward any practical difficulties in relocating elsewhere within Pakistan. He has not discharged the burden of showing that it would be unsafe or unduly harsh to expect him to relocate within Pakistan.
100. It follows that both appellants have failed to discharge the burden of proving that their particular circumstances entitle them to international protection under either of the Conventions or to humanitarian protection.

Signed

Senior Immigration Judge Gleeson

ANNEX 1

Schedule of documentary evidence submitted

Document	Date
Amnesty International: Pakistan: "Insufficient protection of religious minorities"	15/05/01
Immigration and Refugee Board of Canada (IRBC): "Whether an individual, who has a First Information Report (FIR) or an outstanding warrant of arrest against him/her can obtain a Pakistani passport"	25/05/05
IRBC: "The situation of members of the Ahmadiyya Movement in Islam etc."	31/08/05
UK Home Office: Operational Guidance Note: Pakistan	19/06/06
Freedom House: Freedom in the World 2006: Pakistan	06/09/06
US Department of State International Religious Freedom Report 2006	15/09/06
Parliamentary Human Rights Group: "Rabwah: A Place For Martyrs"	16/01/07
COIR Pakistan April 2007	30/04/07
US Commission on International Religious Freedom Annual Report 2007: Pakistan	02/05/07
Human Rights Watch (HRW) report: Pakistan: "Pandering to Extremists Fuels Persecution of Ahmadis"	06/05/07
USCIRF, Pakistan: "Decries Abuse of Blasphemy Laws, Apostasy Bill"	11/06/07
US Department of State International Religious Freedom Report 2007	14/09/07
US Department of State: "Democracy, Authoritarianism, and Terrorism in Contemporary Pakistan"	07/11/07