

**THE HIGH COURT
JUDICIAL REVIEW**

[2008 No. 1295 J.R.]

BETWEEN

M.R.

APPLICANT

AND

**THE MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM AND MICHELLE O'GORMAN SITTING AS THE REFUGEE APPEALS
TRIBUNAL**

RESPONDENTS

JUDGMENT of Mr. Justice McDermott delivered on the 9th day of May, 2013

1. This is an application for relief by way of judicial review in which the applicant seeks an order of *certiorari* and various declarations challenging the decision of the second named respondent ("Refugee Appeals Tribunal") dated 20th October, 2008, affirming the recommendation of the Refugee Applications Commissioner that the applicant should not be declared a refugee. The initial application sought leave to apply for judicial review by notice of motion dated 18th November, 2008. Thereafter, the parties agreed that the proceedings could be dealt with by way of a telescoped hearing pursuant to O. 84 of the Rules of the Superior Courts whereby the leave to apply for judicial review and any substantive hearing required thereafter could be dealt with at the same time. Both parties furnished written legal submissions and a draft notice of opposition was also furnished by the respondent in the event that leave to apply for judicial review were granted by the court, in which circumstances the draft notice would be regarded as the notice of opposition in the substantive hearing.

Background

2. The applicant is a 23 year old Pakistani national born on 21st December, 1989. He is a member of the Ahmadiyya movement (an Islamic religious movement founded towards the end of the 19th Century). He left Pakistan on 11th September, 2007, and arrived in Ireland the following day. He sought asylum based on a fear of persecution due to his religious beliefs. Until June, 2007 he resided with his mother and father in Rawalpindi. He had seven siblings, five of whom resided in Pakistan. He had no personal documents because a flood destroyed them.

Questionnaire

3. He set out in detail the basis of his claim in the questionnaire completed as part of his application. He claimed that his father had converted a room in his house into a prayer centre for the Ahmadiyya religion where he conducted regular prayer meetings over a number of years. He claimed that he was in fear of other Muslims and in particular an organisation known as "Khatam-e-Nabuwat", a radical Islamic group who incited hatred against the Ahmadiyyas as a result of which, members of the group have been killed. He could not seek any redress from the police as under Pakistani law Ahmadiyyas have been declared to be non-Muslims and the religion to be a blasphemy against Islam. Therefore, to practice his religion is a criminal offence. From the age of fifteen he engaged in proselytising and preaching.

4. He claimed that a lot of people came to his family's prayer room and that he converted two local families to Ahmadiyyat. Local Muslims resented his proselytism and incited people against the Ahmadi saying that they were infidels. He claimed that posters were put up against him on walls on the streets around his area. He claimed that he was threatened many times that he would be killed and that if he had sought help from the police he would have been punished for practising his religion. Domestic litter was thrown onto the roof of the family home, their windows were broken on a number of occasions and they were subjected to verbal abuse.

5. He described an occasion when "many Mullahs gathered people and came outside our house". His father asked the Mullahs not to do this, but they refused to listen to him and he claimed that it:-

"came to blows. They scuffled with me and my father for about an hour. Those people picked up an object and inflicted deep injury on my right arm and my right elbow started bleeding. All the mullahs also lodged a FIR (police report) against me."

As a result he alleges that he spent three days in jail at Chowki Mohallah police station from which his father procured his release on payment of a fine.

6. He also described how eight Ahmadis were murdered while offering Morning Prayer in a nearby prayer centre in Rawalpindi.

Section 11 Interview

7. In the course of the s. 11 interview the applicant answered a number of questions concerning these matters. He described how following a scuffle with the Mullahs outside his house as a result of which he received an injury to his arm, he and his father received treatment in the local hospital and then went to the police and filed a complaint on or about 14th June, 2007. He said that fifteen to sixteen men gathered outside the house and told him and his father not to spread their beliefs and threatened them with death. He said that he went to the police station a second time and was arrested. The police threatened to prosecute him for practising his Ahmadiyya faith and he was held for three days. His father accompanied him to the police station but was not arrested. His father procured his release by paying a bribe and he was told to take the applicant away or he would be rearrested. He then went to stay with his uncle in Lahore for three months. He claimed that the police in Lahore came to his uncle's house and ransacked it because they were looking for him having received information from the police in Rawalpindi. His uncle also was Ahmadi. He explained that he had denied seeking the assistance of the authorities in the questionnaire because he did not find it "suitable" to answer a question about making complaints to the police. He now claimed that his father made a number of complaints to the police separate to his.

8. In the course of the s. 11 interview the applicant now stated that he did not succeed in completing the conversion of the two families referred to in the questionnaire. He had previously claimed that as a result of the conversions posters had been put up against him in the neighbourhood and that his life had been threatened. He stated that conversion meant that you take an oath in the mosque, but that the families did not reach that stage. However, posters were distributed threatening his life because the two families had shown so much interest in the Ahmadiyya faith. He claimed to have been sent a copy of the poster from Pakistan but he had never received it. He blames the postal authorities in Pakistan for this.

The Decision of the Refugee Applications Commissioner

9. By a decision of 14th March, 2008, the Refugee Applications Commissioner recommended that the applicant should not be declared a refugee. The Commissioner accepted that the applicant was Ahmadi for the purpose of the report because he had a good knowledge of the Ahmadiyya faith and supplied a letter from the Ahmadiyya Muslim Association UK confirming that he was a member of the Ahmadiyya Muslim Community.

10. The Commissioner considered that a number of issues raised questions concerning the credibility of the applicant. Firstly, he noted that the family had convened prayer meetings in the house for five to six years prior to the incidents in 2007. Secondly, since the two families who were the subject of the attempted conversion only began to visit the house in January 2007, it did not seem credible to the Commissioner that the local Muslim Mullah would launch a campaign of abuse against the applicant and his family in that month. Thirdly, the applicant had denied making any complaint to the authorities in respect of harassment in the questionnaire, but had indicated in the interview that he and his father had attended at the police station and made a number of reports without difficulty between January, 2007 and June, 2007. The Commissioner concluded that he and his father appeared to have the cooperation of the police in respect of those incidents and it was difficult to accept his testimony regarding the arrest and detention. Fourthly, the Commissioner did not find it credible that the police came to his uncle's house in August, 2007 because of information from police in Rawalpindi. He appeared to have cooperated with the Rawalpindi police and moved away. Therefore, the Commissioner did not think it credible that the police would come looking for him in a city 160 miles away.

11. As regards state protection, it appeared to the Commissioner that the state services were responsive to him and his father's complaints, but the response may not have been adequate as there was no investigation. However, the account of his being arrested and detained for three days was not thought to be credible.

12. As regards internal relocation, the applicant claimed that in January, 2007 he moved to his aunt's house in Wazirabad for two to three days because he was being tormented so much that he needed to clear his head. He returned to Rawalpindi because his aunt did not get on with his father.

Notice of Appeal

13. The decision of the Refugee Applications Commissioner was appealed by notice of appeal dated 30th April, 2008. The applicant addressed the Commissioner's findings in respect of his dealings with the police in the notice of appeal as follows:-

"In February, 2007 the appellant sought to make a complaint to the police, regarding the actions of local Mullahs, but the police refused to consider same.

In June, 2007 the appellant and his father were attacked and the appellant injured. He sought treatment at a local hospital, but was refused same, on the basis that he was Ahmadi. The hospital told him he required to make a police report, before receiving treatment, but the appellant knew this was not the case and was in effect further discrimination. (Q. 73 of the appellant's interview, incorrectly states that the appellant received treatment at hospital).

The appellant returned home, where he received treatment from his mother. He then attended at the police station to make a FIR (police report). He was told the local Mullahs had already taken out a FIR against him and was detained. This represented the second occasion he had gone to the police; the first having been in February, 2007.

The appellant was released after three days when his father paid money to the police to secure his release."

His release was secured through the payment of a bribe. The applicant now stated that when the Mullahs became aware of his release, they took up the matter with the police and demanded that they take steps to locate him in Lahore. He also stated in the notice of appeal that he misinterpreted the word "authorities" in question 25(a) of the questionnaire as referring to the government and not the police. Thus, he did not intend to provide misleading information by denying that he had made a complaint to the "authorities".

14. In addition, country of origin information was submitted including a UK Parliamentary Human Rights Group Report of January, 2007 in respect of the City of "Rabwah" entitled "*Rabwah: A Place for Martyrs? (Parliamentary Human Rights Group – January 2007)*".

Tribunal Hearing

15. An oral hearing was conducted by the Tribunal on 25th August, 2008 and a decision was reached on 20th October, 2008. The decision contains an outline of the applicant's claim which summarises his evidence to the Tribunal.

16. The applicant, in evidence, outlined how he and his family always had difficulties in Pakistan because of their Ahmadiyya religion. He had not been allowed to attend Islamic classes when he attended school and he said that he was not allowed to greet people using the Ahmadiyyas' Muslim greeting. He claimed that he and his family were harassed by Muslims and that they had their windows broken and garbage thrown on their roof. He left school early due to harassment from other students. He stated that he then started religious preaching. He outlined how in January, 2007 five or six Mullahs arrived at the applicant's home and tried to force the applicant's family to become Muslims. They told the applicant, his father and his brothers that they should stop preaching or they would be killed. The family also received threatening phone calls. Nevertheless, he claimed that he continued to preach and reported the incident to the police one or two weeks after the Mullahs had come to his home, but no action had been taken. He went to Wazirabad and stayed there for two or three days and then returned to his parents in Rawalpindi.

17. The applicant claimed that the general abuse continued after he returned home. He then described the incident in which it was claimed that fifteen to sixteen Mullahs came to his family home with sticks shouting that they were going to kill all of the applicant's family. He claimed he, his father and brothers were abused. His right hand was injured. He claimed he went to hospital but was not given any treatment as he was Ahmadi. His mother treated his hand and later he went to the police station with his father. He claimed that he lodged a complaint against the Mullahs but they had already lodged a complaint against him as a result of which he was imprisoned for three days. His father was not arrested as the applicant was the one who was injured. He claimed the fight had been between him and the Mullahs during which his father sat to one side. He also claimed that "the police tried to beat him and he

was badly treated" while in custody. His father paid a bribe to obtain his release. He then went to Lahore and stayed with his uncle for three months.

18. The applicant stated that he had no problems in Lahore but his uncle did as his son had been murdered because of his Ahmadiyya faith. He stated that he did not feel safe in Lahore as the Mullahs were strong and there was a threat to the Ahmadi community. His father arranged for his travel to Ireland via Abu Dhabi.

19. In the course of his evidence a number of matters were raised with him. Firstly, he explained that he had not stated in the questionnaire that he had reported the Mullahs to the police because he did not understand the question properly: he thought it was asking whether he sought help from the government rather than the police. Secondly, he had also omitted in his testimony, until prompted in cross examination, that the police were looking for him in Lahore as stated in his interview. He said that he would have given the information if asked. Thirdly, it was pointed out to the applicant that he had failed to mention in evidence in chief the fact that posters were distributed against him following his attempted conversions in Rawalpindi. He claimed his memory may have been affected by a bout of typhoid fever.

20. Fourthly, it was put to him that his birth certificate gave his religion as "Islam" and there was no reference to him being an Ahmadi. It was suggested to him that if he were non-Muslim he would not be designated as having the Islamic faith by the state on his passport.

21. Fifthly, he had previously stated that his father had been involved in the fight in June, 2007 but now said he had stepped to one side and had only been involved in a verbal argument.

22. The applicant informed the Tribunal that his father continued to work as an electrician from home and that his mother continued to sell homeopathic medicines from their home in Rawalpindi. His brother attended college in Rawalpindi and his other brother was in college in Satlay. His sister attended a government Islamic school.

Tribunal Decision

23. The Tribunal determined that the applicant's subjective fear of persecution was not supported by his family's current circumstances in Rawalpindi. It determined that his father appeared to be as prominent as the applicant as an Ahmadiyya preacher and for a greater length of time than the applicant. The family continued to live, work and be educated in Rawalpindi, notwithstanding the alleged threats made to his father as a preacher by the Mullahs. This was found to be inconsistent with the applicant's stated fear and statements that he had to flee Rawalpindi to save his life because of the threats made.

24. The Tribunal also found that a number of discrepancies arose in relation to central aspects of the applicant's claim and that his credibility was called into question as a result. In particular, the Tribunal highlighted the following matters:-

(i) During the interview and at the appeal hearing the applicant stated he had reported his difficulties to the police after the incidents in January and June, 2007. During interview he also said that he failed to give these details in the questionnaire because it was not "suitable" to do so. However, he had already claimed that he had not done so because of fear of the authorities. He later claimed that he had not answered the question because he thought it referred to complaints to the "government" and not the police;

(ii) At the appeal hearing the applicant said that his father was not involved in the fight in June, 2007 and was therefore not arrested. It was claimed the fight was between the applicant and 15 or 16 Mullahs. There was a discrepancy in the accounts given as to whether his father was or was not involved in the fight with the Mullahs;

(iii) At the appeal hearing the applicant stated that five or six Mullahs came to his house in January, 2007 and threatened the applicant and his father that they should stop preaching or they would be killed. However, in the interview the applicant only referred to a local Muslim priest coming to his home and shouting abuse at the family. The applicant said that this discrepancy was the result of an interpreter's mistake. It was noted by the Tribunal that the applicant had made reference to the local Muslim priest in the singular on a number of occasions;

(iv) At the hearing the applicant stated that after the June, 2007 incident he went to hospital but was denied treatment due to the fact that he was Ahmadi. In the interview he claimed that after that incident he had received medical treatment with his father at the hospital. This also was blamed on an interpreter's error;

(v) The applicant initially gave no evidence at the appeal hearing that police were looking for him in Lahore or that posters seeking his death had been distributed in Pakistan. The applicant, though asked on a number of occasions about his difficulties, did not mention these matters until their omission was pointed out to him by the presenting officer. He stated he would have given the information if he had been asked about it; and

(vi) The Tribunal did not accept that if the applicant were fleeing Rawalpindi because of his Ahmadiyya faith he would have gone to the house of his cousin who had recently been murdered for the same reason.

Credibility

25. In this case the Tribunal heard the applicant's evidence and reached a determination on credibility following a careful analysis of the different accounts which he had furnished in the course of the asylum application process. In this case there is very little personal documentation produced by the applicant apart from his birth certificate submitted from Pakistan. There is other documentation referred to in the Refugee Applications Commissioner's report which was regarded as supporting the applicant's claim that he was an adherent to the Ahmadiyya faith. There is considerable country of origin information indicating that Ahmadis are subject to discriminatory laws in Pakistan and discrimination by government officials. It is also clear that they are the object of vilification and incitement by other Muslim groups. They have also been the subject of violent attacks because of their religion. Thus, there is a substantial body of supporting evidence suggesting that the events described could have happened. The applicant's story is, therefore, consistent with the known situation in Pakistan.

26. Article 4 of Directive 2004/83/EC (known as the Qualification Directive) provides that member states must assess an application for international protection on an individual basis and must take into account all relevant facts as they relate to the country of origin when making the decision "including laws and regulations of the country of origin and the manner in which they are applied".

27. As stated by Cooke J. in *I.R. v. the Refugee Appeals Tribunal* [2009] IEHC 353:-

"(3) There are two facets to the issue of credibility, one subjective and the other objective. An applicant must first show that he or she had a genuine fear of persecution for a Convention reason. The second element involves assessing whether that subjective fear is objectively justified or reasonable and thus well founded.

(4) The assessment of credibility must be made by reference to the full picture that emerges from the available evidence and information taken as a whole, when rationally analysed and fairly weighed. It must not be based on a perceived correct instinct or gut feeling as to whether the truth is or is not being told.

(5) A finding of lack of credibility must be based on correct facts, untainted by conjecture or speculation and the reasons drawn from such facts must be cogent and bear legitimate connection to the adverse finding.

(6) The reasons must relate to a substantive basis of the claim made and not to minor matters or to facts which are merely incidental in the account given.

(7) A mistake as to one or even more facts will not necessarily vitiate a conclusion as to lack of credibility provided the conclusion is tenably sustained by other correct facts. Nevertheless, an adverse finding based on a single fact will not necessarily justify a denial of credibility generally to the claim.

(8) When subjected to judicial review, a decision on credibility must be read as a whole and the court should be wary of attempts to deconstruct an overall conclusion by subjecting its individual parts to isolated examination in disregard of the cumulative impression made upon the decision maker especially where the conclusion takes particular account of the demeanour and reaction of an applicant when testifying in person.

(9) When an adverse finding involves discounting or rejecting documentary evidence or information relied upon in support of a claim and which is *prima facie* relevant to a fact or even pertinent to a material aspect of the credibility issue, the reasons for that rejection should be stated.

(10) Nevertheless, there is no general obligation in all cases to refer in a decision on credibility to every item of evidence and to every argument advanced, provided the reasons stated enable the applicant as addressee and the court in exercise of its judicial review function, to understand the substantive basis for the conclusion on credibility and the process of analysis or evaluation by which it has been reached."

28. In this case the applicant was accepted by the Refugee Applications Commissioner as Ahmadi for the purpose of determining whether the Commissioner should recommend that he be afforded refugee status. There was also country of origin information which indicated that the Ahmadis were subject to discrimination and discriminatory laws and also discriminatory and violent attack from government and non-governmental groups. That finding was not specifically reversed by the Tribunal and was not put in issue during the course of the Tribunal hearing. Therefore, the court interprets the decision of the Tribunal as proceeding in the basis that the applicant is of the Ahmadiyya faith.

29. In considering how the issue of credibility was determined by the Tribunal, the court on judicial review must examine the process by which the determination was made and whether it is legally sound. It is not the court's function to substitute its own decision on credibility for that of the decision maker. In cases of this kind in which a challenge is made to the adverse findings on credibility on the basis of unreasonableness or irrationality, it must carefully examine the elements relied upon in reaching the conclusion, particularly in cases in which a claim is made based entirely on the applicant's account of events which is in itself unsupported by evidence independent of the applicant. It is clear that the applicant's contention that he was Ahmadi was capable of acceptance because much of the information that he gave in respect of the tenets, leaders and organisation of his religion was verifiable independently, and his claim was supported by the Ahmadiyya Muslim Association UK. However, the difficulty for the Tribunal was that the further claims made by him in respect of the events at the core of his claim of persecution, namely that he had to flee for his life in September, 2007 are not subject to the same type of independent verification. In those circumstances the decision maker, though in receipt of country of origin information supporting objectively the plight of the Ahmadis in Pakistan, nevertheless, was obliged to consider the personal circumstances and claims advanced by the applicant, in order to determine whether he had a real subjective fear of persecution.

30. The court is satisfied that the decision maker was entitled to assess the applicant's credibility by examining any significant inconsistencies in the story told by him at the various stages of the asylum process.

Grounds of Application

31. There are fifteen grounds in the statement required to ground the application for judicial review. These are of a most general nature, but in written submissions the applicant confined himself to grounds 1, 2, 3, 4, 7, 8 and 11. The main focus of these grounds is upon internal relocation within Pakistan. However, there is a consistent theme within each of the grounds that the decision made by the Tribunal in respect of adverse findings of credibility was, in itself, irrational and unreasonable.

Conclusion

32. The court has already set out the guiding principles to be applied to judicial review of an adverse credibility finding by the Tribunal. In particular, the Tribunal focused upon the events of January to June, 2007 which culminated in an alleged attack by fifteen to sixteen Mullahs on the applicant in the presence of his father during the course of which the applicant was injured in the arm and required treatment. The Tribunal was entitled to reach the determination that the applicant's story lacked credibility for the reasons which it gave and which are set out earlier in this judgment. It drew appropriate and logical inferences from serious discrepancies which fundamentally undermined his claim. The decision maker was entitled to anticipate that core elements of the story would remain the same when narrated by the applicant. In addition, the fact that the applicant's father and family continued to reside in Rawalpindi, notwithstanding these events and threats was, in itself, properly and logically viewed by the Tribunal as undermining the applicant's claim. Therefore, the determination that the applicant was not subject to the persecution that he claimed insofar as the events narrated by him were not credible, was not so unreasonable or irrational as to vitiate the decision made by the Tribunal.

33. Furthermore, the court is not satisfied, as contended by counsel for the applicant, that the only reason for the refusal of the claim was based on the Tribunal's determination in respect of internal relocation. This is a decision which is based substantially on the applicant's lack of credibility.

34. The Tribunal, having determined that the applicant's subjective fear of persecution was not supported by the evidence, then

considered "without prejudice" to that finding whether the applicant had the alternative of relocation within Pakistan. This was considered in the context of the following finding:-

"The applicant's father has been able to continue to live and work in Rawalpindi since the applicant fled, despite the applicant's statements that his father was a preacher, that he is passionate about his faith and despite the fact that he too was threatened by the Mullahs in January and June, 2007. The applicant states that he preached in the living room of his room, that he was independent and did not hold a position of importance in the mosque. It would appear that the applicant had a relatively low level of prominence in relation to the Ahmadi faith. The applicant family appear to have assets/income in Pakistan as the applicant's siblings education is funded by the applicant's father. The applicant remains in contact with his family and it would be reasonable to assume that the applicant's family could assist the applicant to move elsewhere within Pakistan."

35. Against that background the Tribunal considered whether the applicant could relocate to the City of Rabwah because of its majority Ahmadi population as a place which was accessible and safe for those who, on the evidence, need a place of safety. It was considered that having regard to the applicant's level of prominence within the Ahmadi community and the fact that 95% of the population in the City of Rabwah was Ahmadi, Rabwah was a viable relocation alternative and that it would not be unduly harsh for the applicant to relocate there. In this regard the Tribunal considered the UK Parliamentary Human Rights Group Report of January, 2007 "*Rabwah: A Place for Martyrs?* (Parliamentary Human Rights Group – January, 2007)". It also considered the decision of the UK Asylum and Immigration Tribunal in *M.J & Z.M. (Ahmadis, Risk) Pakistan CG* [2008] UKAIT 00033 (4th April, 2008). The AIT concluded:-

"81. There is very sparse evidence indeed of harm to Ahmadi (though rather more anecdotal evidence of difficulties for Christians). We note the great care exercised by the preaching teams who operate out of private homes, by invitation only and after careful vetting of those to whom they propagate the Ahmadi faith. We remind ourselves of the number of small Ahmadi mosques with established officers and security guards in the towns about which we heard evidence, large and small. We remind ourselves that the first appellant was able to hand out leaflets on his stall openly without harm for many years. We note that the courts do grant bail and that all appeals against blasphemy convictions have succeeded in recent years.

84. We consider that the risk today on return to Pakistan for Ahmadis who propagate the Ahmadi faith falls well below the level necessary to show a real risk of persecution, serious harm or ill-treatment and thus to engage any form of international protection.

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

Both appellants in that case were found by the judges hearing the case to have an option of internal relocation in Pakistan.

36. The court has also had regard to the decision of Clark J. in *S.R. (Pakistan) v. Refugee Appeals Tribunal & Ors* [2013] IEHC 26. In that case the applicant sought to quash a decision of the Refugee Appeals Tribunal. It was agreed by both sides that he was a member of Ahmadi faith who had come to Ireland on a student visa. Subsequently, he returned on a number of occasions to Pakistan. The applicant sought to quash the decision as he alleged that he had suffered persecution including violence by reason of his religion. Members of his family continued to live in Pakistan in Rabwah without harm and he had lived in Ireland for five years before claiming asylum. The respondent claimed that these facts were inconsistent with a fear of persecution. The Refugee Applications Commissioner made a negative recommendation on his application for asylum because he was an "unexceptional" Ahmadi and that it was, therefore, unlikely that he would be targeted and persecuted if returned to Pakistan. This decision followed the approach of the UK AIT outlined above which concluded that although there were Ahmadi victims of violence, they were few in number and that discrimination did not equate to persecution. On appeal, the Tribunal concluded that the applicant's account of persecution was not credible. The applicant was from a very prominent family of Ahmadis. He claimed that he had been attacked and severely beaten. He gave a description of the pervasive legal and social discrimination against Ahmadi in Pakistan and the high degree of intolerance fostered by extreme Islamic groups. He also gave an extensive account of the discrimination against him in his education and even his sporting life.

37. The court concluded that the Tribunal erred in describing the applicant as an "unexceptional" Ahmadi who had no record of active preaching and in finding that he was a person in respect of whom there was no real risk if returned to Pakistan. The Tribunal had also concluded that he had no particular profile within his faith and had no history of ill-treatment in Pakistan and further, had no particular feature that would attract added risk, for example, by being a convert to the Ahmadi faith.

38. The court concluded that *S.R.* was quite distinct from the "unexceptional" Ahmadi described in the UK Authority relied upon because:-

"26. ...the applicant herein introduced an ordinary Muslim to his faith; he was attacked because of this; he was the subject of an FIR (police report) and court process; a newspaper article was written about this event and leaflets were issued against him. He comes from a prominent Ahmadi family. Arising from persecution on the basis of their religion, his family members were driven from their home town of ten generations to relocate in Rabwah. His father, grandfather and uncles were imprisoned for their beliefs; his older brother was the victim of a serious and violent attack with knives; and the applicant himself was attacked on two occasions and his leg was broken. By no stretch of imagination could he be equated to KK – the only points of comparison were that they are both members of the Ahmadi faith whose home was in Rabwah."

In this case, the court is satisfied indeed, that the applicant is closer to the description of the "unexceptional" Ahmadi than to *S.R.*, even if his story had been deemed to be credible.

39. However, it is also clear from the *S.R.* judgment that the prevailing conditions for the Ahmadi in Pakistan have deteriorated since 2008 for the reasons set out by Clark J. in *S.R.* as follows:-

"24. ...objective information before this Court, which was also before the Tribunal indicates that Ahmadi Muslims in Pakistan are only safe if they conceal their religion. The situation has been worsening recently, probably because international criticism on the treatment of religious minorities has led to discussion on reform which is unacceptable to the

KN and other radical clerics. Every attempt by the Pakistani Government to remove or lessen the impact of the blasphemy laws contained in the penal code has been met by waves of anti-government demonstrations and further attacks on Ahmadi homes, places of worship and commercial properties. Two reforming public figures were murdered in 2010 because of their known opposition to the blasphemy laws. An attack with grenades and guns during Friday prayers at two Ahmadi places of worship in Lahore in May, 2010 left 86 dead and 120 injured and led to increased attacks on Ahmadis. Thousands have been forced to leave Pakistan and those who remain live in fear of attack from extremist groups. Newspapers publish anti-Ahmadi propaganda which aggravates and provokes the civilian population to attack Ahmadis who have been declared to be non-believers and "deserving of death". The recent increasing radicalisation of Islam has given rise to Mullahs visiting schools to propagate hatred against Ahmadis. There are problems even in Rabwah – where the name was changed by the Punjabi Assembly because the name "Rabwah" comes from the Koran – which consist of a 1000 acres of desert purchased from the government by Ahmadis fleeing Islamic persecution by Hindus in India following partition and is a purpose built town where 95% of the population is Ahmadi. Ahmadis are prevented by a militant branch of KN from gathering or convening in public in Rabwah to such an extent that Ahmadi sporting competitions have been prohibited, whereas anti-Ahmadi gatherings go ahead. Recently, the entire population of Rabwah was indicted for celebrating a significant date in their religion and for using the traditional Muslim greeting."

40. In this case, the court is satisfied that the Tribunal decision that the account given by the applicant was lacking in credibility was reasonable and rational on the basis of the reasons given for that decision to which the court has already referred. There are no substantial grounds upon which to grant leave to apply for judicial review in respect of that adverse finding on credibility. Further, the court does not regard the finding in relation to relocation as the substantive finding of the Tribunal in this case. It is specifically made without prejudice to the finding on credibility but is important in providing a full understanding of the Tribunal decision and its holistic treatment of all issues raised. The decisions of UK AIT and country of origin information indicated that relocation was available for members of the Ahmadi faith in Pakistan but that care must be taken in assessing their individual circumstances. It was predicated, of course, on the Tribunal being satisfied of the credibility of the applicant's story. It was concluded that members of the Ahmadi religion could relocate within Pakistan and/or to the City of Rabwah. Though there were some Ahmadis for whom it would not be safe to relocate, on the information available in 2008 such a conclusion could be reached on the consideration of the individual's personal circumstances. The Tribunal concluded that it was open to the applicant to relocate to Pakistan. The court is not satisfied that this conclusion was unreasonable or irrational or based on any error or fact arising out of the material before the Tribunal at that time.

41. It is clear from the judgment of Clark J. in S.R. that further country of origin information in respect of the plight of the Ahmadis in Pakistan has become available since 2008. That is information which this Court cannot consider and apply because of the limitations that exist in respect of the jurisdiction of the court on an application for judicial review. It does not preclude reliance upon the same material in any further consideration of these matters that may arise on an application for subsidiary protection or humanitarian leave to remain in the state. Indeed, any reasonable consideration of the applicant's case would have to take account of the worsening treatment of the Ahmadi in Pakistan as summarised in the judgment of Clark J. in S.R.

Conclusion

42. The court is not satisfied that the applicant has established substantial grounds upon which to grant leave to apply for judicial review for the reasons already set out. Therefore, this application is refused.