



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/03605/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 23 August 2017**

**Decision & Reasons Promulgated
On 12 September 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE RAMSHAW

Between

**MR WM
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Sellwood, Counsel, instructed by Sutovic & Hartigan
For the Respondent: Mr E Tufan, Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

The history of this case

2. The appellant is a citizen of Pakistan. His date of birth is stated to be 1 December 1991. The appellant entered the United Kingdom as a student with a valid student visa on 23 September 2012. On 29 April 2013 the appellant made an asylum claim. This was refused on 29 May 2013. The appellant lodged an appeal against the refusal on 14 June 2013.
3. The appellant's appeal was heard by the First-tier Tribunal (First-tier Tribunal Judge Cohen) and was dismissed on 21 November 2013. Subsequent applications for permission to appeal were refused.
4. On 12 August 2015 the appellant made further submissions to the respondent in support of a fresh application for asylum. The basis of the appellant's asylum claim is that he is at risk of persecution on return to Pakistan as a result of his conversion to Christianity.
5. The respondent refused the appellant's application on 18 March 2016.
6. The appellant appealed against that decision to the First-tier Tribunal. In a decision promulgated on 7 March 2017 First-tier Tribunal Judge S Meah dismissed the appellant's appeal. The Tribunal found that the appellant had genuinely converted from Islam to Christianity. However, the Tribunal found that the appellant would not be at risk of persecution on return to Pakistan. The judge did not accept that the appellant's conversion to Christianity was known about in Pakistan and that there was no reason why he could not relocate where he would be able to live openly as a Christian. The judge also found that there would not be very significant hurdles to his reintegration into Pakistan and found that the removal of the appellant would be proportionate.
7. The appellant applied for permission to appeal against the First-tier Tribunal's decision. On 6 July 2017 First-tier Tribunal Judge McCarthy granted the appellant permission to appeal.

The appeal to the Upper Tribunal

Submissions

8. There are five separate grounds of appeal. The first ground asserts that the judge misdirected himself in concluding that the appellant would not be at risk because people will only realise that he is a convert if he volunteers that information. It is submitted that in **HJ (Iran) & HT (Cameroon) v SSHD [2010] UKSC 31** it was made clear that an individual cannot be expected to conceal aspects of their sexual orientation which they are unwilling to conceal. If they fear persecution and the fear is well-founded they are entitled to claim asylum however unreasonable their refusal to resort to concealment may be.
9. It is submitted that it is inevitable that at some point the fact that the appellant was not born a Christian and has converted would become

public knowledge if he were returned to Pakistan. Bearing in mind that the appellant's family disowned him because of his conversion any questions about his family would likely lead to disclosure of his conversion.

10. It is submitted that an applicant does not have to show that they must conceal or refuse to conceal a central tenet of their faith to be recognised as a refugee as per **HJ (Iran)** and **RT (Zimbabwe)**. Concealment of an aspect of their faith is sufficient.
11. Ground 2 asserts that the judge erred by failing to take into account material evidence or to make findings on material issues. It is submitted that the appellant relied on various documents in support of his claim to have been disowned by his family and subject to a fatwa because of his conversion. Some of that evidence was before First-tier Tribunal Judge Cohen, who presided over the appellant's previous asylum appeal, some of it was not.
12. Judge Meah concluded that Judge Cohen's previous findings continued to apply. It is asserted that that reason was erroneously relied on to reject the evidence that was not before Judge Cohen, for example the fatwa and three newspaper articles that postdated the appellant's first appeal. It is submitted that such evidence needed to be considered on its own merits, not least bearing in mind matters had moved on considerably since Judge Cohen made his findings.
13. It is submitted that crucially Judge Cohen did not accept that the appellant had converted to Christianity, a finding that affected his assessment of the supporting documents. In contrast Judge Meah concluded that the appellant was a convert, which equally should have affected how he viewed the documents.
14. It is also submitted that the above evidence corroborated the fact that the appellant's conversion to Christianity was publicly known, making him at risk on return. The adverse findings made by Judge Cohen on the evidence before him related to the motive behind obtaining the evidence which he found was to bolster a weak asylum claim rather than whether it would put him at risk as a publicly known convert. Judge Meah failed to make findings on whether the evidence showed that the appellant was publicly known as a convert and therefore at risk irrespective of motive
15. Ground 3 sets out that the judge erred by failing to take into account evidence and making irrational findings in relation to the country expert report provided by QHM Legal. The appellant relied on three country expert reports, one drafted by Muhammad Hamza Haider of QHM Legal Consultants, Lahore, Pakistan. This report commented on and authenticated the fatwa, the newspaper articles and the affidavit relating to legal proceedings in Pakistan whereby the appellant's family disinherited him.

16. Prior to considering the report Judge Meah had already concluded that that evidence could not be relied upon due to Judge Cohen's previous findings. Prior to making any finding all the evidence needed to be considered in the round including the expert report as per **Tanveer Ahmed [2002] Imm AR 318 (STARRED)**.
17. It is submitted that the judge erred in treating the evidence as having no weight on the basis that the authentication of the fatwa was undertaken by a colleague of the author of the report and therefore hearsay evidence. Further reasons were given by the judge as to why no weight should be attached to the report - it had no authenticating embossment or mark on it and despite listing his qualifications and contact details there was no evidence to show that the expert is truly qualified to the extent he claims and even if he is so qualified that makes him an expert in being able to verify fatwas and such like.
18. It is submitted that it is trite to say the Tribunal considers hearsay evidence on a daily basis due to the very nature of the claims before it and that is therefore not a basis on which to reject evidence. There is no requirement for expert reports to contain an authenticating embossment or for an expert to provide certificates corroborating qualifications. It is submitted that rejecting the report on those grounds is arguably irrational.
19. It is asserted that the report confirmed at source one of the newspaper articles. The author of the report spoke directly with the editor of the paper who had access to the paper's archives. It is also explained why the affidavit was written in English, a point previously relied upon by Judge Cohen to doubt its authenticity. Judge Meah made no findings on these points and failed to take them into account when determining whether the appellant was at risk on return to Pakistan.
20. Ground 4 asserts that the judge erred by failing to take into account material evidence, namely the country expert report of Professor Bluth. It is submitted that the report of Professor Bluth concluded amongst other matters that legal proceedings for disowning a family member accompanied by supporting newspaper notices were in keeping with the known procedures in Pakistan, the affidavit relied upon conformed to the required format, relocation with Pakistan would not mitigate the risks faced by the appellant, the authorities would not be willing or able to protect him if he returned, and that his account was consistent with the country background situation. The judge fails to have engaged with the report and no findings were made in respect of it.
21. Ground 5 submits that for the above reasons Judge Meah's findings in relation to Articles 3 and 8 are arguably also unsustainable.
22. In oral submissions Mr Sellwood submitted that the judge's approach to the appellant's conversion and what should happen on return was flawed. He submitted that the principles in **HJ (Iran)** were not applied correctly by the judge. The judge thought that the only principle was that the

appellant would be at risk if he had to conceal his entire faith or every aspect of it. In **HJ (Iran)** the issue was much wider. He submitted that the appellant would at some point inevitably be found to have converted and this would become public knowledge. The judge simply states that the appellant can be discreet. The appellant had a Muslim name. He would be required to obtain an identification document through electronic records. This would be required for any public services, accommodation and employment.

23. With regard to the country guidance case **AJ (Risk - Christian convert) Pakistan CG [2003] UKIAT 00040**, although that case is not overruled the Home Office guidance indicates that this case cannot be followed. He referred to **HJ (Iran)** at paragraph 35 and submitted that part of the appellant's identity as a Christian is the fact that he has converted. The judge did not make a finding on this issue. I referred Mr Sellwood to paragraph 60 of the First-tier Tribunal's decision where the judge did make a specific finding. He submitted that the judge has failed to consider the test in paragraph 35 (d) of **HJ (Iran)** which is even if the appellant would not pronounce his conversion the question to be considered is why he would not pronounce his conversion. The error regarding the ratio in **HJ (Iran)** is further underlined in paragraph 61.
24. He submitted that the fact of conversion is an aspect of the appellant's faith. In some countries conversion will not be an important issue but in Pakistan it is vital as it is a critical part of the appellant's case that his risk arises from the fact of conversion. It is necessary to look at whether any aspect is required to be repressed or concealed. If the reason for that concealment is fear of persecution then the appellant would be entitled to protection. He reiterated his submission that it is inevitable that at some point the appellant's conversion would become public knowledge. This would hang over the appellant for his entire life in all aspects including social interaction. He submitted that the social mores require Muslims to conform to norms such as fasting and prayer. If he was employed his ID card would show that he is a Muslim, he has a Muslim name and therefore his conversion is likely to become known. He referred to the respondent's guidance at paragraphs 2.7.1 and 2.7.2.
25. He submitted that Judge Meah took the previous Judge Cohen's finding as the starting and the finishing point when considering the authenticity of the documents. There needed to be a new consideration and the documents needed to be looked at on the basis that the appellant had converted to Christianity. He submitted that Judge Cohen's assessment of the documents focused on his finding that they were to embellish the claim.
26. When concluding that the fatwa was not genuine Judge Meah had not taken into account the expert report of Professor Bluth. The fatwa was not before Judge Cohen. In response to my questions about points raised by Professor Bluth that are not already generally known about he referred to paragraph 6.1.6 where Professor Bluth provided his expert opinion that an

affidavit and court reports would always be in English. He referred to page 57 where Professor Bluth said that newspaper articles are widely circulated and therefore would create a risk that the appellant's conversion would be widely known. He submitted that the judge had not given any reasons for rejecting or accepting any of the evidence in the expert report. At paragraph 51 the judge had already considered the fatwa so he could not have taken the report into account.

27. He submitted that it would be highly irregular to require certificates in support of qualifications for country expert reports. The judge reached an irrational conclusion because the report did not outline the credentials and because the evidence of the fatwa was from another person. There was a clear chain of continuity. The judge had failed to engage with the evidence.
28. Mr Tufan referred to paragraph 35(b) of **HJ (Iran)** and submitted that the judge made a definitive finding that the appellant is not someone who wants to pronounce his conversion to Christianity. The appellant had a friend at school who had a Muslim name but who was a Christian and there was nothing in the background evidence to suggest that the fact of having a Muslim name would give rise to a risk that the conversion would thereby become known. He referred to questions 36, 45 and 48 of the interview record and the Reasons for Refusal Letter in 2013. He submitted if the appellant does not reveal his conversion no-one would know that he had converted. He submitted the case is not on all fours with **HJ (Iran)**. He submitted that the appellant would not want to declare that he is a convert. There are 5,000,000 Christians in Pakistan and 1,000,000 in Karachi. The issue is can he relocate to a cosmopolitan city. The whole appeal turns on this point. Would he need to openly declare his conversion?
29. With regard to the newspaper articles he submitted the judge applied **Tanveer Ahmed**. The appellant's name was spelt incorrectly. The advertisements suggests that the father wants to disinherit his son and that is as far as they go. How would the appellant be identified? These are three small advertisements. He submitted that the judge considered the fatwa in several paragraphs of the decision. He made a finding against the appellant on the authenticity of the document. With regard to the expert reports he submitted the latest country guidance case considered similar evidence although there is little regarding conversion. The expert was an evangelical Christian. The judge had considered the report sufficiently.
30. He submitted that if the appellant were living as a Christian in Karachi why would the question be posed to him as to whether he had converted from Islam. There were many different levels of commitment of Muslims not all of whom will commit to prayer and fasting and therefore why would the appellant be singled out. He submitted that aspects of sexual orientation are different to aspects of belief. Why would it be an aspect of his belief to have converted? He submitted that there are not different aspects of

converts as to the practice of Christianity. Whether you have converted or have been practising since birth the practice of the religion would not be different.

31. In reply Mr Sellwood submitted that there is still the question as set out in paragraph 35(d) of **HJ (Iran)** where an appellant will conceal an aspect the question as to why must be posed. The judge has not made a finding as to why the appellant would not pronounce his conversion. With regard to the respondent's submission that the appellant had a friend with a Muslim name who was a Christian, he submitted that if anyone asked why he had a Muslim name he could answer honestly that it was a name given to him at birth but he was born Christian.
32. He submitted that there were a number of newspapers which referred to the reason that the appellant's father was disowning him was because of his conversion to the Christian faith. With regard to the NADRA he submitted that the expert evidence was that it is not possible to change a religion from Islam to Christianity. That was set out in Professor Holden's report.

Discussion

33. The first ground of appeal in essence is that it has not been ascertained why the appellant would conceal his conversion contrary to HJ Iran
34. Having found that the appellant had converted to Christianity the judge considered risk on return, sufficiency of protection and internal relocation. The judge set out from paragraph 57:

57. I duly noted Mr Sellwood's submissions that a distinction existed between those who were born Christian in Pakistan and those who had converted from Islam to Christianity. He acknowledged the case of **AJ (Risk - Christian convert) Pakistan CG [2003] UKIAT 00040** in this regard and accepted that this reported case said that Christian converts in Pakistan do not face a real risk of persecution, however, he referred to the respondent's Country Information Guidance on Pakistan entitled Christians and Christian Converts where at section 2.3.1, 2.3.3, 3.1.5 and 3.1.6 the following was stated:

"2.3.1 The situation is far more difficult for a person who is known to have converted from Islam to Christianity, than for a person who was born Christian. However it is rare, in Pakistan, for a person to convert to Christianity, especially openly. It is likely that the fact of a person's conversion will be well-known within their community, with potential repercussions

2.3.3 As the situation has deteriorated for Christian converts since the country guidance case of AJ (Risk, Christian Convert) Pakistan CG [2003] UKIAT 00040 (August 2003),, decision makers must no longer follow this guidance which found that converts to Christianity in general do not face a real risk of inhuman or degrading treatment (paragraph 36).

3.1.5 A person who fears persecution in Pakistan purely on the basis of their Christian faith is unlikely to qualify for a grant of asylum or humanitarian protection although full account must be taken of the individual circumstances of each case.

3.1.6 People who are known to have converted to Christianity are likely to face and be at real risk of attacks by non-state actors. Effective protection and internal relocation will generally not be available. Christian converts, depending on their particular circumstances, i.e. if they are known to have converted to Christianity, are likely to be at real risk of persecution on return...”

58. Mr Sellwood argued that this guidance is sufficient to show that Christian converts faced a risk over and above those who were born into the Christian faith in Pakistan and this therefore meant that the appellant, as a convert, would also be at risk where there would be insufficient state protection and no viable internal relocation alternative available to him.
59. I do not accept this line of contention as it is clear, even in this policy guidance, that the situation is far more difficult for those who it is known have converted from Islam to Christianity and thus a distinction is made on this particular point. Accordingly, having rejected the appellant’s evidence regarding the claimed fatwa and newspaper articles, I do not find that it is necessarily known in Pakistan that he is someone who has converted to Christianity. It was his claim that he is not in contact with his family in Pakistan, who are all from Sialkot, hence there is no reason why he could not relocate to another area such as Islamabad where he could live openly as a Christian.
60. It was not the appellant’s evidence that he wishes to either pronounce his conversion or to either preach or proselytise the Christian faith. Indeed it is not a basic tenet of the faith to have to do any of these things, hence the fact that he has converted from Islam to Christianity will not be known by those in any alternative area to which he may viably relocate unless he volunteers this information to them. Concomitantly, I therefore do not find the fact that he may have to hide that he has converted to raise any potential arguments akin to that which was raised in **HJ (Iran) & JT (Cameroon) [2010] UKSC 31** as a clear distinction can be made here given that the appellant is not expected to conceal his Christian religion.
61. In other words, not having to divulge the fact that he has converted from Islam to Christianity is very different from a requirement to conceal one’s entire faith where the latter will be covered by the protection envisaged in **HJ (Iran)**, whereas the former does not, and a clear distinction must be made here bearing in mind there is no requirement in any of the Christian tenets to have to reveal the fact that one might have converted into the faith, hence if the appellant decides to do this, it will be out of choice and not by a necessity borne out of something which might be said to be an innate part of the faith to which he has converted. I therefore also do not find that to relocate to another part of Pakistan, where his conversion will not be common knowledge will either be unreasonable or unduly harsh.

62. It was clear in **AK and AS (Pakistan)** (at paragraph 225 and 6) that a sufficiency of protection will be available to the appellant, when taking into account that he is not facing any blasphemy or other charges, hence he should be able to live in an alternative area of Pakistan as a Christian without facing a risk of serious harm and a level of redress will be available to him should he require the assistance of the state in any new area he may relocate to.”
35. In **HJ (Iran)** the ‘test’ as set out in paragraph 35, and as is relevant to this case, is:
- (b) The next stage is to examine a group of questions which are directed to what his situation will be on return. This part of the inquiry is directed to what will happen in the future. The Home Office’s Country of Origin report will provide the background. There will be little difficulty in holding that in countries such as Iran and Cameroon gays or persons who are believed to be gay are persecuted and that persecution is something that may reasonably be feared. The question is how each applicant, looked at individually, will conduct himself if returned and how others will react to what he does. Those others will include everyone with whom he will come in contact, in private as well as in public. The way he conducts himself may vary from one situation to another, with varying degrees of risk. But he cannot and must not be expected to conceal aspects of his sexual orientation which he is unwilling to conceal, even from those whom he knows may disapprove of it. If he fears persecution as a result and that fear is well-founded, he will be entitled to asylum however unreasonable his refusal to resort to concealment may be. The question what is reasonably tolerable has no part in this inquiry.
36. In this case the judge has adopted a careful and detailed analysis of the situation for converts to Christianity on return to Pakistan and has concluded that there may be a risk if the fact of a person’s conversion is known. The judge found that the appellant’s evidence was that he would not pronounce his conversion. As is clear from paragraph 35(c) of **HJ (Iran)** it is not the purpose of the Convention to guarantee an applicant the same level of freedoms as enjoyed in the UK. The next issue that a tribunal must consider is:
- (d) The next stage, if it is found that the applicant will in fact conceal aspects of his sexual orientation if returned, is to consider why he will do so. If this will simply be in response to social pressures or for cultural or religious reasons of his own choosing and not because of a fear of persecution, his claim for asylum must be rejected. But if the reason why he will resort to concealment is that he genuinely fears that otherwise he will be persecuted, it will be necessary to consider whether that fear is well founded.
- (e) This is the final and conclusive question: does he have a well-founded fear that he will be persecuted? If he has, the causative condition that Lord Bingham referred to in *Januzi v Secretary of State for the Home Department* [2006] 2 AC 426, para 5 will have been established. The applicant will be entitled to asylum.

37. Mr Sellwood argued that the judge had not asked the essential question, that is, why would the appellant not pronounce his conversion. In order for this to be relevant the conversion must amount to an ‘aspect’ of his faith. The judge considered that it was not a basic tenet of the faith to have to acknowledge or reveal conversion. Mr Tufan argued that conversion is not an aspect of religion because the practice of Christianity will not differ whether a person was born a Christian or converted to Christianity. Mr Sellwood argued that in Pakistan conversion from Islam is a risk over and above the practice of Christianity. I consider that generally conversion will not be considered to be an aspect of a person’s faith. Therefore concealment of conversion does not fall within the ambit of the ‘test’ in paragraph 35(b) of **HJ(Iran)**. This issue in the context of Pakistan is inextricably linked to whether or not it would be known that the appellant is a convert. The Respondent’s guidance, in addition to the paragraphs cited by Judge Meah sets out:

2.7.1 Where a person’s fear is of ill-treatment/persecution at the hands of the state or non-state actors on the basis that they are a Christian convert, they will not be able to relocate to escape that risk.

2.7.2 Given that ill-treatment towards Christian converts is prevalent throughout Pakistan, internal relocation to escape such treatment is unlikely to be a viable option, particularly where the person is known to have converted to Christianity.

38. The judge found that the appellant would not be at risk if he relocated because his conversion would not be known. The judge based that conclusion on his findings on the documentary and expert evidence that had been submitted. Some of that evidence had been before Judge Cohen. The appellant argues that Judge Meah erred by relying on the findings of Judge Cohen. It is worth setting out in full the careful analysis of Judge Meah:

“34. Firstly, it is important to state that whilst I have accepted the appellant’s claim to have genuinely converted from Islam to Christianity, it does not automatically follow that I find that he will necessarily face a real risk of persecution upon his return to Pakistan. In other words, this is not a fait accompli. I accept that even though there will be some correlation between the acceptance of his conversion to Christianity from Islam and his claim to be at risk on this count, this aspect of his claim must nevertheless be considered in the light of the relevant laws and provisions applicable to his case and distinctly from his claim to have converted to Christianity being accepted.

35. Ms Bassi contended that even if I found the appellant to be telling the truth regarding his claim to have converted from Islam to Christianity, he would not be at any risk upon return to Pakistan hence his case was not made out. She relied on the country guidance case of **AK & SK (Christians: risk) Pakistan CG [2014] UKUT 569**. This was cited in the RFRL at paragraphs 17 to 19. The following is stated in the head note of this case:

1. *Christians in Pakistan are a religious minority who, in general, suffer discrimination but this is not sufficient to amount to a real risk of persecution.*
2. *Unlike the position of Ahmadis, Christians in general are permitted to practise their faith, can attend church, participate in religious activities and have their own schools and hospitals.*

...'

36. Ms Bassi argued that the appellant would need to show an individualised risk for him to be able to succeed on his asylum claim, if I were to accept his claim to have converted. She further stated that in following **AK & SK Pakistan** the appellant needed to show that he had been accused of blasphemy and there was no viable internal relocation option open to him.
37. The appellant claimed that there was a fatwa in his name and that his name had also been published in newspaper articles. This was considered by the respondent from paragraphs 30 to 42 of the latest RFRL. Judge Cohen dealt with the fatwa and a newspaper article at paragraph 26 of his determination. He rejected these documents in the light of the adverse credibility findings he had made against the appellant...'
- ...
39. The respondent contended at paragraph 38 of the RFRL that the appellant had not stated what had changed to have made it easier for the fatwa to be obtained than it had been previously, and who had sent the document to him. He had also failed to state when he received the fatwa or who had sent it to him.
40. The appellant responded to this in his most recent witness statement where he explains that the fatwa was sent to him by a friend in Pakistan called [A]. Ms Bassi asked the appellant what had changed for [A] to have sent this to him since his last appeal was dismissed, where many issues were raised on this point and where Judge Cohen rejected this and the other documents comprising newspaper articles showing the appellant's father disinheriting him.
41. The appellant stated that he did not know why [A] had now decided to send the fatwa document to him and that he could not ask [A] either because he had passed away. The appellant stated that [A's] dead body was found in an unrecognisable condition on a road in Pakistan, and that he had discovered this from [A's] mother when she answered a call he had made to [A]. He claimed that during this call she blamed him for [A's] death and stated that he died in the process of helping him to obtain documents such as the fatwa.
42. The issue surrounding the claimed fatwa and the previous newspaper extracts has been considered extensively from the time the appellant's original asylum claim was considered by the respondent, and then by Judge Cohen in his determination in the previous appeal, and then

again by the respondent in the latest RFRL. Judge Cohen also had before him a copy of an expert report dated 1 October 2013, from a Dr Holden.

43. I have noted the appellant's claim now that he could not say why [A] changed his mind and took the risk of sending the fatwa document to him and that [A] died a horrible premature death for reasons unknown, however, I do not find that this is sufficient to outweigh the significant consideration afforded to this matter already by both the respondent and Judge Cohen, and I therefore, in following what is stated in **Devaseelan**, approach this particular evidence with circumspection.
 44. There is no evidence why [A] had had a change of heart, and why he would have gone out of his way to send these documents to the appellant and to put himself at risk in the process, and there is no evidence that [A] has genuinely passed away making it impossible for the appellant to seek clarification regarding why he decided to send the documents to the appellant at this late stage.
 45. It was made clear in **Devaseelan** that it is not the judge's role to consider arguments to undermine the findings made by the first judge, and I find that given the gaps that still prevail in relation to this claimed fatwa, that to now accept this aspect of the claim at this late stage when it has already been comprehensively considered and rejected, would be to go against exactly that which is stated in **Devaseelan**, especially given that the evidence in this regard and the attempt to make good what was evidently a flaw in the previous appeal remains questionable, **hence I do not find that the fatwa can be accepted as being genuine.** [emphasis added]
 46. In other words, the fact that I have accepted his conversion and thus decided to take a different view from Judge Cohen on that aspect of the appellant's claim, does not mean that this does away with the gaps identified in his evidence in relation to his fears of returning to Pakistan as was found by Judge Cohen, and I cannot see that there is enough before me on the latter count to justifiably depart from Judge Cohen's findings in this regard. I therefore find the new newspaper articles submitted to support the fresh claim which were also considered extensively by the respondent from paragraphs 39 to 42 of the RFRL, must also be viewed in light of this and in light of **Tanveer Ahmed [2002] Imm AR 318 (STARRED)**.
39. There is no error in the judge's approach to analysing the appellant's evidence in respect of the fatwa and how the appellant had obtained it. As set out by the judge there were significant gaps in the appellant's evidence regarding the purported fatwa when his appeal was heard by Judge Cohen. Judge Meah has not simply adopted the reasoning of Judge Cohen without further consideration in light of the finding that the appellant was a genuine Christian convert. Judge Meah has carefully evaluated the evidence.
 40. It was asserted that Judge Meah did not take the expert evidence into account before reaching his conclusions. The judge set out:

47. Mr Sellwood argued that there was now further documentary evidence from experts by the name of QHM Legal who are a firm based in Lahore, Pakistan, who had been instructed to find out details regarding the authenticity of the fatwa. Evidence from them had been provided at pages 32 to 42 of the appellant's main bundle in which they conclude at the end of an extensive report, that in their opinion and following their own investigations, that the appellant would face a real risk upon return to Pakistan.
 48. Mr Sellwood further stated that this should be viewed alongside the original expert report submitted to the respondent from Christopher Bluth which was considered and noted at paragraph 1 of the latest RFRL, together with the expert report placed before Judge Cohen, and that the fatwa and newspaper article should therefore be accepted as genuine as showing that there is an individualised risk to the appellant.
 49. The experts at QHM Legal claim to have spoken directly to the imam who had issued the fatwa, who apparently confirmed that the appellant should be punished. Full details of the mosque where the fatwa was issued is provided extensively in the report and this is contained at pages 35 and 36 of the appellant's bundle. Further clarification was provided regarding the affidavit claimed to be from the appellant's father that he had submitted to a court in Pakistan disinheriting the appellant due to his conversion to Christianity, and again, the experts in Pakistan state that this is genuine and they purport to provide details of the process involved in how this might have been issued.
 50. I have noted the entire contents of the reports and especially that which was provided by QHM Legal. The author of this report purports to set out his experience and qualifications under the heading '*background of expert*' and he states here, inter alia, that the contents of the report were true to the best of his knowledge.
 51. I, however, do not find that this report takes the appellant's case any further **given my findings based on what I have already stated above**, certainly in relation to the claimed fatwa, and I therefore find that this and the newspaper extracts relied upon by the appellant in both his previous and renewed claims, must also be viewed in this light. [emphasis added]
41. It is not clear that the judge considered the evidence from QHM Legal before reaching his conclusions on the fatwa and the newspaper extracts. It is often the case that reference to certain aspects of evidence are set out in a manner that provides an orderly and logical narration. This does not inevitably lead to the conclusion that all the evidence was not considered before a conclusion was arrived at. In this case, however, I cannot be sure that Judge Meah did consider this evidence before discounting the newspaper articles and concluding (in paragraph 45) that the fatwa cannot be accepted as genuine. As this is an asylum claim and there is the potential for this evidence to significantly affect the analysis of his risk on return (in so saying I do not suggest that a positive finding on these matters would be determinative of an appeal in the appellant's

favour) I find that there is a material error of law in the First-tier Tribunal decision in this regard.

42. I will deal briefly with the submissions in relation to Judge Meah's approach to the QHM report. The judge set out:

52. Mr Sellwood made much about a colleague of the author of this report stating at section 6 (page 36 AB) claiming to have spoken face to face with the imam of the mosque who had purportedly confirmed that he had issued the fatwa, and stated that this therefore was first-hand evidence that the fatwa was genuine.
53. Ms Bassi challenged this assertion and stated that there was absolutely no way to verify this third-hand claim being reported second-hand by the author of the report, and that this therefore amounted essentially to hearsay evidence which could not be relied upon and should not therefore be accepted.
54. I am persuaded by Ms Bassi's argument on this critical point. There is no statement from the colleague of the author to confirm that he genuinely had such a conversation with the claimed imam of the mosque. There is also no proper verification provided regarding the authenticity of this claim apart from the assertion made by the author of the report, hence I am not prepared to accept this at face value given my finding that the report in its entirety does not take the appellant's case any further.
55. Another point worth noting is that this report appears to have no authenticating embossment or mark on it, and the headed paper on which it is printed could have been typed by anyone on any home printer. Whilst I have noted what the author says about his qualifications in Pakistan there is no evidence to show that he is truly qualified to the extent he claims and that even if he is so qualified, that this makes him an expert in being able to verify fatwas and such like. In other words, this is a document which comes from a purported legal firm in Pakistan whose details cannot in reality be verified to any real extent, hence I find that these are all additional factors to those mentioned above already, which lead me to the conclusion that no real weight should be attached to this document.
56. It therefore follows that I do not find that there is a fatwa in place in the appellant's name and I therefore do not find that he will be at risk on such a count. In relation to whether the appellant will face persecution on the other potential counts highlighted in **AK and AS (Pakistan)**, Ms Bassi argued that the appellant has not been charged for blasphemy and there is no evidence that there are any outstanding charges against him in Pakistan, and there is no evidence that he will be proselytising or preaching given that this is not what he has claimed, and there is no evidence to show that this is what he has done or been doing, hence he will not face a risk on return on account of merely being a Christian, hence he can return to Pakistan. In short, I find considerable merit in Ms Bassi's argument on this point.

43. The judge was entitled to take into consideration that the evidence of the fatwa was third hand when attaching weight to that evidence. A statement could have been provided. However, what is of concern is that the judge appears to have relied on his earlier finding that the report in its entirety does not take the appellant's case any further. That conclusion appears to have been based on an earlier findings that the fatwa was not genuine. Although this may simply have been the structure of the writing up of the decision, the judge may have erred in not considering all the evidence in the round before considering the report. The judge was entitled to take into account the fact that the document could have been printed from anyone's computer as part of his analysis. He did not suggest that a document is required to have an authenticating embossment or mark on it rather this was a factor taken into account. Similarly with regard to the qualifications and degree of expertise these are factors that the judge was entitled to take into account when assessing the weight to place on the report.
44. I find that there is a material error of law in the First-tier Tribunal decision. I set that decision aside pursuant to section 12(2)(a) of the Tribunals, Courts and Enforcement Act 2007 ('TCEA').
45. I considered whether or not I could re-make the decision myself. I considered the Practice Statement concerning transfer of proceedings. I am satisfied that the nature and extent of judicial fact finding that is necessary in order for the decision in the appeal to be re-made is such, having regard to the overriding objective, that it is appropriate to remit the matter to the First-tier Tribunal. However, the finding of Judge Meah that the appellant is a convert to Christianity is preserved.
46. I remit the case to the First-tier Tribunal for the case to be heard at the First-tier Tribunal at Taylor house before any judge other than Judges S Meah and Cohen pursuant to section 12(2)(b) and 12(3)(a) of the TCEA. A new hearing will be fixed at the next available date.

Notice of Decision

The decision of the First-tier Tribunal contained a material error of law. The decision is set aside and the matter is remitted to the First-tier Tribunal at Taylor House to be heard before any judge other than Judges S Meah and Cohen. The finding that the appellant is a convert to Christianity is preserved.

Signed P M Ramshaw

Date 10 September 2017

Deputy Upper Tribunal Judge Ramshaw