



EXTRA DIVISION, INNER HOUSE, COURT OF SESSION

Lord Reed
Lord Hardie
Lord Mackay of Drumadoon

[2010] CSIH 30
XA148/08
XA150/08
XA151/08
XA152/08

OPINION OF THE COURT

delivered by LORD REED

in the Appeals by

HK, SK, HK and GCS

Appellants:

against

SECRETARY OF STATE FOR THE
HOME DEPARTMENT

Respondents:

First Appellant: Bryce; Drummond Miller LLP

Second Appellant: Bryce; Drummond Miller LLP

Third Appellant: Devlin; Drummond Miller LLP

Fourth Appellant: Bovey QC, Devlin; Drummond Miller LLP

Respondents: Webster; Office of the Solicitor to the Advocate General

9 April 2010

Introduction

[1] The appellants are citizens of Pakistan. They are Sikhs, and members of the same family. The first and fourth appellants are brothers. There is some confusion in the papers as to whether the second and third appellants are their sisters, or their sisters-in-law. It appears from the information provided by the appellants themselves, when

interviewed, that the second appellant is married to the first and fourth appellants' brother ML, and that the third appellant is their sister.

[2] The first, second and third appellants arrived together in the United Kingdom with their dependents on 4 December 2006. The fourth appellant arrived on 7 December 2006. They all claimed asylum on 16 or 17 January 2007. Their applications were refused during February 2007. They then appealed to the Asylum and Immigration Tribunal under section 82(1) of the Nationality, Immigration and Asylum Act 2002. On 22 May 2007 the appeals were refused by Designated Immigration Judge Murray. On 29 June 2007 Senior Immigration Judge Batiste ordered reconsideration. With the consent of the parties, he decided that Immigration Judge Murray had made a material error of law. The reconsideration proceeded by way of a fresh hearing before Designated Immigration Judge Macleman. On 30 May 2008 he refused the appeals. Leave to appeal to this court was refused by the Tribunal but was granted by this court.

[3] We should observe at the outset that we have considerable sympathy for the immigration judges who had to consider these appeals. The facts are complex, and the papers are voluminous. They are not made any easier to understand by the absence of such basic aids as a map, a chronology of events (except in the case of the second appellant, on whose behalf a chronology was lodged) and a family tree. Confusion over names and dates, and spelling variants, cause further difficulty. The decision to conjoin the appeals, although understandable in the circumstances, did not make the task of the immigration judges any easier. Nor do they appear to have been aided by the manner in which the appeals were presented: so far as appears from the determination of Immigration Judge Macleman in particular, it seems that the solicitors for the first, second and third appellants adopted the submissions made by

the solicitor acting on behalf of the fourth appellant, with little attempt being made to identify relevant differences between the circumstances of the various appellants.

With that in mind it may be helpful at this point to consider the basis of the appellants' claims for asylum.

The first appellant's claim

[4] Prior to his arrival in the United Kingdom, the first appellant lived in the village of Barikot in the Swat district of the North-West Frontier Province of Pakistan. The village is about 25 kilometres from Mingora, the principal town of the province, and about 40 to 50 kilometres from the Afghanistan border. He is university educated, with a degree in mathematics and economics. He had a successful communication business in Pakistan, with three offices or shops. He operated mobile telephone franchises in the Swat and Malakand districts of the province. He is single.

[5] In a written statement, which he adopted as part of his evidence before the Tribunal, the first appellant stated that he had been repeatedly threatened by Islamists. The threats had been made by telephone. The callers said that they were from a Jihadi organisation undertaking Jihad in Afghanistan. They knew that the first appellant was a Sikh businessman. They were attempting to extort money from him. Initially he was telephoned at work, but later calls were made to his home. This appears to have been a home shared with the second appellant and her family, and the third appellant and her family. It appears that the fourth appellant and his family also had their main home there, although they spent periods when the National Assembly was in session in accommodation which was provided to members of the National Assembly in Islamabad. In the telephone calls, the first appellant was threatened that he would be killed unless he paid the money demanded. These calls were made on 24 February,

3 March, 10 March and 20 March 2006. The first appellant went to Islamabad to stay with his brother, the fourth appellant, returning home on 14 April 2006. On 25 April 2006 he was issued with a visa to visit the United Kingdom. On 3 May 2006 four Islamists armed with guns arrived at his office. They assaulted him, vandalised his office and destroyed equipment as a punishment for his failure to comply with the earlier demands. He was treated in hospital for his injuries. Following that incident he again went to Islamabad to stay with the fourth appellant, returning home on 4 June 2006. On 7 June 2006 Islamists kidnapped MK, who was the fiancé of the first appellant's niece, and also a second cousin of the first appellant. He was kidnapped in the Malakand district. He was released on 22 or 23 June 2006, after his father had paid a ransom. Following the kidnapping, the first appellant stayed away from the province as much as possible, staying in Islamabad in July and August 2006 and travelling to China on business in September 2006. On 12 October 2006, while the first appellant was in China, his cousin RK was murdered by members of an Islamist organisation. In his statement, the first appellant described the murder as "further evidence that the militants were targeting my extended family". On his return to Pakistan, the first appellant stayed mainly in Islamabad. He returned home on 10 November 2006, after being told that there had been no further contact from Islamists. He did not go to work, and remained at home. On 28 November 2006 he was told by a Muslim neighbour that there had been talk at the mosque of attacking the appellant's family home, as he (the first appellant) was alleged to have desecrated the Koran. The neighbour advised him to leave at once with the entire family, as it was too dangerous to remain at home. They left immediately and caught a coach to Bunir, where they stayed with relatives for a few days before travelling to Islamabad and taking a flight to the United Kingdom. The statement describes Bunir as a town

about 50 kilometres away, but the Statement of Evidence Form records the first appellant as stating (through an interpreter) that Bunir is the district adjoining Swat, and that he has a sister living there in the next village to his own. He stated that he was afraid that he would be killed if he returned to Pakistan.

[6] In his Statement of Evidence Form, which he adopted as part of his evidence, the first appellant expressed the opinion that the incident on 28 November 2006 was related to the fourth appellant's activities in the National Assembly, where he had opposed Islamist extremism. He also said that he had been the target of a poster campaign by Muslim business competitors during 2004. The posters had abused him, and had urged the public not to do business with him, because of his religion.

[7] In his notice of appeal against the respondent's decision, the first appellant based his claim to asylum partly on the fact that he had been targeted by Islamist extremists who were part of a nationwide network and had been accused by them of desecrating the Koran, and partly on his membership of a persecuted social group, namely the family of the fourth appellant. In that regard he reiterated that one of his cousins had been kidnapped, and another murdered.

[8] In a further statement, also incorporated into his evidence, the first appellant stated that he had previously visited the United Kingdom in 2004, and had not claimed asylum. It had not been his intention to claim asylum when he had obtained a two-year visa in April 2006. He reiterated his belief that, because his brother (the fourth appellant) had made statements against Muslim extremists in the National Assembly and in the media, this had resulted in the entire family being targeted by Muslim extremists, who had an extensive network throughout Pakistan. The police did not provide effective protection against them. Sikhs were easily identified and, as a group, were the object of discriminatory behaviour.

[9] In support of his appeal, the first appellant lodged numerous documents, including newspaper articles dated 31 January 2006 reporting an incident in the National Assembly when "a fight almost broke out" after the fourth appellant had defended an air strike on a madrassa in Pakistan; an article dated 1 February 2006 reporting the fourth appellant's "statements against Islam" and "derogatory words about Islam"; an article dated 13 October 2006 reporting the murder of RK; reports of the abduction and forcible conversion of non-Muslims to Islam in various parts of Pakistan; and numerous articles reporting the fourth appellant's speeches in the National Assembly and elsewhere in defence of the rights of members of religious minorities and in opposition to the activities of Muslim extremists in Pakistan and elsewhere (including the United Kingdom).

The second appellant's claim

[10] Prior to her arrival in the United Kingdom with her children, the second appellant also lived in Barikot. She and her children shared a house with the first appellant, with the third appellant and her family and with the fourth appellant and his family (when they were not living in official accommodation in Islamabad).

[11] In a precognition which appears to have been adopted as part of her evidence, she described an incident on 28 October (*sic*) 2006, when the family left the house on being told that they were alleged to have desecrated the Koran. They got a bus and went to the house of a sister of the first appellant, 50 kilometres away in Bunir. They then went to Islamabad, where they stayed in Federal Lodges while tickets were obtained for flights to the United Kingdom. She stated that the family were under a *fatwa*. The police could not protect them from being killed by Muslim extremists. Her

husband had remained in Pakistan, where he had a business with eleven clothing shops. He was in hiding.

[12] In her Statement of Evidence Form, the second appellant gave a history, much like that given by the first appellant, of earlier discrimination by Muslims and, in particular, harassment of her children. She described how the position had deteriorated during 2006. Her niece's fiancé, MK, had been kidnapped and held to ransom. Later in the year, her husband's cousin, RS, had been murdered by Muslim extremists. This would appear to be the same person as the first appellant named as RK. The extremists had threatened to kidnap her children and convert them to Islam. Threats had been made against her 14 year old daughter, because she attended school. It was pointless to report these matters to the police. That would simply cause more problems. The final incident had occurred after the first appellant was alleged to have desecrated the Koran. Those who had been in the house had left at once. Her husband had been away from home, working in one of the shops. They made their way to the road, where they waved down a coach, because at night they were usually empty. They then went to Bunir. Her sister-in-law's house was a two hour journey away. They hid there for two days, but people found out that they were there, so they went on to Islamabad. She did not know whether it was because of the fourth appellant's activities as a member of the National Assembly, or the first appellant's success in business, that the whole family had been targeted. She had obtained a visa to visit the United Kingdom on 19 July 2006.

[13] In her notice of appeal against the respondent's decision, the second appellant stated that her case was exceptional due to the high profile of the fourth appellant in Pakistan. Members of his extended family would be at risk in Pakistan as a consequence of his having claimed asylum in the United Kingdom on the grounds of

persecution by Islamists. She reiterated that she was a member of a family which had been attacked by Islamists.

[14] In a further statement, the second appellant reiterated the history of harassment of her children by reason of their religion, and her account of attacks and threats against the family during 2006.

[15] In support of her appeal, the second appellant lodged a large number of reports and other documents concerned with discrimination and violence directed against members of religious minorities in Pakistan, and with the blasphemy laws of that country. The documents included a report by Amnesty International of unwillingness on the part of the Pakistan police to protect members of religious minorities who approached them for help.

The third appellant's claim

[16] In her Statement of Evidence Form, the third appellant gave a broadly similar account to that of the second appellant. She expanded upon it in a statement dated 26 January 2007. She said that her problems had begun three or four years earlier. They had begun partly because of religion and also because of the fourth appellant's political activities. She described a history of harassment of her family, and of the children in particular. She said that her husband, who had a successful textiles business with a number of shops, had received threatening telephone calls from Muslim extremists demanding money. Threats had been made that she would be kidnapped if the demands were not met. Threats had also been made to abduct the children. She had been afraid to leave the house. Her husband had done the shopping. During 2006 her niece's fiancé had been kidnapped by extremists and held to ransom. Later in 2006 her cousin, RK, had been murdered by extremists. Then the extremists

had accused the family of desecrating the Koran. They had left when they were told that they were to be attacked by the extremists. They stayed with her sister for a day, but the extremists telephoned her sister's house and threatened to attack them. They then went to Islamabad, and from there to the United Kingdom. It would have been pointless to seek the assistance of the police. She and her children had travelled to the United Kingdom using visas they had obtained in July 2006 for an intended holiday. Her husband had remained in Pakistan. He had continued to receive telephone calls asking where he had sent his wife and saying that the callers would find her. He had gone into hiding, and was intending to go to India.

[17] In a further statement, the third appellant stated that the difficulties experienced by her family were due to their religion rather than to the fourth appellant's political activities.

The fourth appellant's claim

[18] The fourth appellant is a prominent figure in the political life of Pakistan. In a statement, he said that after graduating in civil engineering he had initially worked as an engineer. In 1993 he stood as a candidate in the elections but was unsuccessful. In 1994 his fiancée was kidnapped in revenge for his political and religious opinions. She was held until she agreed to convert to Islam and marry a Muslim man. In 1995 the uncle of the fourth appellant's wife was arrested, along with his family, on false charges of blasphemy. They were released after 45 days and an attempted forced conversion to Islam. In 1996 the fourth appellant was elected to the Provincial Assembly of the North-West Frontier Province, where he held the minority seat and was elected as chairman of the Standing Committee for Minorities Affairs. His activities on behalf of non-Muslims, and his opposition to Islamic extremism, made

him unpopular. In 1997 he was kidnapped by armed men and held prisoner for nine days, during which he was tortured. After his release, he was advised by ministers not to pursue the matter, as to do so would endanger his life. In 1999 he was elected to the minority seat in the National Assembly. Since then he had held various positions in the government of Pakistan and in the National Assembly. He had been particularly active in the area of human rights. In January 2006 he was physically attacked in the National Assembly after speaking in support of a military strike on a school where terrorists were trained. These events were reported in the newspapers. In February 2006 his brother, the first appellant, began to receive threats from Islamic extremists. Extremists vandalised the first appellant's shop and assaulted him. In April 2006 the fourth appellant was at the family house in the compound at the Federal Lodges in Islamabad. The compound was surrounded by police security. Two of his children were playing in the garden when three men and a boy attempted to abduct them. His driver had prevented the attempt. The security guards had not intervened and had allowed those responsible to leave the compound. He believed that the security guards must have been involved in the attempt. He had reported the matter to the police, but they had declined to investigate. Shortly afterwards his wife had begun to receive threatening telephone calls, warning her that the fourth appellant should not speak out against terrorists. In June 2006 his niece's fiancé (also his cousin's son), MK, was abducted by extremists and held to ransom. On 12 October 2006 his cousin RK was shot dead. The police did not appear to make any enquiries into his murder until pressurised into doing so by the government. They then said that RK had been killed by one of his brothers. The family then withdrew their complaint, resulting in the end of enquiries. In November 2006 the fourth appellant was nominated by the Prime Minister to attend the UN General Assembly in New York. He flew to New

York with his wife and children on 26 November. While they were there, he received a telephone call from his brother ML, the second appellant's husband, informing him that there had been an attack on the house and that most of the family had flown to the United Kingdom. He and his family flew there from New York to join the rest of the family. As he was a prominent politician in Pakistan, there was nowhere in the country where his life would not be in danger. The level of corruption, and of infiltration by extremists, was such that he could not obtain protection from the police or other state organisations.

[19] In a further statement, the fourth appellant gave details of a number of occasions on which he had been badly treated by the Pakistan intelligence services. He was told that there had been reports that he was an Indian agent. He suspected that the intelligence services might have been involved in the persecutory conduct against him and his family during 2006.

[20] In a further statement, the fourth appellant said that he was concerned about the possibility of being charged under the blasphemy laws, apparently in connection with the alleged desecration of the Koran. If he returned to Pakistan he would be targeted by religious extremists. No effective protection was available from the state: state agencies were reluctant to protect minorities from persecution by Islamic fundamentalists.

[21] A later statement referred to a newspaper report that he had applied for asylum in the United Kingdom. This added to the dangers which he would face if returned to Pakistan, as he would be perceived as a traitor. The statement also founded on the changing circumstances in Pakistan following the declaration of a state of emergency by General Musharraf. Following elections in Pakistan, the fourth appellant was no

longer a Member of the National Assembly, and was no longer entitled to reside in the Federal Lodges.

[22] A large number of documents were lodged in support of the fourth appellant's appeal. They included newspaper reports of his kidnapping, of Muslim reaction to his activities on behalf of religious minorities, of the murder of RK, of the abduction of children of families belonging to such minorities, and of the abduction and forced marriage of women belonging to such minorities. Other documents concerned collusion between the Pakistani authorities, including the intelligence services, and Islamist terrorists. The documents also included a report on the legal and other consequences of a charge of blasphemy in Pakistan by Professor Emmanuel Zafar, a former practising lawyer and professor of law in that country, now living in the United Kingdom.

The decision of Senior Immigration Judge Batiste

[23] It is unnecessary for present purposes to consider in any detail the initial decision of the Tribunal taken by Immigration Judge Murray. On the application for reconsideration, Senior Immigration Judge Batiste found that Immigration Judge Murray had focused on the plausibility of some aspects of the claims (such as whether the second and third appellants' husbands were in hiding, or had remained in Pakistan to run the businesses; or whether the visas had been obtained for a holiday, or indicated a planned migration), but had failed to come grips adequately with the material issues. She had failed to state clearly which aspects of the claims she accepted as true, and which not; had failed to provide adequate reasoning for her conclusions, which demonstrated an appreciation of the appellants' explanations for their actions and the objective context; had failed to make a proper assessment of the

objective evidence and country guidance to the risk to Sikhs in general and to the appellants in particular on their established risk profiles, which included the previous death of a family member and the claimed kidnapping of the fourth appellant in 1997; and had failed to deal adequately with the issues of sufficiency of protection and internal relocation. It was also noted that the immigration judge had failed to find whether the first appellant's claim that his franchise had caused problems with Muslim competitors was true, and, if so, whether it had been exacerbated by religious and ethnic considerations, so as to engage the Convention.

The decision of Immigration Judge Macleman

[24] After narrating the procedural history of the appeals, Immigration

Judge Macleman set out what he described as the "essential claim":

"Crucially, they say that on or around 28 November 2006 a neighbour warned them that Islamist fanatics were enraged over a false accusation that one or more members of the family had desecrated the Koran at or near the family home. The fanatics were about to leave the mosque and attack the family home...The Appellants all claim to be at real risk on return of persecution because they are Sikhs" (paras 6 and 9).

It was noted that the fourth appellant added another element:

"He alleges that due to his high political profile and having sought asylum abroad the Intelligence Services would interrogate him brutally" (para 10).

In his discussion of the appeals, the immigration judge began by considering the report by Professor Zefar:

"This is written by an experienced Pakistani lawyer who knows the country well, but it is partisan. While not to be discounted it has to be read in that light. It makes assumptions about fatwas, First Information Reports (FIRs) and criminal proceedings which are not supported by the evidence" (para 38).

The immigration judge then considered the sufficiency of state protection of Sikhs and other religious minorities in general, concluding that the evidence did not show

that the state of Pakistan failed to take reasonable steps to prevent persecution. Internal relocation was in any event possible: the influence of religious extremists was not nearly so strong in certain areas. Nothing showed the fourth appellant's enemies to be anything but local fanatics. The intelligence services were unlikely to act vindictively towards a well-known figure. In relation to matters of credibility, the immigration judge considered it implausible that the appellants had had as little contact with persons in Pakistan, following their arrival in the United Kingdom, as they claimed. It was incredible that they were as destitute in the United Kingdom as they claimed to be. A newspaper report stating that a person had identified herself as a guest in the appellants' home in Swat in May 2007 contradicted everything the appellants had said. On the evidence given by the third appellant's husband in other proceedings in 2007, the family still had substantial assets. The immigration judge then turned to the incident on 28 November 2006. He began his discussion of the incident as follows:

"The first and fourth appellants have had prior opportunities of claiming asylum in other countries and have not done so, but returned to Pakistan. Whatever the prior history of low grade discrimination, harassment or even kidnappings and murder of relatives, the alleged events of November 2006 are agreed to be critical" (para 86).

The immigration judge considered the appellants' account of the incident to be incredible. He appears to have found it particularly implausible that, as he put it, "They board a bus which takes them straight to a relative's house in a village 40 to 50 kilometres away". He commented that catching the right bus was "another remarkable piece of good fortune". The immigration judge considered, in the light of the evidence about the visas in particular, that a family plan to migrate to the United Kingdom had been laid before November 2006. He concluded:

"The appellants claim a history of discrimination and harassment against them as Sikhs in Pakistan. Much of this may be true, but they are nevertheless a

family which enjoyed business success and one of whose members became a politician at national level. The essential claim is that having narrowly escaped a sectarian assault on their home they are now at risk of persecution from religious extremists throughout Pakistan should they return. This claim fails for the following reasons.

- (a) Notwithstanding many examples of religiously motivated violence, there is no general risk to the small Sikh minority in Pakistan.
- (b) Notwithstanding levels of corruption, bias and malpractice among the police and lower judiciary, the government and courts provide protection to the standard of sufficiency required by law.
- (c) Even if there is legal lack of protection, the Appellants could relocate away from the North-West Frontier Province, to an area where there is no significant risk from religious extremists. There is no question of undue harshness.
- (d) In any event, the evidence fails to establish even to the lower standard of proof that the alleged incident in November 2006 occurred. A well-connected wealthy family with relatives in Pakistan could not be cut off from contact and from their assets to the almost complete extent they maintain. Their account of the central event which caused them to flee is incredible.
- (e) The making of this claim does not involve a real risk of persecution or ill-treatment of the fourth Appellant by the Intelligence Services" (para 99).

Discussion

[25] The focus of the immigration judge was almost entirely on the alleged incident on 28 November 2006, which was variously described as crucial, critical and central, and on certain aspects of the appellants' flight to the United Kingdom (e.g. whether the journey had been planned in advance, whether the appellants were as destitute as they claimed to be, and whether they had as little contact with relatives in Pakistan as they claimed). Events prior to 28 November 2006 were virtually ignored. This is particularly striking when reconsideration had been ordered on the basis that the initial determination had focused on the plausibility of the same aspects of the claims but had failed to address adequately the material issues. In particular, Immigration Judge Murray had failed to state clearly which aspects of the claims she accepted as true and which she did not, had failed to make a proper assessment of the objective

evidence, and had failed to deal adequately with the issues of sufficiency of protection and internal relocation. The senior immigration judge drew attention specifically to the need to consider the appellants' established risk profiles, including the previous death of a family member and the claimed kidnapping of the fourth appellant, and the first appellant's claim to have been victimised by business rivals. It appears to us that the same criticisms can be made of the decision under appeal.

[26] Rule 339K of the Immigration Rules states:

"The fact that a person has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, will be regarded as a serious indication of the person's well founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated."

That Rule reflects the requirements of Article 4(4) of Council Directive 2004/83/EC (the Qualification Directive). It was potentially relevant to each of the appellants. The first appellant claimed to have been the target of a poster campaign in 2004 which abused him in respect of his religion; to have been repeatedly threatened with death by Islamists during 2006; to have been seriously assaulted; and to have been falsely accused of blasphemy. The second appellant claimed that her dependent children had been the victims of religiously motivated harassment; that threats had been made to kidnap her children and convert them to Islam; and that threats had been made specifically against her teenage daughter. The third appellant also claimed that her dependent children had been harassed on account of their religion; that threats had been made that she would be abducted; and that threats had been made to abduct the children. The fourth appellant claimed that he had been kidnapped and tortured; that an attempt had been made to abduct his children; and that his wife had received threatening telephone calls. The appellants also relied on claims that other family members had been the victims of serious harm, including kidnapping and murder. No

findings were made by the immigration judge in relation to any of these matters.

Given their potential relevance, that was in our opinion a fundamental error. It had the consequence that the evidence relating to events on 28 November 2006 was not set in context. It also meant that the appellants' claims for asylum were perilled on the acceptance of their account of the alleged incident on that date, which they need not necessarily have been.

[27] The immigration judge also erred, in our opinion, in dealing with these appeals on the basis that all that was in issue was a claim of persecution by reason of being Sikhs (subject, in the case of the fourth appellant, to an additional fear of being victimised by the intelligence services for having applied for asylum). The claims for asylum were not made solely on the basis that the appellants, as Sikhs, were at risk of persecution in the same way as any other Sikhs in Pakistan. The first appellant claimed that his extended family were being targeted in consequence of the fourth appellant's political activities. The second appellant also claimed that the family had been targeted, either because of their success in business, or because of the fourth appellant's political activities. The third appellant attributed the problems which the family had experienced partly to religion and partly to the fourth appellant's political activities. The fourth appellant attributed the problems which he had experienced to his own political activities. The tenor of his statements is that his extended family had been specifically targeted. The immigration judge does not however appear to have addressed these aspects of the claims.

[28] The questions whether the appellants and their families had been the victims of persecution prior to 28 November 2006, and whether that persecution was related solely to their membership of the Sikh community or was attributable to their business success or to the fourth appellant's political activities, also have a bearing on the two

remaining issues identified by the senior immigration judge: sufficiency of protection, and internal relocation. It is impossible to address those issues adequately unless one has first identified accurately the nature of the risk which the person in question faces. If, for example, the Tribunal were to accept the fourth appellant's claim that an attempt had been made to abduct his children from the compound of the Federal Lodges in Islamabad, and that the security guards provided to protect Members of the National Assembly and their families had failed to intervene, that could have a bearing on the Tribunal's consideration of the issues of sufficiency of protection and internal relocation. If the Tribunal were to accept that the appellants and their families were being targeted by reason of the fourth appellant's activities as a prominent politician, that would also be a relevant consideration.

[29] Given the nature of the errors which we have so far discussed, these appeals will require to be re-heard. In these circumstances, it is unnecessary for us to address in detail the various respects in which the immigration judge was submitted to have erred in his assessment of the evidence and in his reasoning. We would however emphasise, as did the senior immigration judge, the importance of a proper assessment of the objective evidence, and also the importance of sensitivity to the cultural background. There appears to us to be force, for example, in the submission that the immigration judge's scepticism about the account of the journey from Barikot to Bunir may have reflected an assumption that the appellants were referring to a bus service such as exists in this country, which runs on a defined route according to a defined timetable; an assumption which may not have been correct (as the fourth appellant appears to have indicated). We are not, on the other hand, persuaded that the immigration judge failed to give adequate reasons for his treatment of Professor Zafar's report.

[30] Finally, we would observe that this court benefited from written submissions. Those submitted on behalf of the first appellant, in particular, provided a chronology of events with reference to the relevant documents, and legal submissions which were cross-referenced to the chronology and the documents. The Tribunal would no doubt also benefit from assistance of that kind.

Conclusion

[31] In the circumstances we shall allow the appeals and remit the cases to the Upper Tribunal.