

1406902 (Refugee) [2015] AATA 3520 (7 September 2015)

DECISION RECORD

DIVISION: Migration & Refugee Division
CASE NUMBER: 1406902
COUNTRY OF REFERENCE: Pakistan
MEMBER: Paul Millar
DATE: 7 September 2015
PLACE OF DECISION: Sydney
DECISION: The Tribunal affirms the decision not to grant the applicants Protection visas.

Statement made on 07 September 2015 at 6:28pm

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431 of the *Migration Act 1958* and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicants Protection visas under s.65 of the *Migration Act 1958* (the Act). The first named applicant is a [age]-year-old woman ('the applicant') and the second named applicant is her husband. They both made protection visa applications as applicants who had their own claims for protection. The third and fourth named applicants are their children who applied as members of the same family unit as their parents who did not have their own protection claims. The applicants, who the Tribunal finds to be citizens of Pakistan, applied for the visas [in] September 2013 and the delegate refused to grant the visas [in] March 2014.¹ The applicants appeared before the Tribunal on 31 March 2015 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Urdu and English languages. At the applicants' request, [name deleted] ('the witness') also gave evidence.

RELEVANT LAW

2. The criteria for a Protection visa are set out in s.36 of the Act and Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a Protection visa of the same class.
3. Section 36(2)(a) provides that a criterion for a Protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
4. Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

"owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it."
5. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a Protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').

¹ The Tribunal's finding as to citizenship is based on copies of pages from the Pakistan passports of the applicant, her husband and their daughter, the third named applicant, which appear on the department file at folios 67-74. The Tribunal regards the fourth named applicant, the applicant's son, who was born in Australia, as a Pakistan national on the ground that his parents are both citizens of Pakistan (See Sections 3 and 5 of the Pakistan Citizenship Act 1951 (II of 1951) obtained from <http://www.refworld.org/docid/3ae6b4ffa.html> accessed on 11 June 2015).

6. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration ('the department') – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – and any country information assessment prepared by the Department of Foreign Affairs and Trade ('DFAT') expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration.

FINDINGS

7. The Tribunal has concluded that the decision under review should be affirmed. According to their evidence to the department and the Tribunal, the applicant and her husband claimed protection on the following grounds.² The applicant comes from Abbottabad and her husband comes from Haripur. Both cities are in the Khyber Pakhtunkwa province ('the KPK'). Following their marriage in 2009 they lived as a married couple in Haripur but they encountered harm from Sunni Moslems there because they are Shias. They then lived in hiding in Abbottabad until they left Pakistan and came to Australia in March 2013. They are afraid that if they return to Pakistan, Sunnis will harm them because they are Shias. The Tribunal holds the following concerns about the credibility of the applicant and her husband.

Credibility concerns

Evidence about the applicant's father

8. To the Tribunal, the applicant said that her parents divorced shortly before she was born. Her mother told her that although her own family were Shias, the applicant's father was not only a Sunni Moslem but a member of the Sipah Sehaba ('SSP') and her father's parents or family were 'Wahabis'. Notwithstanding the backgrounds of the respective families, they arranged for the applicant's parents to marry through a third person. It was after they married that the applicant's mother learned that the applicant's father was a member of the SSP and they soon after divorced. The Tribunal asked the applicant why her mother's Shia parents would consent to their daughter marrying someone from an organisation responsible for killing Shias (an assertion with which she did not disagree). In response, the applicant said that her mother told her that it was the decision of the 'elders'.
9. While the Tribunal can allow for the fact that her parents' arranged marriage occurred before she was born, the scenario the applicant was relating of a Shia family agreeing for their daughter to marry a member of what the applicant called a 'Wahabi' family who was also in a Sunni extremist group responsible for killing Shias and that family also agreeing to that marriage lacked credibility.³ In addition, the applicant's evidence to the Tribunal as to her knowledge of her father was that his name was [name deleted] and she had never met him. This was also the evidence she gave to the delegate and in her statutory declaration of 22 July 2013 she said that she was not in contact with him. From her evidence, the Tribunal understood this to be because her father belonged to a Sunni extremist group and her parents divorced not long after they married and before she was born.

² The evidence of the applicant and her husband to the department and the Tribunal comprised the contents of the protection visa application forms lodged by all applicants; statutory declarations made by the applicant and her husband which appear on the department file at folios 55-63; the evidence of the applicant and her husband at their interview with the delegate for which there are audio recordings on the department file and to which the Tribunal has listened and their evidence at the Tribunal hearing.

³ In her evidence to the Tribunal the applicant actually blamed the SSP for the harm she and her husband encountered and did not dispute that this group was responsible for the killing of Shias.

10. This is consistent with the applicant's statements in her protection visa application forms where required to give details of other close relatives as well as the details of her parents.⁴ At those parts of the application forms the applicant provided the details of her mother only. In contrast to this evidence, in her application for a student visa where asked to provide the details of the composition of her family the applicant gave the name, date of birth and home address (in Rawalpindi) of her father whom she named as '[Name 1]'. That evidence conveyed the impression that the applicant had more knowledge of (and more of a relationship with) her father than she had related to the Tribunal.
11. Pursuant to s.424A, comment on this matter was invited. In submissions of 8 May 2015 the applicant repeated her evidence that she had never met her father and never had a relationship with him. Her mother told her that he was a Sunni extremist who constantly harassed her because of her Shia faith and they divorced three months after the marriage while the applicant's mother was pregnant with her. The applicant submitted that her family never discussed his name until she turned 18 and applied for a national identity card. For this, she had to provide her father's name and her mother told her his name was '[name]'. The applicant said that the name '[Name 1]' was the name given by her uncle to the agent who completed her student visa application form.
12. The applicant submitted that she was not aware that this name was different from the one she used to apply for her identity card. She did not mention her father in her protection visa application forms because she knew nothing of him, he is not part of her life and she did not consider him to be a close relative. He made life very difficult for her and her mother by abandoning her mother while she was pregnant with her. Again the Tribunal repeats its concerns about the applicant's account of her Shia mother marrying a Sunni extremist.
13. Further, while the applicant claims that her father is not a part of her life and she has never had any relationship with him, nevertheless, in her own application for a student visa she declares having a father, names that person and provides a date of birth and home address for him. While she claims that the name which appears in the application was provided by her uncle and while the names for the father are slightly different, the Tribunal remains concerned that in an application which she has signed, she, ostensibly, declares information about a father, suggesting that her claims that she knows nothing of him, has no relationship with him and has never met him, are not true.

Evidence about employment and residence

14. To the Tribunal, the applicant said that she had worked for a [company] in Pakistan but she ceased that employment once she got married in April 2009. She was never employed after that. In contrast, in her protection visa application form the applicant said that she worked for a [company] from September 2009 until March 2010.⁵ Further, in her student visa application form, the applicant also stated that from November 2008 and, as at the date of that application, being [in] October 2012, she was employed as [occupation] in a government department in Abbottabad. She made a similar claim in a 'statement of purpose' document she lodged with that application and she also lodged a letter from that employer to the same effect along with payslips.
15. Pursuant to s.424A, comment on this inconsistency was invited. In the submissions of 8 May 2015, the applicant said that the evidence she gave to the Tribunal about her

⁴ See her response at Part F of the 'Personal particulars for assessment including character assessment' form at folio 23 of the department file and her response in the 'Persons included in this application and family composition' form at folio 32 of the department file.

⁵ See folio 24 of the department file.

employment with the [company] was correct. She worked there for only three months and left what she said was a desirable position for a woman in the [company] in April 2009 because of continuous religious and sexual harassment. She earned more money than her husband and she would have stayed there after her marriage had it not been for the 'victimisation' she experienced. She submitted that in her protection visa application form she wrongly said that she worked at the [company] from September 2009 until March 2010, an error she said she corrected at her interview with the delegate.

16. Even if the applicant did correct this error at that interview, she has not explained why she gave incorrect dates as to her employment with this organisation. In addition, the applicant did not explain why, in her student visa application form, she has given a completely different account of her employment (beyond some broader claims about how that application was prepared which have been discussed and dealt with further below).
17. To the Tribunal, the applicant's husband said that the only employment he ever held in Pakistan was his position as an assistant to a Shia [professional] in Haripur. He told the Tribunal that he ceased this employment in early 2011 when the family left Haripur and went to live in Abbottabad. That is consistent with the statutory declaration made by the applicant on 22 July 2013 in which she referred to the family returning to live in Abbottabad in early 2011 and, for that purpose, her husband left his work 'at the [workplace]' in Haripur. With his protection visa application form, the applicant's husband submitted a letter from this [professional] who said that the applicant had worked for him from 1992 until 1994.⁶ In his statutory declaration submitted to the department he also referred to working for the [professional] in that period.
18. In addition, he also indicated that he was working for the [professional] at the time of and after he married the applicant. In his protection visa application form, the applicant's husband also said that he worked for the [professional] from 1992 until 1994 and said that with respect to the period after that and in terms of the period he was in Pakistan, he was 'unemployed' but sometimes worked for the [professional]. In contrast, in the application made by the applicant for a student visa, in various documents, claims were made that, the applicant's husband operated a [business] company.⁷ A letter purportedly signed by the applicant's husband on the letterhead of that business along with his business card was also provided and in which the applicant's husband said that he, at that time, had been operating this business for a period of seven years. Income tax statements related to the applicant's husband's income from the business were also provided.
19. Pursuant to s.424A, comment was invited on this inconsistency (that is with respect to the employment of the applicant's husband declared in the student visa application and his employment as declared with respect to his protection visa application). In submissions of 8 May 2015 it was claimed that it was the applicant's uncle who had this [business]. The 'assets and business' details were transferred to the name of the applicant's husband only for the purpose of obtaining the student visa and once that application was successful then these items were transferred back to the applicant's uncle.
20. The applicants then put forward an employment history for the applicant's husband indicating that the periods he worked for the [professional] were much the same as those he gave to the department and the Tribunal. The Tribunal remains concerned that such a contrary account was given in the application for a student visa. Even if it was the case that incorrect information was given, that indicates the willingness of the applicants to falsify

⁶ See folio 5 of the department file.

⁷ See the 'statement of purpose' document lodged by the applicant with that particular application.

information to achieve their purpose of, at that time, getting to Australia (and their purpose now of being able to remain here).

21. In terms of where the couple lived before they left Pakistan and came to Australia, to the Tribunal, both the applicant and her husband said that from early 2011 they stopped living in Haripur and lived in Abbottabad from that time until March 2013 when they came to Australia. In contrast to this evidence, in his protection visa application form, the applicant's husband indicated that it was not until April 2012 that he ceased living in Haripur and went to live in Abbottabad until coming to Australia.⁸ In addition, at his interview with the delegate the applicant's husband also said that it was in mid-2012 that he ceased living in Haripur and commenced living with his wife and child in Abbottabad. Pursuant to s.424A comment was invited on this inconsistency. In the submissions of 8 May 2015 the applicants did not specifically respond. They just indicated that from early 2011 they ceased living in Haripur and went to live in Abbottabad.

Evidence about difficulties with Sunnis after marriage

22. To the Tribunal, the applicant and her husband said that after they married in April 2009 they lived in Haripur. They both said that at the time of Muharram, later that year, they began to have trouble with Sunnis because they had been seen going to an Imambargah indicating that they were Shias. Because of those difficulties approximately six or seven months after they married they returned to Abbottabad. They remained there for approximately three or four months before returning to Haripur hoping that the situation had improved. They again left Haripur in early 2011 after the applicant was attacked by a Sunni woman and they returned to Abbottabad where they remained until leaving Pakistan in March 2013. In their evidence, they both indicated that the police would not protect them from the harm they feared.
23. The Tribunal questioned both the applicant and her husband closely as to what difficulties they had in both cities because of their religion. Their evidence was that they lived in hiding in Abbottabad and so the only harm encountered comprised threatening telephone calls received almost daily from Sunnis made to the applicant's husband after early 2011. In terms of harm suffered in Haripur, both witnesses mentioned stones being thrown at their home; the electricity and water getting cut off; verbal abuse and the applicant being kicked or thrown out of a vehicle in early 2011 (causing her to lose a pregnancy) and following which the family went to live in Abbottabad.
24. Both the applicant and her husband said that Sunnis came to their home in Haripur looking for the applicant's husband demanding that he change his religion and, according to the applicant, go to their mosque and, according to the applicant's husband, go to a training centre where he could learn to kill people. They both said that the applicant's husband never went with them and for this they would kick and slap him, usually outside the house. These men would come to the house with guns and a gun was pointed at the applicant's husband with the threat to kill him. These particular instances occurred at the home and also on the street. Mention was also made of insulting writing on the house. Both witnesses said that they did not get threatening telephone calls from Sunnis in Haripur because threats could be made in person there. They only received threatening telephone calls in Abbottabad.
25. In their respective statutory declarations, while the applicant and her husband discussed harm encountered from Sunnis, no claim was made that threatening telephone calls were received or that the applicant's husband was kicked and slapped (apart from being threatened). In addition no specific mention was made of the occasions when, to the

⁸ See folio 15 of the department file.

Tribunal, they said people would go to the home with guns and try to take the applicant's husband away at which time they would also kick and slap him. In addition, to the delegate, the applicant's husband said that children would deliver threatening letters to the family home in Haripur and he said that one reason that he actually stopped living in Haripur in mid 2012 was that he was receiving threatening telephone calls there. The applicant also said to the delegate that when they were in Haripur threatening telephone calls were received. They were not claims made by either applicant to the Tribunal about harm suffered in Haripur after they married.

26. Pursuant to s.424A, comment was invited on this inconsistency. In their submissions of 8 May 2015 they repeated the evidence they gave the Tribunal about the trouble they had after they married and while they were living in Haripur before early 2011. Then they submitted that the harassment increased to the level described in their statutory declarations, their interviews with the delegate and at the Tribunal hearing. Those submissions are not accepted because, in fact, in their statutory declarations, as stated above, they make no mention of receiving threatening telephone calls or people going to their home with guns demanding that the applicant's husband go with them and beating him.
27. They submitted that possibly the details of what they described at each stage might vary and then they just repeated the various instances of harm they related at the Tribunal hearing. They said that they were, at that time in Pakistan, in a constant state of fear and anxiety and then conceded that much of the detail of the harassment was not included in their statutory declarations. They submitted that while those details were discussed with the lawyer who helped to prepare their application, this person told them that it was not necessary to mention that detail in their declaration because it could be provided at the interview with the delegate.
28. The Tribunal is sceptical of that response given that relevant information was put into the statutory declarations and it would seem highly unlikely to the Tribunal that if these further claims were discussed at that time with the professional assisting them with their application, they would be told not to mention them. At the hearing the applicant complained about the agency which assisted them to apply for protection being dilatory but that does not cause the Tribunal to accept the applicant and her husband were advised not to mention important claims in their declarations. The Tribunal also does not accept that the variance in the accounts they have given is minor or inconsequential and finds that, if anything, there has been substantial embellishment on their part between, on the one hand, their claims as to what happened to them in Pakistan as given in their statutory declarations and, on the other hand, their claims to the Tribunal.

Evidence about the husband's willingness to go back to Haripur from early 2011

29. As stated above, once the family returned to live in Abbottabad from early 2011 both witnesses said that the applicant's husband went back to Haripur a number of times and stayed briefly. The applicant's husband told the Tribunal that when he did this he was effectively in hiding. He said that he would return once every month or once every two months and stay two or three days. He wanted to check on his house which had belonged to his father and grandfather; he had land there and there was also the ancestral graveyard which he had to visit according to his religion. He would stay with the [professional] for whom he used to work. On occasions, when seen by Sunnis, they would follow, threaten, kick and slap him as well as tell him to change his religion.
30. The Tribunal asked the applicant's husband why he would be willing to go back to the very place he had to flee in early 2011 because it was not safe. In response, the applicant's husband said that he would go there early in the morning or late at night when he could not be seen and so that the Sunnis would think that he had left permanently. When he and the

applicant were told that the visa had been granted, he prayed on his father's grave for the last time. It seemed incongruous to the Tribunal that if the applicant and her husband felt that they could not remain any longer in Haripur due to the danger posed by Sunnis there and were, as they both claimed, living in hiding in Abbottabad in fear of harm, the applicant's husband would risk going back to Haripur where he could encounter the people he feared and where they may well have taken more serious action against him. His claims that he more or less had to return there to fulfil obligations or check on his house were not convincing considering he chose to leave Pakistan for his safety and come to Australia where he could do none of those things.

General submissions from the applicants in their letter dated 8 May 2015

31. With respect to the concerns discussed above which arise from information given by the applicant and her husband in the student visa application, in their submissions of 8 May 2015 they state that it was the applicant's uncle and an agent he engaged who arranged for all supporting documents and also all information needed for the application. In particular, with respect to the claims made in that application about the employment of the applicant's husband, they submitted that it was the applicant's uncle who arranged for 'the [business]' to be transferred into the name of the applicant's husband. Once the student visa application was approved, they were then transferred back to the uncle.
32. Further, in the submissions of 8 May 2015, the applicants also made some overall comments they wanted the Tribunal to consider with respect to its concerns about their credibility. They submitted that they had no experience of the process of being interviewed in relation to their protection claims and no knowledge of court like proceedings. They submitted that they did not keep detailed records of their lives and had to rely on their memories. They had to cope with differences in calendars because in Pakistan the Islamic calendar is used in daily life. They were both extremely anxious at all times in their dealings with the department and the Tribunal but particularly in the interview with the delegate, the applicant's husband feeling 'almost overwhelmed' by that experience. Their anxiety may have caused some inconsistencies but they submitted that they were telling the truth.
33. None of these various submissions explain or excuse the concerns the Tribunal holds about the credibility of the applicants. Notwithstanding their inexperience in applying for protection, their anxiety about that, having to rely on their memories and convert dates between calendars, they can still be reasonably expected to give a consistent and credible account of fundamental aspects of their lives in Pakistan including the harm they claim to have suffered for being Shias. With respect to the inconsistency which arises from the information which they used for the student visa application, in essence, they claim that this was false and purely for the purpose of securing the visa.
34. The Tribunal can acknowledge that genuine applicants for protection may resort to the use of false information as a means of escaping from harm. However, the fact that these applicants have used false information to be able to leave Pakistan does not demonstrate that the reasons they have given for wanting to leave are true. As stated above, they have given inconsistent evidence about the harm they claimed to have suffered in Pakistan because they are Shias, a fundamental basis of their protection claims.
35. In addition to this, the Tribunal holds concerns about the applicant's husband's willingness to return to Haripur after they fled from that city in early 2011 and the Tribunal also holds concerns about the applicant's claim that her father was a Sunni extremist. Accordingly, assuming that the information put forward by the applicant and her husband in the student visa application has been fabricated, given these other concerns the Tribunal holds about their evidence, by using false information to obtain a visa and leave Pakistan, the applicant

and her husband have done nothing more than demonstrate that they are willing to falsify evidence to achieve whatever immigration outcome they are pursuing.

Conclusions on credibility

36. At the beginning of the hearing, the Tribunal advised the applicant and her husband that, while the delegate may have accepted certain aspects of their evidence as credible, it nevertheless remained the Tribunal's task to decide whether or not they were telling the truth and that was a purpose of its questions. Considered cumulatively, the concerns the Tribunal holds about the applicants' credibility lead the Tribunal to find that the applicant and her husband are not witnesses of truth and the account of events on which their protection claims are based is false.
37. The Tribunal therefore disbelieves their claims that they suffered harm from Sunnis in Pakistan, in particular, the various claims made, recorded above, about being harassed and attacked by Sunnis.⁹ The Tribunal disbelieves their claims that they lived in hiding at any time in Pakistan and that they were forced to live in a different city due to difficulties with Sunnis. This includes claims they made about having to hide their identity, being unable to practice their religion openly, that they suffered discrimination because of their religion and their claims about approaches to the police being fruitless.
38. The Tribunal also disbelieves claims the applicants made in their statutory declarations about attacks against Shias in Haripur; that these incidents in some way affected the applicant's husband and that they caused him to go and live somewhere else away from that city. The Tribunal also disbelieves claims that the applicant's husband had mental hardship and that the couple were in a state of anxiety when they lived in Pakistan due to the difficulties they claimed they were having, claims the Tribunal finds to be false. The Tribunal also disbelieves the applicant's evidence that her father was a Sunni extremist who used to harass her mother. There is no credible evidence that the applicants were harmed in Pakistan and that anyone in Pakistan seeks to harm them. There is no credible evidence as to why they left Pakistan and why they do not want to return there.
39. The Tribunal records that, prior to the hearing, the applicant requested that any hearing be postponed indefinitely because she was pregnant, not feeling well and preferred that a hearing be conducted well after she gave birth to her child which she was [expecting].¹⁰ The Tribunal was not willing to postpone the hearing indefinitely and both the applicant and her husband were well able to participate in the hearing, comprehend the questions they were asked and respond to them. Nevertheless, the Tribunal decided to give them the opportunity to respond in writing to the areas of inconsistency discussed above in the event that was easier for them rather than being confronted with those particular concerns at the Tribunal hearing.
40. The Tribunal also received evidence from the witness who is an Australian national and lives in [a certain city]. He said that he met the couple in mid-2013 through English language classes that he and his wife were conducting for 'refugee women'. He understood they had seen the Salvation Army and he told them to get advice about their situation which led to them applying for protection. He also said that he understood that in late October 2013 the applicant's husband was attacked by someone with whom he was sharing accommodation and there was police involvement. The family left their accommodation, slept in a park and

⁹ That includes the applicant's claim about being kicked or thrown out of the vehicle in 2011 causing her to lose a pregnancy.

¹⁰ See folios 40 - 41 and 44 - 54 of the Tribunal file.

then the witness and others paid for them to stay in a hotel. He said that the applicant had not seen a doctor about her pregnancy and he understood that they were in poor financial circumstances. The witness said that the applicant and her husband had been honest in their dealings with him.

41. The Tribunal found the witness to be a sincere person. However, the witness could really only relate his knowledge of the applicant and her husband based on representations they have made to him. He did not witness the events they claim took place in Pakistan and on which their protection claims are based. They may well have told him that they were attacked by someone while they were in Australia. At one point in her evidence, the applicant claimed that the family had difficulties with 'Wahabis' after they came to Australia. Because the Tribunal finds they are not witnesses of truth, the Tribunal does not accept these claims.
42. The applicant and her husband also claimed to have been in difficult financial circumstances both here and in Pakistan but, because they are not witnesses of truth, the Tribunal has no credible evidence about their financial status. For the same reasons, the Tribunal finds it also has no credible evidence about the employment history of the applicant and her husband (and so it disbelieves claims the applicant made to the delegate and in submissions of 8 May 2015 about suffering sexual or religious harassment in employment at a [company]). To the department the applicants produced documents related to the employment of the applicant's husband for a [professional] in Pakistan, a letter from what appears to be a Shia organisation and an affidavit from the applicant's mother.¹¹ The letter from the organisation and the affidavit from the applicant's mother put forward broad claims that the applicant and her husband were at risk in Pakistan because of their religion.
43. The Tribunal has carefully considered the contents of these documents but they do not overcome the concerns the Tribunal holds about the credibility of the applicant and her husband and, accordingly, the Tribunal does not give weight to them. To the delegate, the applicant's husband said that his surname or ethnicity was '[name]' (or '[name]' as both applicants stated in their Protection visa application forms) and he claimed that this caused he and his family to be [targeted] more. For the reasons given above, there is no credible evidence that the applicant's husband and the applicant were ever targeted in Pakistan. There is no credible evidence before the Tribunal that they are at risk of harm above the risk faced by any other Shia because of their religion. The Tribunal therefore turns to an assessment of the risk of the applicants suffering serious harm on the only grounds which arise in this case which are that they are Shias from Haripur and Abbottabad in the KPK.

Assessment of whether the applicants hold a well founded fear of persecution based on a convention ground

44. The population of Pakistan is estimated to be between 180 and 200 million people.¹² Approximately 95% of that population identify as Muslim and 20% of them are Shia Muslims.¹³ On that basis, the Shia population of Pakistan would range between 36 million and 40 million people. The Shia population of Pakistan is subject to sectarian violence particularly in Karachi, Quetta and parts of the Khyber Pakhtunkwa ('the KPK') and Gilgit – Baltistan provinces.¹⁴ This violence includes attacks by militants on Shia places of worship,

¹¹ See folios 1-2, 4 and 5 of the department file.

¹² DFAT Thematic Report Shias in Pakistan 18 December 2013 at 2.12

¹³ DFAT Country Information Report Pakistan 29 November 2013 at 3.14.

¹⁴ DFAT Country Information Report Pakistan 29 November 2013 at 3.21.

processions and areas where they live in cities and towns particularly during the community's commemoration of Muharram.¹⁵ However, 2014 marked a visible downward turn in sectarian violence in Pakistan with 144 incidents in which 255 people died and the main areas of such violence being Karachi, Quetta and Rawalpindi / Islamabad.¹⁶

45. In terms of risk for Shias in the KPK, the majority of the population in the province are Pashtun and they are predominately Sunni.¹⁷ Shias make up the second largest Muslim sect in the province.¹⁸ While throughout most of the province there is harmony between the two sects, they have clashed in certain parts of the province and Shias have been targeted by militants, again in certain parts of the province, though less frequently than sectarian attacks taking place elsewhere in Pakistan such as, for example, in Quetta.¹⁹ The KPK also has a high level of generalised violence.²⁰ In terms of the scale and effect of violence that takes place in the KPK, including sectarian violence, in 2014, there were 660 fatalities from clashes between security forces, militants, groups across the border in Afghanistan and tribesmen.²¹
46. In 2014, approximately 400 civilians died in terrorism related violence in the province carried out by the Taliban or like militants, but, that is 400 civilian fatalities out of a population of 26 million and with Peshawar being the worst affected district with over half of civilian casualties occurring there.²² In addition, notwithstanding civilian casualties, prime targets for militants in the province in 2014 were security forces, their check posts and their convoys.²³ The Pak Institute for Peace Studies recorded that in this terrorism related violence 17 attacks were of a sectarian nature but more specifically the South Asia Terrorism Portal stated that in 2014 there were nine such sectarian attacks with 18 fatalities.²⁴ The South Asia Terrorism Portal records attacks on Shias in Pakistan each year over recent years but the Tribunal could find reference to only one attack on Shias in Abbottabad and no reference to any attacks on Shias in Haripur.²⁵

¹⁵ DFAT Country Information Report Pakistan 29 November 2013 at 3.22.

¹⁶ Pak Institute for Peace Studies "2014 Pakistan Security Report" p25.

¹⁷ DFAT Thematic Report Shias in Pakistan 18 December 2013 at 4.27 – 4.32.

¹⁸ DFAT Thematic Report Shias in Pakistan 18 December 2013 at 4.27 – 4.32.

¹⁹ DFAT Thematic Report Shias in Pakistan 18 December 2013 at 4.27 – 4.32.

²⁰ DFAT Thematic Report Shias in Pakistan 18 December 2013 at 4.27 – 4.32.

²¹ Pak Institute for Peace Studies "2014 Pakistan Security Report" at p13.

²² South Asia Terrorism Portal "Khyber Pakhtunkwa Assessment - 2015" <http://www.satp.org/satporgtp/countries/pakistan/nwfp/index.html> accessed 30 March 2015; Pak Institute for Peace Studies "2014 Pakistan Security Report" p13 and DFAT Country Information Report Pakistan 29 November 2013 at 2.26.

²³ Pak Institute for Peace Studies "2014 Pakistan Security Report" p14.

²⁴ Pak Institute for Peace Studies "2014 Pakistan Security Report" p25 and the South Asia Terrorism Portal "Khyber Pakhtunkwa Assessment - 2015" citation given above.

²⁵ See http://www.satp.org/satporgtp/countries/pakistan/database/Shias_killed_Pakistan.htm accessed on 30 March 2015 and according to which the attack in Abbottabad was in July 2014 when a man and his son were killed by unidentified people on a motorcycle in a suspected sectarian attack.

47. From this country information, the Tribunal infers that across Pakistan as a whole the number of Shia casualties in sectarian violence is still relatively small in the context of the population of Shias in Pakistan. In terms of violence that takes place in the KPK, the Tribunal infers that the worst of this violence occurs in Peshawar; the prime targets of the perpetrators of terrorist violence are Pakistan security forces and while civilians have been killed in this violence the number of fatalities considered in the context of the population of the province is still relatively small. There have been fatalities in ethno political violence mentioned above but that concerns specific conflicts between tribesmen, groups across the border, militants and security forces and the applicants do not belong to any of those groups. The Tribunal also infers that there have been a relatively small number of sectarian attacks on Shias in the province, none in Haripur and only one in Abbottabad in recent years. On those grounds, it would appear that the risk of the applicant and her husband suffering serious harm in either city is remote.
48. This country information was provided to the applicant and her husband for comment. This included the DFAT Country Report Pakistan of 14 April 2015 and the DFAT Thematic Report Shias in Pakistan also of 14 April 2015, the contents of which the Tribunal understood to be consistent with the country information set out above. In response, the applicant and her husband made submissions in their letter of 8 May 2015. The applicant and her husband acknowledged the visible downward turn in sectarian violence in Pakistan in 2014. However, they submitted that such violence fluctuates over time, it remains a structural problem, Sunni extremist groups remain active and link with other groups like the Taliban and there continues to be a discourse of sectarian hatred.²⁶ They submitted that sectarian violence could increase in retaliation to whatever action the Pakistan government took in relation to the attack in December 2014 at a school in Peshawar in which many people died.
49. They then referred to a 'Smartraveller' advice prepared by DFAT with respect to travel to Pakistan and the purpose of which was to alert Australian nationals, intending to travel to Pakistan, to the prevalence of violence there; sectarian, criminal and terrorist. They submitted that with respect to Shias in the KPK, many Shias left the province after sectarian tensions arose from late 1999 and those tensions remain. They acknowledged the absence of country information demonstrating attacks against Shias taking place in Haripur and Abbottabad and said this was due to the large Sunni majority living in those cities and what they said was a very small Shia population.
50. It was submitted that because of the small Shia population in those two cities, they kept their religion secret and went elsewhere for major Shia festivals. They urged the Tribunal to consider country information to the effect that a Sunni extremist group and terrorist training camps were based in Haripur. They said that in that city, a Christian group had been attacked, a local activist murdered and there had been attacks on 'foreign NGO's'. They referred to reports to the effect that the area was a stronghold for Conservative parties with sympathies to the Taliban. They submitted that these were all reasons why Shias in Haripur and Abbottabad lived in a constant climate of fear and they submitted that attacks on Shias were not reported and not investigated.
51. In addition to these submissions, the applicant and her husband claimed that these assertions about the risk of harm for Shias corroborated their own protection claims to have suffered harm because of their religion. The Tribunal acknowledges the country information and assertions put forward by the applicant and her husband but remains of the view that their claims about suffering harm in Pakistan because of their religion are false. The Tribunal also acknowledges the claims put forward about the fluctuation of sectarian violence (including in response to the government retaliation against militants) and the fact that it is a problem that persists with the continued presence of extremist groups. However,

²⁶ The source of those submissions was the Pakistan Institute of Peace Studies.

the fact remains that the number of attacks and fatalities considered in the context of the size of the Shia population is still relatively small.

52. Because they are not witnesses of truth, the Tribunal rejects their claims about the treatment of Shias in Haripur and Abbottabad. They have tried to put forward various explanations as to why there were no attacks recorded on Shias in Haripur in recent years and only one recorded in Abbottabad last year. However, the fact remains that while in Haripur there may have been attacks over time on other groups and that the local population is conservative, there remains no information that Shias are being attacked in that city or in Abbottabad (beyond the murder of a cleric in 2014).
53. For that reason, the Tribunal rejects their assertions that Shias live in fear to practice their religion or that they are unable to do so in either city including attending relevant festivals there. There is no credible evidence that the applicant and her husband could not openly practice their religion. The Tribunal considers that the coverage of human rights practices in Pakistan is widespread and so rejects the submissions that attacks on Shias, including in Haripur and Abbottabad, are not reported or underreported. While DFAT advises travellers to Pakistan to beware of sectarian, criminal, terrorist or generalised violence, the Tribunal has discussed country information earlier in this decision which indicates that, with respect to the KPK, much of this violence takes place in Peshawar, it affects mostly certain groups to which the applicants do not belong and the number of civilians affected, considered in the context of the population of the province, suggests that the risk of the applicants suffering serious harm on these grounds is remote.
54. With their submissions of 8 May 2015, the applicants reproduced extracts from the South Asia Terrorism Portal for the KPK and Pakistan in 2015 (containing comments by Islamic State that it intends to rule Pakistan) and before the hearing they produced a schedule of country information which they appear to have prepared as well as various articles which were not translated.²⁷ The Tribunal understood that this information related to generalised and sectarian violence in Pakistan. None of it related to the situation in Haripur and Abbottabad specifically. There was reference to a report from 2011 about militants undertaking kidnappings in Pakistan and that Shias could be the victims but it did not make reference to this occurring in Haripur or Abbottabad.
55. The Tribunal has carefully considered this information but it does not cause the Tribunal to depart from the inferences it draws from the country information set out earlier in this decision and which leads the Tribunal to find that the risk of the applicants suffering serious harm in Pakistan because they are Shias and in violence (sectarian, terrorist, generalised or criminal) is remote. Finally, assertions about the situation for Shias were also made by the applicants in their evidence to the department and the Tribunal, by the witness in his evidence to the Tribunal, by the applicant's mother in her affidavit and also in the letter from the Shia organisation submitted to the department. The Tribunal prefers its sources of country information to these broad assertions and again the Tribunal is not persuaded to depart from its finding on this issue.

Submissions of 10 July 2015 from the newly appointed representative

56. Following the conclusion of the Tribunal hearing, the applicant appointed a representative who made written submissions dated 10 July 2015. The representative argued that the applicant was at risk of harm because she is a Shia woman. He submitted that the applicant's children were at risk of harm on the grounds that they were children and that they were Shia children. He submitted that the applicant's daughter was at risk of harm on the

²⁷ See folios 63 – 69 and 71 – 80 of the Tribunal file. They also submitted a media report about the murder of a Shia cleric in Abbottabad in mid 2014 referred to above (folio 70 of the Tribunal file).

ground that she was a female Shia child. He claimed that the applicant and her children belonged to particular social groups made up of Shia women, children, Shia children and female Shia children.

57. The representative argued that there was country information to show that women and children face harm in Pakistan for which the authorities do not provide protection. The representative presented country information in these submissions referring to women who were members of religious minorities being vulnerable but specifically referring to Christian and Hindu women (not Shias) being forced to marry Muslim men. This country information referred to discrimination against women and violence against women and girls. Specific reference was made to the risk of harm to women and children in conflict zones as well as harm arising in the context of domestic violence, honour killings and women with a specific profile such as women's rights activists (or women performing polio vaccinations).
58. The country information presented by the representative also referred to militants kidnapping children; the abuse of child domestic servants; young girls being forced into arranged marriages; the trafficking and sexual exploitation of children amidst broader instances of neglect. The representative submitted that the applicant and her children were at risk of denial of education and employment. The representative enclosed a statutory declaration made by the applicant on 6 July 2015 in which she said fundamentalists would harm her children when they attended school.
59. The representative presented country information about sectarian violence in Pakistan and he broadly claimed that the frequency and severity of attacks against Shias was increasing amidst a deteriorating security situation. This country information referred to the arrival of Islamic State in Pakistan and presented details about attacks on Shias asserting that these take place beyond those locations where they are generally most frequent such as Karachi or Quetta. However, no mention is made of attacks in Haripur or Abbottabad. In her statutory declaration of 6 July 2015 the applicant asserted that the security situation in Pakistan was deteriorating and there were attacks on women, children and Shias, which placed her and her children at risk.
60. The representative submitted that the applicant's fear of harm based on her gender and her fear for her children based on their age was not emphasised earlier because she was not properly advised by a former representative as to the relevance of the age of her children and her gender. In addition, the applicant has been under emotional and financial stress including with respect to having [accommodation] and the stress of her pregnancy for which she had to access health services. It was submitted she had limited English and was not familiar with the process of applying for protection. The representative put forward various materials about how credibility should be assessed and stated that any delay in raising these particular claims did not mean that they were not credible.
61. In her statutory declaration of 6 July 2015 the applicant also claimed that the agent who helped her apply for protection did not ask her about harm she feared based on her gender or for her children. She claimed there was a lack of family protection for her in Pakistan and she was also not asked about that. In addition, the applicant claimed that she was not asked about her experiences in Pakistan before she was married and she related encountering harassment from Sunni men, harm because her father deserted the family and harassment in her employment at a [company]. She then claimed to be afraid that if her husband found out about that he would divorce her and then she would be even more vulnerable.
62. Beyond this, the applicant said that after the family arrived in Australia they had trouble securing accommodation and had conflict with some people with whom they shared rental premises. They were in a poor financial position (the applicant providing bank statements)

and her pregnancy here also caused her illness and worry without family support.²⁸ In addition, the applicant was focused on study rather than finding out about protection and in mid-2013 she consulted professionals about that who said that if she applied for protection her student visa would be cancelled.²⁹

63. There is no need for the Tribunal to determine whether the particular social groups referred to by the representative exist because the risk of the applicant and her children suffering serious harm in Pakistan based on religion, gender and age, considered cumulatively or singularly, is remote. The Tribunal has carefully considered the country information presented by the representative about violence in Pakistan, including sectarian violence, but the Tribunal remains of the view that the numbers of Shias harmed in sectarian violence and civilians harmed in generalised violence (including children) as referred to in this country information is still small in the context of the relevant populations.
64. While the applicant and the representative claim that attacks and the security situation are getting worse, the Tribunal remains of the view, based on the country information before it, that the risk of the applicant, her husband and children suffering serious harm in Pakistan is remote. The Tribunal acknowledges the country information presented by the representative with respect to women and children suffering harm in Pakistan. However, that information does not go so far as to demonstrate that there is a real chance any woman or child (including female child) will suffer serious harm in Pakistan based on gender, youth or Shia religion. With respect to harm based on gender, the country information more specifically refers to harm in the context of familial situations, such as forced marriages, honour killings, domestic violence or harm to women with some such as those who are activists. This applicant has no such profile and has made no claim to fear harm with respect to her marriage and the country information does not really apply to her.
65. While the country information referred to violence against women and children in conflict zones the applicant and her family did not live in such a location. The country information about the treatment of children in Pakistan if anything related to harm children could encounter through neglect by their own family (such that they become the victims of trafficking or sexual exploitation or underage marriages). However, the applicant and her husband have included their children in their protection applications and clearly will not behave in a fashion that would result in their children suffering such harm.
66. The Tribunal rejects her bald assertion that she would be denied employment and her children denied an education or harmed at school by fundamentalists. Neither she nor her representative has provided any foundation for such bald assertions and there is no credible evidence the applicant was denied employment or education in Pakistan even though she is a Shia woman. The Tribunal acknowledges claims put forward by the representative and the applicant as to their difficulties after arriving in Australia and why their claims related to gender and youth were not earlier put forward. Certainly, none of those matters excuse or explain the concerns the Tribunal holds about the credibility of the applicant and her husband which have been discussed above and which have led the Tribunal to find that they are not witnesses of truth.
67. Further, while the Tribunal focused its attention on harm the applicant claimed that she encountered after her marriage to her husband, the Tribunal is satisfied that her claims about suffering harm either before or after her marriage are false. The applicant and her husband could not give credible evidence about the harm they claim to have suffered in Pakistan after their marriage and that is sufficient basis for the Tribunal to find that they are

²⁸ These documents appear on the Tribunal file at folios 140-142.

²⁹ The applicant provided a letter from these professionals at folio 140 of the Tribunal file.

not witnesses of truth. For that reason, the Tribunal rejects claims the applicant makes about suffering harassment or harm of any kind in Pakistan, either sexual or religious, or, due to not having a father (a claim the Tribunal disbelieves) either before or after her marriage.

68. Accordingly, the Tribunal also disbelieves the applicant's claim about having a fear her husband could find out she suffered sexual harassment because the Tribunal does not believe that ever happened. Because the applicant is not a witness of truth the Tribunal disbelieves her claims about not having family protection in Pakistan. For the same reason, the Tribunal also finds that it has no credible evidence about the circumstances of the applicant and her husband once they arrived in Australia and rejects the claims about the difficulties they faced. There is no credible evidence about the financial position of the applicant and her husband.

Submissions from the representative from late July 2015

69. [In] July 2015 the representative advised the Tribunal that the applicant had been admitted to a hospital [for] psychiatric treatment. The representative then provided a statutory declaration made by himself on 6 August 2015 in which he said he had attended at the hospital and spoke to the applicant's treating psychiatrist. The representative said that he was told the applicant was admitted to hospital after attempting to [harm] her child. On that same day, the representative requested the Tribunal to allow him a period of one month to take instructions from the applicant about this and the risk that this posed to her in Pakistan.
70. The Tribunal agreed to this request and on 4 September 2015 the Tribunal received from the representative, written submissions, a further statutory declaration made by the applicant on 4 September 2015 and a report dated [in] September 2015 from a clinical psychologist. In this latter document, the psychologist said that his report was prepared on the basis of an interview with the applicant and access he had to information about the applicant's Protection visa application as well as information from the hospital [where] the applicant was treated. The psychologist narrates claims made to him by the applicant about difficulties she claims she suffered in Pakistan primarily on the grounds of religion, her gender and not having a father (including the claims she made to the department and the Tribunal in support of her Protection visa application).
71. The psychologist records that although the applicant undertook and completed a three year [university] degree, because of these difficulties, she needed psychiatric treatment and had made an attempt on her life. Based on what the applicant has told him, the psychologist assessed the applicant as suffering depression consistent with post-traumatic disorder in Pakistan. The psychologist then discussed the applicant, more recently, presenting herself to a hospital [where] she was treated for 18 days after telling staff there she had tried to [harm] her daughter. Because of this, child welfare agencies and the police were notified, the police obtaining an apprehended violence order on behalf of her children against her. The psychologist stated that her husband provides support and supervision and he has now returned to work.
72. The psychologist stated that the applicant was cognitively intact and there was no evidence of any perceptual disorder or any serious psychiatric disorder. He assessed her as suffering a recurrent form of major depression based on the experiences she claims occurred in Pakistan. Following her discharge from hospital, she has received counselling and sees a doctor. In terms of her current mental state she is said to feel guilt over what she did to her child as well as anxiety about suffering harassment and discrimination in Pakistan.
73. The representative also provided a statutory declaration made by the applicant on 4 September 2015 in which the applicant repeats the account narrated in the report from the

psychologist about the difficulties she claims she had in Pakistan and its impact on her mental health. In addition, the applicant made reference to her mental state once her youngest child was born in Australia [this] year. She referred to having negative thoughts causing her to be aggressive towards her husband and children and having thoughts of harming her children. She also claims though to have great fears for the safety of her children in Pakistan (at the hands of others, as discussed above, for example, fundamentalists). In submissions of 4 September 2015, the representative said that there was a link between psychological harm and the experience of discrimination. The representative submitted that the applicant will suffer discrimination, harassment and vilification the impact of which, in her mental state, will amount to serious harm.

74. The Tribunal has carefully considered these further submissions, declaration from the applicant and report from the psychologist. In his report, the psychologist just repeats claims made to him by the applicant about what she says happened to her in Pakistan. Similar claims are advanced by the applicant in her statutory declaration of 4 September 2015. The psychologist is not in a position to assess the credibility of those claims but the Tribunal is. For the reasons given above, the Tribunal finds the applicant is not a witness of truth and so it rejects as not credible the claims narrated in the report from the psychologist (and in her declaration) as to what the applicant claims happened to her in Pakistan. All of those claims are false. There is no credible evidence that the applicant suffered harm of any kind in Pakistan. The Tribunal also considers false the claims she has made to the psychologist about seeking and receiving psychiatric treatment when she lived in Pakistan and making an attempt on her life.
75. The Tribunal acknowledges the claims made by the applicant in her most recent statutory declaration and by the psychologist in his report that the applicant presented herself to a hospital [to] receive psychiatric treatment after what she told the hospital was an attempt to [harm] her child. She has been discharged from hospital and although police and child welfare authorities have become involved, on the evidence before it, the Tribunal understands that the applicant lives together with her husband and her children. While she claims to have negative thoughts, including harming her children, at the very same time, she expresses great fears for their safety in Pakistan (due to religion, gender and age, all of which the Tribunal has dealt with earlier in this decision). Accordingly, because she is not a witness of truth, the Tribunal does not believe that the applicant will in any way harm her children in Pakistan.
76. The Tribunal has considered a statement by the psychologist that the applicant's ability to recall specific details about her past would be adversely affected by her major depression and post-traumatic stress disorder because that would lead to symptoms of avoidance of any reminder of past traumatic events. While the Tribunal has carefully considered that comment, it is not satisfied that this can explain or excuse the concerns the Tribunal holds about the applicant's credibility and which have led the Tribunal to find that she is not a witness of truth and the account of the events on which her protection claims are based is false.
77. The psychologist has assessed the applicant as suffering major depression and post-traumatic stress disorder, it appears, from the time she was in Pakistan. However, the Tribunal remains of the view that the applicant did not suffer harm in Pakistan and did not receive or seek psychiatric treatment when she lived there and that is because she is not a truth. The psychologist baldly asserted that because of the applicant's 'minority status' she would not get proper treatment in Pakistan for her mental condition. By email [in] August 2015 the representative said he wanted extra time to take instructions from the applicant as to whether she thought she would suffer harm by reason of membership of a particular social group comprised of the mentally ill.

78. The representative made no further submission about that and the Tribunal finds the risk of the applicant suffering serious harm on the basis of her mental state as assessed by the psychologist is remote. Accordingly, there is no need for the Tribunal to determine whether the particular social group referred to by the representative exists. Similarly, the Tribunal rejects the applicant's claim made in her most recent declaration that she or her children will suffer harm (including being teased) because of her mental state as assessed by the psychologist.
79. Certainly, neither the psychologist nor the representative presented country information to establish any such claim or that the applicant would be denied any form of medical attention or care she may need for her mental state on the ground that she is Shia or on any ground (nor is the Tribunal aware of any such country information). The applicant claims that returning to Pakistan will exacerbate her mental state and she will be unable to cope with the maltreatment she fears she will receive in Pakistan, maltreatment she claims she endured in Pakistan. As stated above, the representative claims that whatever harm she encounters in Pakistan will have the impact of serious harm because of her mental state.
80. Regardless of her mental state, the Tribunal repeats its findings that the risk of the applicant suffering serious harm in Pakistan on the ground that she is a Shia woman is remote and the Tribunal does not believe this applicant suffered harm in Pakistan. Because she is not a witness of truth the Tribunal has no credible evidence as to the true cause of her mental state as assessed by the psychologist. It could well be that with her immigration status in this country resolved and her return to Pakistan, the country in which she has lived almost all of her life, whatever feelings of depression or anxiety she has will be resolved. The evidence before the Tribunal indicates that the applicant's husband is supportive and he will no doubt ensure the applicant has access to whatever medical treatment she may need on return to Pakistan.

Conclusions on whether the applicants hold a well founded fear of persecution based on a convention ground

81. For the reasons given above, the Tribunal finds that there is not a real chance the applicants will suffer serious harm in Pakistan. They do not hold a well founded fear of persecution based on any convention ground.

Complementary protection

82. With respect to the complementary protection criterion, the Tribunal repeats its finding that the applicant and her husband are not witnesses of truth and the account of events on which their protection claims are based is false. There is no credible evidence that the applicants suffered harm in Pakistan and there is no credible evidence that anyone in Pakistan seeks to harm them. There is no credible evidence as to why they left Pakistan and why they do not wish to return there.
83. The Tribunal has set out above country information about generalised violence in the KPK and sectarian violence there so far as it affects the applicants as Shias. For the same reasons the Tribunal finds there is not a real chance the applicants will suffer serious harm, it also finds that there is not a real risk that they will suffer significant harm (on the ground of their religion or on any ground). This is because there is no country information demonstrating that attacks on Shias take place in Haripur and the Tribunal could find only one report of an attack on a Shia in Abbottabad.
84. The Tribunal recognises that there have been attacks on Shias in Pakistan and that generalised violence takes place in the KPK. However, the Tribunal considers that the numbers of fatalities from the attacks on Shias and the number of civilian fatalities from the

generalised violence in the province where they live, considered in the context of the size of the respective populations, is still relatively low. In terms of the generalised violence, this mostly takes place between groups to which the applicants do not belong and a good deal of it takes place in Peshawar. This leads the Tribunal to find that the risk of the applicants suffering significant harm in Haripur or Abbottabad where they claim to have lived is remote (that is harm based on their religion, in generalised violence or on any ground).

85. For the same reasons and for the reasons given above with respect to the assessment of the risk of the applicant and the children suffering serious harm, the Tribunal also finds remote the risk of them suffering significant harm based on gender, age and religion, whether those factors are considered cumulatively or singularly. The representative in submissions of 4 September 2015 claims that the discrimination, harassment and vilification, the applicant would suffer on return to Pakistan amounted to significant harm in view of her mental state the representative referring to the department guidelines on the assessment of that issue. For the reasons given above, the Tribunal finds that the applicant did not suffer any of these kinds of harm in Pakistan and the risk of her suffering significant harm on return is remote.
86. The Tribunal acknowledges the applicant's mental state as assessed by the psychologist but no claim has been made or established that the applicant will suffer significant harm on that ground. There is no credible evidence as to the cause of the applicant's mental state and she will return to Pakistan with the support of her husband who can help her to access whatever care she may need for her mental state. The risk of the applicant or her children or husband suffering significant harm because of her mental state as assessed by the psychologist is remote. While, as discussed above, there are references in the psychologist's report and declaration from the applicant about having negative thoughts such as harming her children, the Tribunal does not believe the applicant will behave that way on return to Pakistan given that she is not a witness of truth and also given that she expresses, at the very same time, concerns for their safety in Pakistan from others.
87. Accordingly, there are not substantial grounds for believing that, as a necessary and foreseeable consequence of the applicants' removal from Australia to the receiving country, Pakistan, there is a real risk that they will suffer significant harm.

CONCLUSIONS

88. For the reasons given above, the Tribunal is not satisfied that any of the applicants is a person in respect of whom Australia has protection obligations. Therefore the applicants do not satisfy the criterion set out in s.36(2)(a) or (aa) for a protection visa. It follows that they are also unable to satisfy the criterion set out in s.36(2)(b) or (c). As they do not satisfy the criteria for a protection visa, they cannot be granted the visa.

DECISION

89. The Tribunal affirms the decision not to grant the applicants Protection visas.

Paul Millar
Member