



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

Appeal Number: PA/05457/2018

THE IMMIGRATION ACTS

**Heard at Bradford IAC
On 28th August 2019**

**Decision & Reasons Promulgated
On 24 October 2019**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

**ZA
(ANONYMITY DIRECTION MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Bashow, Counsel instructed on behalf of the Appellant
For the Respondent: Ms Petterson, Senior Presenting Officer

DECISION AND REASONS

1. I make a direction regarding anonymity under Rule 14 of the Tribunal Procedure (Upper Tribunal Rules) Rules 2008 in the light of the circumstances surrounding this claim. Unless and until a court directs otherwise the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly refer to him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

The background:

2. The appellant with permission, appeals against the decision of the First-tier Tribunal (Judge Smith) (hereinafter referred to as the "FtTJ") who, in a determination promulgated on the 27 February 2019, dismissed his protection and human rights claim.
3. The background to the appellant's claim is set out in the determination of the FtTJ and in the decision letter of the Secretary of State issued on the 15th April 2018.
4. The appellant is a citizen of Pakistan. He claimed to have arrived in the UK on the 10th April 2008 on a student visa which expired on the 31st December 2009.
5. On the 20th May 2010 he applied for a certificate of approval (marriage) to an EEA citizen and he entered into a Nikkah ceremony with her but before the notice of refusal was served, on the 28th January 2011, the relationship had dissolved. He was served with an IS15A on the 13th October 2013.
6. He made a claim for asylum on the 13th October 2016 and that claim was refused by the Secretary of State on the 15th April 2018.
7. The respondent set out the factual basis of the appellant's claim, namely that he was a Shia Muslim from xxxxxxxx and that he supported the Pakistan People's Party (PPP). He became the local youth president in 2005 and in January 2007, the PPP won an election and he began to be threatened by the Taliban.
8. On 6 August 2007, the appellant stated that his home was raided by Sunni Muslims, he was kidnapped he believes as a result of his Shia faith and due to his involvement with the PPP. He was detained and ill-treated for five days. It was stated that members of a religious group had filed blasphemy charges against him.
9. A man who was the chairman of the PPP that he previously worked with help secure his release by pretending that he wanted to kill him and on the proviso that he left Pakistan. The appellant went into hiding in Islamabad and subsequently left Pakistan on a student visa, arriving in the UK. The man who would help him stained his clothes with animal blood and made an unmarked grave in his name so that the kidnappers thought that he was dead.
10. In 2010 he received a telephone call from his father stating that it was unsafe for Shia people to return. He stated that he had not heard from his parents since then.
11. The appellant lodged grounds of appeal against that decision. The appeal came before the FtTJ and in a decision promulgated on the 14th April 2009 his appeal was dismissed.

12. Permission to appeal that decision was sought refused by FtTJ Welsh but was granted on renewal by Upper Tribunal Judge Pickup on the 9th July 2019 for the following reasons:

“It is arguable that the First-tier Tribunal misconstrued the test for internal relocation. Having accepted that there is an insufficiency of state protection for Hazara Shia Muslims in Pakistan, the section of the decision addressing internal relocation fails to factor in the insufficiency of protection, or otherwise explain how the appellant would be able to access sufficient protection in the place of proposed relocation. The other grounds have limited merit, but all grounds may be argued.”

13. The appeal was therefore listed before the Upper Tribunal. At that hearing the appellant was represented by Ms Bashow of Counsel who appeared before the FtTJ, and had drafted the grounds, and Ms Petterson, Senior Presenting Officer, appeared on behalf of the respondent.
14. I was able to hear detailed submission from the advocates and I am grateful to both advocates for their assistance on the issues that arise in the grounds advanced on behalf of the appellant. I confirm that I have considered those submissions in accordance with the decision of the FtTJ and the grounds which had been filed before the Upper Tribunal. I further confirm that I have given full consideration to those submissions which I have heard.

The submissions of the parties:

15. Dealing with ground 1, Ms Bashow submits that the FTT J misapplied the internal relocation test on the basis that he failed to give due weight to his earlier findings that the appellant could not obtain sufficient state protection from Sunni Muslims whom had previously persecuted the appellant, had ill-treated him and the accusations made of blasphemy.
16. She submitted that his findings on state protection were set out at paragraphs 140 - 146 and that those findings should be read in conjunction with the findings he made in relation to Shia Muslims and that Hazara Shia's are a minority within that minority. However, the FtTJ's assessment of internal relocation at paragraphs 147 - 187 made no reference to the lack of state protection or to the extent of the appellant's vulnerability in the place of relocation from the lack of protection from the authorities.
17. In this context, Ms Bashow directed the Tribunal's attention to paragraph 18 of the grounds which cited the decision of *Januzi v SSHD* [2006] 2 WLR 397 at paragraph 21.
18. She submitted that at paragraph 161, the FtTJ considered whether the appellant could access employment and noted that there was a measure of discrimination but then dismissed it. The country materials at page 330 made reference to discrimination in employment. Similarly at page 350, the material stated that Hazara Shi'ites were reported to be

disproportionately vulnerable due to their visibility which is reflected in the percentage of Hazara's among victims of sectarian violence and attacks and that threats and risks of attacks imposed severe restrictions on their freedom of movement and their access to livelihoods and education. She submitted that this built up a picture of a vulnerable person due to his ethnic and religious background.

19. Ms Bashow submitted that the appellant would be a target of attacks and that they were due to his appearance which identified his ethnic background, there was a lack of family connection (he did not come from Karachi or Islamabad) and the nature and duration of the past persecution was a relevant factor. Those matters had not been considered in the issue of internal relocation. The FtTJ's reference at paragraph 157 to spending his formative years in Pakistan did not include any references to past persecution. Therefore when taking into account those factors, the FtTJ erred in law as there was no reference to the lack of state protection.
20. As to Ground 2, Ms Bashow submitted that the FtTJ at paragraphs 176 – 181 focused on the number of sectarian attacks against Shia Muslims and at paragraph 178 he concluded that it must be assessed within the context of the attacks. However, she submitted the test of reasonableness or relocation is not the same as demonstrating a risk of indiscriminate violence as per Article 15 (c). The relevant factor is the appellant's vulnerability as a member of a minority ethnic and religious group (Hazara Shia's) and the lack of state protection including legal redress from Sunni Muslims as well as his ability to economically survive within the context.
21. Ms Bashow highlighted the conclusions reached by the judge and that they were in her submission, "questionable". For example, at paragraph 176, the conclusion that Islamabad had a population of 2 million Shia's did not factor into account the number of Hazara Shia's; and the conclusion that 10% is a "relatively large proportion of ethnic minorities" fails to explain relative to what? At paragraph 181 Hazara Shia's at the lowest figure number 650,000 out of 197 million which is a very small percentage. It is unclear what the judge meant by this. There is also no consideration of the concentration of violence and that at page 28, paragraph 11 of the expert report he noted that 80% of sectarian violence took place in Karachi and Baluchistan in 2016.
22. In relation to ground 3, she submitted that the FTT J failed to consider the appellant's past history and employment in the context of his situation. At paragraphs 161-167, the judge gave too much weight to the fact that he was able to get a university degree and a job in Karachi without considering that he last worked in Karachi in 2004, 15 years ago and had a degree in 2003 16 years ago and that he his claim in interview (question 11) was that he left Karachi because of sectarian attacks but gave no consideration to those aspects.
23. Similarly the assessment of family support was not fair. He made a reference to the medical records and this is a reference to February 2010,

but the appellant said it had no contact since February 2010. The medical notes and not a signed statement and there was no fair opportunity to explain.

24. Ms Bashow therefore submitted that the decision of the FtTJ demonstrated the making of an error of law but in preserving the positive findings and applying his assessment of the sufficiency of protection, the appeal should be remade by being allowed.
25. Ms Petterson on behalf of the respondent submitted that whilst the FtTJ had accepted some of the applicants history, it is plain from reading the findings of fact that he did not accept all that had been claimed by him-he did not accept that he had been the subject of any blasphemy accusations that had led to the matter going any further and in particular there was no outstanding issues with any court proceedings. Nor did the FtTJ accept that the Taleban were pursuing him.
26. It was against that background that the FtTJ had considered the issue of internal relocation by reference to other places within Pakistan including Karachi or Islamabad and took a number of issues into account. Those issues included his education at paragraph 154 and whilst he made reference to discrimination in relation to employment, the FtTJ took into account the appellant's evidence that when pressed in cross-examination he admitted that he thought it could get a job in Pakistan. The judge took into account that his ethnicity or religious background had not prevented from obtaining a university education therefore the judge was entitled to take into account those matters in assessing whether he was vulnerable in the place of internal relocation.
27. As to family members, he stated that he had not spoken to family since 2010. Whilst the point made on behalf of the appellant was that the reference to the medical notes in 2010 was not put to the appellant, however the judge made reference to later medical evidence which post-dated 2010 at paragraphs 164 - 165 reflected in the medical notes at page 100 which made reference to the appellant's relative in Pakistan prescribing diazepam. It also stated that he was "well educated" and that he was a pharmacist in Pakistan (see page 103). Also at page 103 there is further reference to using medication in Pakistan (November 2016).
28. Ms Petterson submitted that the criticism mounted on the basis of the failure to take into account the expert report about the number of attacks in Pakistan was not made out. She submitted that at page 27 of the report there was a table showing sectarian violence in Pakistan 1989 - 2017. Whilst the submission was made that the judge failed to take into account information set out at page 28 of the expert report, that referred to a report of 2012 and 2016. However the judge was entitled to look at the table and the number of attacks in that table which showed a reduction in 2014 and also in 2016 and 2017. Therefore the judge was clearly aware of the incidents referred to in the report.

29. She submitted that it was open to the FtTJ to reject the expert report for the reasons given at paragraph 167-the expert had not demonstrated that he was aware of the appellant's collocations, his skills or how much work he had undertaken in Pakistan prior to leaving that country and therefore his opinion on this issue relating to the support network was not supported by a full assessment by the expert.
30. Ms Petterson submitted that when considering the issue of sufficiency of protection, it was open to the FtTJ to consider the threat from Sunni Muslims when considering the issue of internal relocation. The judge took into account a number of factors which would demonstrate that there was nothing to suggest that he would be located by those from his home area and that this was relevant to applying the correct test for internal relocation.
31. By way of reply, Ms Bashow submitted that in relation to obtaining medication, the appellant stated that he'd obtained medication from Pakistan from people who would visit that country and bringing medication (question four). Furthermore, it was whether the appellant had access to family support network in the place of relocation (see paragraph 230 of AK). She further submitted that the fact that he had been educated was of little relevance when living in environment where there are civil problems for which there was no protection. Looking at the appellant circumstances having had 10 years absence; his mental health would impact on his internal relocation. Those on abilities had not been properly taken into account.
32. At the conclusion of the hearing I reserved my decision.

Decision on the error of law:

33. Having the opportunity to hear those detailed submissions, I am satisfied that the decision of the FtTJ did not involve the making of an error of law. I shall set out my reasons for reaching that decision below.
34. Before addressing those submissions it is necessary to set out a summary of the decision made by the FtTJ and the analysis of the relevant issues before the Tribunal.

The decision of the FtTJ:

35. The FtTJ set out the issues and paragraphs 24 - 34 of his decision. It was accepted that the appellant was a national Pakistan, a Shia Muslim and was of Hazara ethnicity. It was submitted on behalf of the respondent that if the appellant had established his factual claim (which was disputed) that it would not be unduly harsh for the appellant to relocate to Islamabad or Karachi or a similar city. Furthermore, if he did establish his claim, there was sufficiency of state protection. In support of the appellant's claim, an expert report had been submitted by Dr Giustozzi (A12-23) and the report of a psychotherapist.

36. The findings of fact of the FtTJ are summarised as follows:
- (a) having considered the evidence, the FtTJ accepted that the appellant had injuries to his person which were consistent with hot rods being placed on his flesh as claimed. The FtTJ found that the scarring was consistent with some form of torture and therefore accepted the appellant account (see [108]-[110]).
 - (b) On the basis that his home area was a tribal area, the judge found that it is plausible that the appellant's kidnappers released the appellant to Mr S if he had convinced them that he had his own reasons to want to kill the appellant (see [111]).
 - (c) As to the issue of blasphemy, the judge accepted the appellant's account that when he was kidnapped, he was accused of blasphemy by some Sunni Muslims but found that the accusation went no further (see [113]).
 - (d) There was no evidence of the police seeking to locate the appellant, for example, searching the family home and there was no evidence of any FIR being issued and there are no court proceedings (see [114 - 116]).
 - (e) The judge rejected his account that had been threatened with death by the Taleban for the following reasons:
 - (i) he made no mention of any such threat in his screening interview,
 - (ii) in his detailed and comprehensive statement (dated 12/4/17) he made no reference at all to the Taleban or any threatening letters from them.
 - (iii) The appellant asserted that the letters were delivered to his father's house on 25 May 2007 and 28th of June 2007 from the Taleban. The first letter directed that the appellant should cease all activities supporting women's freedom of education and leave his job with the NGO. The second said that he had not met those requirements and should be delivered to the court within two days. However, the difficulty is that the appellant's case was that he was in hiding in May and June 2007 and not working for the NGO therefore could not have been engaged in the activities he was accused of when the first letter was delivered. The logic of the second letter did not follow because the appellant on his own account was not engaging in any of the activities that he was criticised for undertaking.
 - (iv) A document that was produced shows that on 29 July 2007 (A166) the appellant reported matters to his local police station. The judge found that it was "curious" that the appellant went to the police station bearing in mind that he contended they could not offer him sufficiency of protection. It also demonstrated that he was not in hiding but simply keeping a low profile. This

contradicts the appellant statement in 2017 that, after he was released with the help of Mr S, he went to Islamabad.

- (v) In summary, the appellant had not demonstrated to the lower standard that his claim in relation to the Taleban is true (see [117 - 126].
 - (f) The FtJ drew an adverse inference under section 8 of the 2004 Act due to the appellant's delay in claiming asylum. The FtJ rejected his account that he did not know what to do or how to get help until 2016; whilst a short delay after arrival might be explainable but the appellant knew his immigration position was precarious.
 - (g) His marriage to the EEA national was a clear attempt to remain in United Kingdom. He accepted he sought legal advice in relation to the marriage in 2010 the judge did not accept that there had been no discussion as to his immigration status. Furthermore, an intelligent man such as the appellant who had excellent command of English, would have been aware of asylum and could have taken steps for 2016 to explore his rights (see [129 - 134]).
 - (h) The FtJ accepted that the appellant was a youth leader of his local PPP and that he worked as a volunteer for an NGO, that he was tortured and accused of blasphemy by a group of Sunni Muslims but did not accept the threats from the Taliban which he found to be an "exaggeration in order to bolster the appellant's claim."
37. The FTT J then considered the issue of future risk of harm taking into account the findings of fact that he had made a set out above.
38. The first issue related to sufficiency of protection which the judge addressed at paragraphs 140 - 146. He made reference to the country materials and whilst he noted that in 2014 the government introduced a new counterterrorism plan to end religious extremism, he was not satisfied that there was a sufficiency of state protection within the meaning of Horvath [2001] 1 AC 489.
39. He gave the following reasons for reaching this conclusion:
- (a) the police are described as indifferent, incompetent and even complicit in violence against Shiite Muslims (A1,350);
 - (b) the Asian human rights commission reported that state bias was evident in the judicial system against minorities which included Hazara Shias' (A1,330); and there is other external evidence that courts are subject to influence from religious figures (A1 303);
 - (c) the US government commissioned report for Pakistan 2018 confirmed that the government of Pakistan had failed to adequately protect religious minorities which included Shia Muslims or to control incitement to religious violence against such minorities.
 - (d) Dr Giustozzi agreed with this assessment and noted that Sunni militant groups operated with widespread impunity across Pakistan as

law enforcement officials effectively turned a blind eye to any attacks (A1, 18).

40. Having found that there was a lack of state protection, the FtTJ then considered the issue of internal relocation by reference to Lord Brown in AH (Sudan) v SSHD [2008] 1 AC 678 and his self-directions at paragraph 148- 151, that internal relocation must be reasonable and must not have such consequences upon the individual as to be unduly harsh and that it would be unduly harsh if the appellant would be unable for all practical purposes to survive with sufficient dignity to reflect humanity.
41. At paragraph 152, the FtTJ concluded that internal relocation would not be unduly harsh for this appellant. The FtTJ gave the following reasons for reaching this conclusion:
- (a) The appellant is from Pakistan, he is familiar with the country and its culture (see [153]).
 - (b) He is well educated compared with much of the population having worked both in Pakistan and the UK (see [154]).
 - (c) He has lived in Karachi and spent some time in Islamabad there were in relation to the latter, he was not working and possibly keeping a low profile (see [155]).
 - (d) His command of languages would not hinder his reintroduction (speaking English, Pashto and Urdu) and he has spent his formative years in Pakistan (see [156 - 157]).
 - (e) In relation to his health, he was referred to the trust in 2016 but was discharged back to his GP who attributed the appellant's presentation of stress-related to his asylum claim and social isolation. He was subsequently re-referred and is now under the treatment of Dr N. He was diagnosed with having mixed anxiety and a depressive disorder; he receives antidepressant and antipsychotic medication. He has not been an inpatient in a mental health hospital and whilst he stated a fear of return makes him feel suicidal, there was no cogent upstate medical evidence to support the conclusion that it was a suicide risk and to the extent that there was any evidence, it was self-reported and he had no plans to take it forward (see A80).
 - (f) It was not challenged by the appellant that there were not adequate medical facilities in existence to address his medical condition.
 - (g) The FtTJ considered his medical condition in the light of whether it would impact on his earning ability. The FtTJ considered the submission that being a Shia Muslim and of Hazara ethnicity he would have difficulty in getting a job as there was widespread discrimination. The FtTJ noted however that the appellant's religion did not prevent him obtaining a university education or undertaking employment in quality control in Karachi which he described as "very responsible". Therefore whilst the judge accepted there may be a measure of discrimination, particularly having regard to his race and ethnicity, the FtTJ did not accept that it was at the level claimed by

the appellant such that he would not be able to obtain employment in either Islamabad or Karachi. In cross-examination he admitted that he thought he could get a job in Pakistan but stated his chief concern was that he would be killed.

- (h) As to family support, the appellant claimed that he not spoken to his family since 2010 when his father told him that the situation was very bad, and it was not safe him to return. The appellant stated it did not know where his family was which comprises of his parents, two brothers and a sister. When questioned why he had not spoken to Mr S a person was able to locate him even when he was kidnapped to assist in locating his family, the appellant could not give a cogent answer. The FtTJ did not consider that this aspect of his account was credible. The appellant in cross examination admitted he had made no attempts to try and trace his family since 2010. In summary, he was not satisfied that the appellant did not have family could call upon which she could not trace. In the GP records (February 2010) he told his GP he was taking a cocktail of drugs which he brought within from Pakistan. He describes his uncle as an ENT specialist in Pakistan; it is clear his uncle occupies a senior position. Whilst the appellant said he was no longer in touch with his parents in Pakistan he made no reference to any other relatives (see [163]).
- (i) In the medical records (25 10 16 at A100), the appellant told health worker that he was taking diazepam and the entry reads “relative in Pakistan prescribes diazepam says taking half a tablet which helps.” The FtTJ found that the appellant conveyed to the GP that he was currently taking diazepam. A further entry 11 November 2016 in the records state “has been using medication from Pakistan and also on 9 December 2016. The FtTJ found that this was “strongly indicative” of the appellant still being in contact with a medical practitioner in Pakistan, most likely the appellant’s uncle.
- (j) The judge therefore concluded that the appellant had a support network in Pakistan if returned (see [165-166]).
- (k) Taking into account the expert report where it was stated that a flat in a city would cost half the average salary and it would not be possible for the appellant to meet the expenses and living costs, the FtTJ found that that was unsupported by any examination by the expert of the appellant’s earning capacity and that there was nothing in the report to show that he was aware of the appellant’s qualifications, his skills, his earning capacity in Pakistan prior to fleeing in the United Kingdom. Consequently the FtTJ rejected that unsupported opinion of the expert.

42. The FTT J having rejected the appellant’s claim in relation to the Taleban, considered in the alternative whether he could internally relocate. He made reference to the expert report which stated that the Taleban and other terrorist groups had about 27,000 active members and was strong in the Khyber agency and Baluchistan; it has some presence in cities including Islamabad, but he did not mention Karachi at all. The expert did

not refer to any attacks at all in 2015 and 2016; one attack in 2017 resulted in one person dead and four injured and in 2018 there was one attack which was foiled. The attacks have taken place in Islamabad have been high-profile operations and the only known targeting of individual was in November 2014 in a plot to target a Pakistani army officer (a1 p26). The expert accepted that relocation would reduce risk from the Taliban but not the threat from sectarian groups who are operational nationwide.

43. In summary the FtTJ found that if he was at risk from the Taleban he could relocate to Islamabad or Karachi (see [168 - 171]).
44. As to the threat from Sunni Muslims, the FtTJ set out at [173] “the issue I must determine is whether there is a risk given the lengthy absence of the appellant from Pakistan, the fact that is believed to be dead by those he claims to persecute him, and whether they would have the inclination to try and locate the appellant.”
45. In determining this issue, the FtTJ accepted that the appellant did not have any ID documents and would need to obtain them and this would bring him to the attention of the Pakistani authorities however as there is no death certificate there was nothing particularly suspicious about him requiring such papers as the appellant accepted (in his evidence) with ID documentation he can access housing services, employment and medical help (see [174]).
46. The judge found that there was no cogent evidence before him that the blasphemy allegation would be seriously pursued; there was no FIR or any court proceedings.
47. As to the issue of the appellant’s religion, the FTT J set out that whilst he had noted that Shi’ites are the largest minority in Pakistan and are reportedly the main target for sectarian attacks (A 350) Islamabad has a population of some 2 million and a relatively large proportion of ethnic minorities, about 10% (A 229). He also set out that terrorism attacks appear to be limited to high-profile targets and security is higher than in other regions (A1 229).
48. He accepted that amongst attacks on Shia Muslims, Hazara Shi’ites are disproportionately vulnerable due to their visibility (A1 265), but that this needs to be considered in the context of the attacks.
49. The FTT J went on to find:
 - (a) The expert report stated that throughout the whole of Pakistan in 2016 there were only 35 sectarian attacks on Shia Muslims (no breakdown for those of Hazara ethnicity) and in 2017 it had fallen to 16; it appears that the attacks are aimed more at groups than individuals.
 - (b) In 2016, 137 people were killed and 2017, 16. Injuries in 2016 182 but considerably higher in 2017, 691.

- (c) Given Pakistan has a population of 19 7 million and Shia Muslims account for about 15 to 25% of the population (A1(A150) and Hazara Shi'ites number between 650,000 to 900,000, the figures have to be seen in that context. The expert reported that the majority of attacks that had been perpetrated against Hazara Shi'ites had been in Quetta where the local Hazara Shia minority had been attacked by local sectarian groups. It is not suggested by the respondent that the appellant would relocate there.
- (d) The expert noted that in the absence of specific investigations it was not possible to say whether the alleged accusation of blasphemy "still sticks" however if the appellant did resume his alleged political activities it was highlighted to become the object of threats once again. However the FtTJ found that the appellant had taken no interest in politics for 11 years and there was no cogent evidence that he would do so again. This is not a case where the appellant would be required at contrary to his normal behaviour such as to bring the principles in HJ (Iran) in to play.
50. The FtTJ made reference to the decision in AK and SK (Christians) Pakistan CG [2014] UKUT 569 and that whilst it was a case relating to Christians it also considered other religious minorities in relation to threats from the Taleban and blasphemy charges.
51. The FttJ considered that paragraphs 229-230 provided relevant background material which stated that individuals who were being seriously pursued by armed groups would not generally be safe in Punjab where the groups are based and may also be unsafe due to the wide geographical reach of the groups however the "nature of the threats received, the individuals personal circumstances and availability of support from influential connections of all relevant considerations. It is not likely that ordinary community members will have the resources or the inclination to pursue their victims outside the local area to those facing harm from localised groups or individuals will generally be able to relocate to 1 of the many large cities. However, individual subject to criminal prosecution under the blasphemy laws were not generally be able to relocate."
52. At paragraphs [185 - 187], the FtTJ applied those paragraphs to the circumstances the appellant and found that relocation would not be to areas of FATA, Baluchistan and the Khyber or the Punjab but would be to Islamabad or Karachi. Nor would he be at risk from the Taleban or the TPP or its offshoots. As there was no FIR or any prosecution, internal relocation will be viable unless the blasphemy charges are seriously pursued and that FtTJ found that those charges were not seriously pursued.
53. In summary, the FTT J directed himself to the appellant's health, and had particular regard to his religion and ethnicity when considering the factors holistically but reached the conclusion that it did not been shown that it will be unduly harsh for the appellant to relocate to Islamabad or Karachi

or that he would be at a real risk of persecution or serious harm (see [187]).

54. I have carefully considered the competing submissions in the light of the decision of the FtJ as summarised above. The grounds advanced on behalf of the appellant challenge his assessment of internal relocation the judge having found that he would be at risk of harm in his home area. Internal relocation is not an alternative where there is a real risk that the appellant will suffer persecution or serious harm within the meaning of article 15 of the Directive (which includes treatment contrary to article 3 of the ECHR), in the area or safe haven identified.
55. In this context it is submitted that the FtJ failed to give weight or take into account his earlier findings made relating to insufficiency of state protection in the home area.
56. When considering this submission it is important to take account of the factual background and the context in which the judge had made his findings of fact. He accepted the appellant's account that when residing in his home area (a tribal area in Pakistan), the appellant's home had been raided by Sunni Muslims and was kidnapped in 2007 as a result of his Shia faith and his involvement with the PPP but had been released to Mr S. He rejected the appellant's account that there was any blasphemy allegation that had gone any further than simply an accusation (see[113]), and that there was no evidence that the police had sought to locate him or that there was any FTIR or proceedings against him (see [114 - 116]). The judge also rejected his account that he had been threatened with harm from the Taleban or would be at risk from them and found that he had not been involved in any politics in the UK since he had left and no cogent evidence he would do so again (see[182]).
57. At paragraphs 140 - 146 the judge summarised the material relating to the issue of sufficiency of protection and concluded that there would not be a sufficiency of protection for the appellant in the home area on account of his profile there and the geographical area and that there was evidence before the tribunal that the police/courts was subject to influence from religious figures (see material at A1303). However, it is plain from his analysis of the issue of internal relocation that he did not conclude from the appellant's factual account or on the material before him that there would be an insufficiency of protection outside of his home area, either based on his religion or his ethnicity. The appellant had not identified those who attacked him in his home area and referred to in the evidence as "Sunni Muslims". At [173] the FtJ asked himself the question whether there would be a risk from general Sunni Muslims in the area of relocation given the appellant's long absence from Pakistan and based on the appellant's evidence that it is believed that he was dead and whether they would have the inclination to try and locate the appellant. On the findings of fact made, it was open to the judge to find that the unidentified individuals did not either have the ability or inclination to try and locate the appellant after that length of time, furthermore, he did not face any

blasphemy charges and the judge found that he would be able to obtain documentation (see [174]). The judge also rejected his claim to be at risk of harm from the Taleban. On this analysis, there would be no need for any protection of harm from those unidentified individuals from his home area in the place of relocation.

58. In AK and SK (Christians: risk) Pakistan CG [2014] UKUT 569 (IAC) it was held that along with Christians, Sunnis, Shi'as, Ahmadis and Hindus may all be potentially charged with blasphemy. Those citizens who are more marginalised and occupy low standing social positions, may be less able to deal with the consequences of such proceedings; The risk of becoming a victim of a blasphemy allegation will depend upon a number of factors and must be assessed on a case by case basis. Relevant factors will include the place of residence, whether it is an urban or rural area, and the individual's level of education, financial and employment status and level of public religious activity such as preaching. These factors are not exhaustive; Non state agents who use blasphemy laws against Christians, are often motivated by spite, personal or business disputes, arguments over land and property. Certain political events may also trigger such accusations.
59. The decision states that a blasphemy allegation, without more, will not generally be enough to make out a claim under the Refugee Convention. It has to be actively followed either by the authorities in the form of charges being brought or by those making the complaint. If it is, or will be, actively pursued, then an applicant may be able to establish a real risk of harm in the home area and an insufficiency of state protection; Relocation is normally a viable option unless an individual is accused of blasphemy which is being seriously pursued; in that situation there is, in general, no internal relocation alternative. Thus the assessment made by the judge was in line with the above decision.
60. The FtTJ also considered whether he would be at risk in the area of relocation based on his religion and ethnicity. I can see no error as Ms Bashow submits in the judge's assessment of the country materials and that Shiite Muslims are the largest minority in Pakistan. Contrary to the grounds, the FtTJ did accept that amongst attacks on Shia Muslims those of Hazara ethnicity were disproportionately vulnerable due to the visibility. However, it was open to the judge to consider the material and the figures for attacks on Shia Muslims when set against the population of Pakistan (see paragraphs 179 - 181). It was also open to the judge to take into account that the attacks referred to in the expert report were aimed more at groups than individuals, and that when considering attacks against Hazara Shiite Muslims, the majority attacked are being perpetrated in Quetta, which was a particular area and one which had not been identified as a safe haven. Contrary to the grounds, the judge was not considering the issue of article 15(c) but was simply carrying out an analysis of whether there was a risk of harm in the area of relocation as a result of his religion and his ethnicity. Ms Bashow accepted that there was no evidence that all Shia Muslims of Hazara ethnicity as a group would be at risk of

harm throughout Pakistan. Thus the judge was entitled to consider this particular appellant's factual circumstances when reaching a conclusion on this issue and in the light of the materials before him.

61. When considering internal relocation, the question the judge had to consider was whether "taking account of all relevant circumstances pertaining to the claimant's country of origin, ... it is reasonable to expect the claimant to relocate or whether it would be unduly harsh to expect him to do so" (see Lord Bingham in *Januzi* and repeated in *AH (Sudan)*). This requires consideration of all matters relevant to the reasonableness of relocation, none having inherent priority over the others (see *AH (Sudan)* at [13]) and this is a "holistic assessment" (see *AH (Sudan)* at [47]).
62. It is submitted on behalf of the appellant that the FtTJ failed to carry out that holistic assessment and points to the finding made as to the appellant's ability to access employment. It is submitted that the finding failed to take account of his religion and his ethnicity. However, the FtTJ at [161] properly took into account the evidence that there was a measure of discrimination towards those who were Shia Muslims of Hazara ethnicity and that this was also in the field of employment. But the judge was entitled to take into account that notwithstanding that material, the appellant had been able to obtain a university education and worked previously in Karachi which the appellant had described as "very responsible". The judge also found that he had worked in the United Kingdom. I cannot accept the submission made that the FtTJ gave too much weight to his university degree and his previous work in Karachi on the basis that he last worked there in 2004. It was reasonably open to the FtTJ to place weight on the appellant's own evidence in addition to that above where he stated he thought he could obtain employment in Pakistan (see [161]).
63. Furthermore, the issue of employment was not one taken in isolation. The FtTJ also took into account a number of other factors; that the appellant is a Pakistani national familiar with customs, culture, and able to speak English, Pashto and Urdu ([153, 156]), that he was well educated compared with much of the population and having worked both in Pakistan and in the UK [154], and he lived outside of his home area. In addition, the judge took into account the medical evidence in respect of the appellant, which was summarised in his decision and noted that it was not challenged that there were adequate medical facilities in Pakistan that were in existence. He also found that there would be a network of support.
64. As to this last factor, it is submitted that the assessment of family support available to the appellant was unfair and that the judge's reference to the medical records related to February 2010 when it was the appellant's evidence that he last had contact his family at that time. I accept the submission made by Ms Petterson that the FtTJ was entitled to take into account in his assessment the appellant's evidence which he found to be lacking in credibility. The FtTJ set out the appellant's evidence at [163] that he had not spoken to his family since 2010. The judge recorded the

questions of the appellant asked in cross-examination concerning Mr S, the person who was able to locate him even when kidnapped, and why he had not spoken to him. The judge recorded that the appellant was not able to give any cogent answer to those questions and also admitted that he made no attempt to trace his family.

65. As regards the medical records, the judge considered these at [164 - 165] noting that the medical records did not only relate to 2010 but also October and November 2016. Whilst it is argued that these references were made in medical notes and not in any signed statement, it was open to the judge to place some weight on this evidence in his assessment alongside the appellant's own evidence in reaching an overall conclusion as to the availability of family support.
66. Overall, I am not persuaded that the judge fell into error in his assessment of the issue of internal relocation and that a careful consideration of the decision demonstrates that he conducted that assessment by reference to the reasonableness of relocation for this particular appellant and did so by way of a holistic assessment. The judge considered the impact of the proposed relocation taking into account the relevant circumstances. In considering this appeal I have also borne in mind the decision of **MA (Somalia) [2010] UKSC 49** in which Sir John Dyson SCJ at paragraph 43 reiterated the remarks of Baroness Hale in **AH (Sudan) v SSHD UKHL [2008] 1 AC 678** in which she urged caution upon the part of appellate Tribunals when dealing with decisions of the lower courts. At paragraph 45 Sir John Dyson went on:-
- “The court should not be astute to characterise as an error of law what, in truth, is no more than a disagreement with the AIT's assessment of the facts. Moreover, where a relevant point is not expressly mentioned by the Tribunal, the court would be slow to infer that it had not been taken into account.”
67. Consequently it is not been demonstrated that the judge made an error of law in his decision and thus the decision shall stand.

Notice of Decision

68. The decision of the FtTJ did not involve the making of an error on a point of law; the decision of the FtTJ shall stand.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 22/10/2019

Upper Tribunal Judge Reeds