



**Upper Tribunal
(Immigration and Asylum Chamber)
AA/07840/2014**

Appeal Number:

A

A/07843/2014

THE IMMIGRATION ACTS

**Heard at Bradford
on 8 June 2017**

**Decision & Reasons
promulgated
on 7 July 2017**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**AL
JL
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs G Patel instructed by Legal Justice Solicitors.
For the Respondent: Mrs Petterson Senior Home Office Presenting
Officer

DECISION AND REASONS

1. This is an appeal against a decision of First-tier Tribunal Judge Shimmin ('the Judge') promulgated on 28 October 2015 in which the Judge dismissed both appeals on asylum, humanitarian protection and human rights grounds.

2. The appellants applied for permission to appeal which was initially refused by a Designated First-tier Tribunal Judge on 19 November 2015 on the basis the pleaded grounds merely expressed disagreement with the decision.
3. The application for permission to appeal was renewed to the Upper Tribunal resulting in a grant of permission by Upper Tribunal Judge Freeman on 6 January 2016 in the following terms:

“Arguably the judge did not give full consideration to what is described as the ‘plethora of country evidence’ about the risk faced by some Christians in Sri Lanka; but it is not satisfactory that individual first-tier judges should be required to evaluate evidence presented in that form, and the Upper Tribunal may wish to do so in a country guidance case, after considering any submissions from the parties.”
4. The grant of permission is opposed by the Secretary of State who in a Rule 24 reply dated 29 January 2016 wrote:
 2. The respondent opposes the appellant’s appeal. In summary, the respondent will submit *inter alia* that the judge of the First-tier Tribunal directed himself appropriately and made reasonable sustainable findings squarely based upon a thorough evaluation of the subjective and objective evidence before him.
 3. The respondent will submit that the grounds advanced by the appellant failed to establish a material arguable error of that would be considered capable of having a material impact upon the outcome of the appeal and it was properly open to him to find that the objective evidence “does not indicate that evangelical Christians are at real risk on return to Sri Lanka as a religious minority” [paragraph 53 determination]. The FTJ has provided reasonable sustainable reasons to support his findings that there is a sufficiency of State protection available to the Appellants in Sri Lanka [paragraph 56 determination].
 4. The grounds advanced amount to nothing more than a mere disagreement with the negative outcome of the Appellants Appeal.
5. On 24th of March 2017 Resident Upper Tribunal Judge Dawson issued the following direction:
 2. Without there having been a decision, whether the First-tier Tribunal erred in law, it is premature to consider whether these appeals might ultimately be suitable for Country Guidance in the issues engaged. Accordingly, the appeals will be listed for hearing at the request of the appellants’ representatives in Bradford for determination of the issue of error of law. If the decision as a consequence is set aside and is to be remade in the Upper Tribunal further consideration will be given whether the issues warrant to the case being treated as one for Country Guidance.
6. The scope of this hearing is therefore limited to establishing whether the Judge made an error of law material to the decision to dismiss the appeals.

Background

7. The appellants, citizens of Sri Lanka, are a father and daughter. The first appellant was born on 5 December 1955 and the second appellant on 25 July 1986. The first appellant attended the hearing with Miss Patel, the second appellant not attending but being excused.
8. The appellants arrived in the United Kingdom on 14 July and 23 August 2013 respectively and both applied for asylum and/or leave to remain on human rights grounds on 7 January 2014.
9. The Judge reviewed the evidence and sets out the core of the claim from [14] - [26] in the following terms:
 14. As Tamils wherever they lived in Sri Lanka they had to get a police report and the police used to come and check their house. The first appellant told the police he was working in the Church and he did not have any problems with them because of this.
 15. The first appellant was working as a cashier in a hotel before becoming a full-time minister in 2006. He studied for three years and was put into employment as a Christian minister in Thirukovile. In 2010 he became a full-time evangelical Christian pastor in Colombo in the Maranatha Prophetic Ministry.
 16. The first appellant started to have problems in Sri Lanka in January 2013. He commenced the conversion from Buddhism to Christianity of a man named M. His family were members of the Jathigal Urumaya party, a Buddhist organisation. The family and other members of the party were against M's conversion and would threaten him.
 17. On 2 June, 2013 a group of people came to the first appellant's house and tried to break the door down. When he lets them in they threatened him and told him to stop trying to convert people to Christianity in a Buddhist country. They threatened him with death and a beating in front of his family.
 18. The next day the family moved to the first appellant's wife's sister's house approximately 2 km away in Colombo.
 19. Later in the same month the first appellant was threatened on his way to church and he was strangled with his shirt collar.
 20. In another incident the first appellant was stopped in front of the church by two people who told him it was their church and he was not allowed to go there anymore. The first appellant continued to carry out church services in houses up until coming to the UK on a visit visa on 14 July, 2013. He travelled with his wife and son aged 16.
 21. The second appellant converted from Catholicism to Pentecostalism at the age of 11 or 12 years.
 22. She was present in the family home on 2 June, 2013 when a group of people pushed their way into the house, threatened her father and threatened to take her brother.
 23. After her family left Sri Lanka on 14 July, 2013 she applied for a visa as she was living with her aunt as she was frightened of living alone. She was also frightened to travel in public.
 24. The first appellant's colleague, Pastor H S, was in contact with the first appellant and told him not to return to Sri Lanka as there were people

looking for him and there were problems there. As a result the first appellant to make the decision for all his family that they would not return to Sri Lanka and would claim asylum in the UK.

25. The second appellant believes that the people who are looking for their father will come looking for her as well.
 26. Both appellants fear persecution because of their religion and because of the first appellant's position as a pastor. They also fear persecution because of their Tamil ethnicity.
10. It is not suggested the Judge failed to understand the basis of the claim or the evidence relied upon within the appeal.
 11. In relation to the evidence, which is the subject of criticism by Upper Tribunal Judge Freeman in relation to the way it has been presented, the Judge confirms at [33] that he has considered all the evidence and submissions with the required degree of care. Having done so, the Judge sets out his findings and reasons between [34] to [59] of the decision under challenge which can be summarised in the following terms:
 - i. Nationality and Tamil ethnicity are not in dispute [34].
 - ii. The appellant's credibility in relation to their account is accepted as they gave a generally consistent account without embellishment or exaggeration [37].
 - iii. The first appellant provided reasons for his fear of the Jathigal Urumaya Party, namely that one of their numbers who is a member of a family involved with the party was being converted to Christianity and that Buddhist parties are concerned with the number of members leaving to join Christianity [43].
 - iv. An email from Rev H corroborates the first appellant's claim regarding problems faced and that first appellant would face on return to Sri Lanka. The email was considered in the round together with other evidence submitted by the appellants [44].
 - v. Second appellant's evidence is consistent with and supports that of the first appellant [47].
 - vi. At [48] it is written "*weighing all the evidence for what it is worth and considering it cumulatively in the light of the challenges to it by the respondent I find that the appellants have proved to the required standard of reasonable likelihood that the facts they allege are true*".
 - vii. The first appellant has a particular problem with a man named M who was in the process of conversion to Christianity together with this person's family and the section of the party with whom this man's family were associated [50].
 - viii. The evidence of the first appellant and Rev B that the first appellant has practised as a pastor in Sri Lanka and that he

actively evangelises is accepted as is the fact that it is part of his religious beliefs and general make up that he will continue to evangelise where ever he lives. The first appellant would actively evangelise if he were returned to Sri Lanka [51].

- ix. The Judge accepted the first appellant's evidence that his supervising pastor, Rev H, advised him not to bring M to church because of the aggressive problems associated with that person. It was accepted the first appellant could continue to evangelise to M provided he was discreet in the way he proceeded in terms of this person and persons who are resistant to evangelising [52].
- x. The first appellant's problems arise almost exclusively from his contact with M and his family. There is no evidence of substance which indicates the first appellant is at particular risk from other Buddhists. There is no evidence that the first appellant would be at real risk of serious harm if he continued to evangelise to Buddhists in Sri Lanka [52].
- xi. The country information does not indicate that evangelical Christians face a real risk on return to Sri Lanka as a religious minority [52].
- xii. The claim of the second appellant is much weaker than that of the first appellant. The substance of her claim relates to her association with her father. There is no evidence the second appellant has evangelised or been directly subject to threats independent of her father [54].
- xiii. Even if the appellants will be at some risk in their home area, such risk was not "sufficiently real and serious to amount to persecution" [55].
- xiv. The appellants had not established that they could [not] internally relocate within Sri Lanka, perhaps to another area of Colombo away from M and the particular members of the party who are interested in the first appellant [55].
- xv. At [56] the Judge writes: *"I also find, on the facts as established, that the appellants have failed to demonstrate to the required standard of reasonable likelihood that there is no sufficiency of protection available to them in Sri Lanka. The first appellant gave evidence that some members of the 5000 Assembly of God congregation in Colombo were employed in the police service. The appellants have not attempted to approach the police. I appreciate that Tamils are not well regarded by the police and that the above quoted US State Department Report also says that, 'in practice, however, the local authorities failed to respond effectively to communal violence, including attacks on members of minority religious groups and perpetrators were not brought to justice'. This is balanced by an Internet report from www.indicatholicnews.com which is copied in the respondent's bundle at E2. It reports that violence followed a demonstration by Christians and those arrested*

included five Buddhist monks. Thus, the authorities are taking action against those who perpetrate violence against Christians. Furthermore, in the appellant's evidence at page 12 there is an Internet report which includes mention of a magistrate reprimanding the police and ordering them to arrest Buddhist perpetrators of attacks against Christians. In conclusion, I find there is a sufficiency of protection available to the appellants".

- xvi. In relation to the alleged fear-based upon their Tamil ethnicity, the Judge finds the appellants have given no evidence of having experienced problems personally because of their ethnicity and nor is it found they come within any of the risk categories identified in the country guidance case of *GJ (Sri Lanka)*.
 - xvii. The Judge finds taking all matters into account, that the appellants are not entitled to a grant of international protection [58 – 59].
12. The appellants' grounds assert, as identified by Upper Tribunal Judge Freeman, that the Judge failed to consider the country evidence as a whole which shows attacks cannot be said to be isolated and are not insignificant. It is also asserted the Judge failed to consider the respondent's own evidence in response to a country of information request regarding the treatment of Christians in Sri Lanka, and especially the treatment of Christian pastors, and the government's hesitancy to arrest and prosecute Buddhist monks involved in numerous attacks against Muslims and Christians, indicating they generally operate under the protection of the government. It is also asserted the Judge failed to consider reports citing a number of recorded incidents where pastors have been attacked which is said to be relevant as the first appellant has been accepted as being a pastor who would evangelise on return. In relation to the issue of internal relocation, it is asserted the Judge failed to consider specific country evidence relating to the treatment of evangelical pastors and whether it will be unduly harsh for the first appellant and his family to relocate to a different area. In relation to the Judge's finding that the first appellant had not spoken to the police, it is asserted that in a reply to a question his asylum interview the first appellant stated that if he had reported the matter the police would say it is a religious problem and that he had to talk to the Buddhist monks, but if you reported the matter to the police most police Buddhists will inform the people concerned he had made the report which would increase his problems. It is also asserted the Judge failed to consider the risk to the second appellant through her association with her father.

The evidence and submissions

13. In her oral submissions, Mrs Patel relied on the grounds and evidence provided, developing her arguments in relation to the findings and country material in accordance with the pleaded errors.

14. Within the Secretary of State's appeal bundle at C3-C14 are several articles that were considered by the Judge. In relation to faith-related issues, there is an article dated 21 February 2008 reporting the killing of a Sri Lankan pastor. The report shows the authorities immediately formed a special police team to investigate the murders and arrested at least four people said to have been confirmed to be members of the Home Guards. It is said that initial evidence indicated the murder was a contract killing connected to the pastor's ministry in Ampara. The report refers to Buddhist monks in the area contracting the killers as the accumulation of a long-standing intimidation campaign against the pastor and others complaining about inflammatory anti-Christian posters in the local Buddhist temple.
15. The article also refers to the matter being taken to the local senior superintendent of police and finally to President Mahinda Rajapakse in December of the relevant year and that the police, at the President's request, advised a prominent named Buddhist monk in the area to cease his campaign against the church and remove inflammatory posters.
16. It is stated Ampara became divided over the issue as Buddhist loyalists, including three monks from a named organisation, accused Christian converts of rejecting Buddhist traditions. The article contains a quote from a pastor from Colombo accusing the Sri Lankan government of trying to hide the truth by blaming the LTTE for the killings as it would be bad for Sri Lanka if it was known that Buddhist monks were behind the violence. A further paragraph within the article states "religious conflict is also a serious issue, with senior Buddhist clergy launching a propaganda campaign against Christians in 2002, sparking a series of violent attacks on churches nationwide. A Buddhist political party, the *Jathika Hela Urumaya* (Buddhist heritage party) was formed in 2004 to promote anti-conversion legislation that would effectively prevent any Buddhist from converting to Christianity".
17. A further article dated 24 June 2008 records an Evangelical pastor in eastern Sri Lanka being hospitalised after being attacked by militant government forces. The pastor was from a Methodist church in Ampara. The article records that the attackers were believed to be from the Home Guards and occurred four months after the first attack referred to above.
18. The third article refers to an attack on 26 June 2013 when a Christian pastor and his congregation were violently assaulted by a Buddhist monk and his associates during a Sunday service. This was said to have occurred in Colombo where the monk began to assault and attack the pastor with a tree branch. The pastor fled to his church but

was ambushed by 20 young men who beat him and accused him of attacking the monk. The article records that when the police arrived to disperse the mob that attacked the church, five Christians including the pastor were taken to a local police station for interview along with the monk and some of the other assailants and that the pastor was able to register a case against the attackers.

19. A fourth article from Compass Direct (USA), who published the article relating to the February 2008 incident, reported that assaults by local mobs including Buddhist monks had increased following the defeat of the LTTE in May 2009. It is noted that attacks were reported in a number of districts and included a church being set on fire in Puttlam district, which mirrored a similar attack a year previously that destroyed the original church on that site. The article records that church members registered a complaint with the police but that at the date of the article no arrests had been made.
20. The article refers to another pastor, of the Foursquare Gospel Church, and his wife visiting church members when a mob gathered at their door shouting they would not tolerate Christian activity in the village, a disturbance that continued for two hours before the police finally arrived arresting three people who it is said were later released. Earlier a mob of some 100 people including Buddhist monks surrounded the home of a female pastor of the same church in the village, but she and her husband were away. The mob is said to have broken into the pastor's house and shouted insults and destroyed chairs and other furniture. The police were called and attended but the mob dispersed. The police called the pastor to the police station for questioning later but on a second occasion protesters surrounded her and other pastors who accompanied her spitting on them and initially preventing them from entering the police station. The article states that later, in the presence of Buddhist monks and other protesters, the pastor was forced to sign a document promising not to host worship services for non-family members.
21. The article refers to other incidents of property being destroyed, one set of villagers launching a smear campaign against another person who invited the pastor and other Christians to bless the consecration of his home.
22. The article refers to a more serious incident on 12 July 2009 when seven men wielding swords attacked a caretaker and three other members of the Vineyard Community Church some of which required hospital treatment. A complaint was filed with the police which resulted in a man who was identified being arrested but released on bail.

23. The article refers to attacks on other churches, a number involving Buddhist monks warning church members to cease all Christian worship in that area, claiming any form of Christian worship in a church in Matara district was completely prohibited.
24. The article records a pattern of attacks upon churches at this time, reports to the police, arrests, and in relation to the attack in Matara district, a case being filed with a local court.
25. An article dated 24 June 2008 refers to an attack upon an Evangelical pastor but this appears to be a duplication of the assault referred to above on this date.
26. A report dated 26 June 2013 refers to attack on a Christian pastor which, again, appears to repeat the assault reported at [19] above.
27. A further article published by Barnabas Aid (UK), dated 26 July 2011, refers to a number of other incidents around this time which records the following information "Sri Lanka is about 70 per cent Buddhist, with Christians comprising some 8 per cent of the population. Although Buddhism has a reputation for being peaceable and non-violent, Sri Lanka has a strong Sinhalese Buddhist movement that wants to impose its identity on the whole country, and some of its members are prepared to use force. Sri Lankan Christians are therefore subject to attacks by Buddhist extremists, as well as facing incidents of persecution from Hindus and Muslims. Buddhist extremism in Sri Lanka is expressed in organised opposition to some churches, especially in rural areas and places seen as Buddhist preserves. Christian buildings and church leaders are sometimes attacked".
28. An article from Christian Solidarity Worldwide (UK) dated 24 April 2013 note Sri Lanka is seeing a significant rise in violent attacks carried out by extremist groups against Buddhist, Muslims, and Christians. It states that the violence can be traced to two organisations who it is said appear to have the patronage of the authorities and who are able to act with impunity. A press release from the National Christian Evangelical Alliance of Sri Lanka dated 3 April 2013 is published in the following terms:

The National Christian Evangelical Alliance of Sri Lanka (NCEASL) is deeply concerned regarding the prevalence in Sri Lanka of an organised campaign of hatred against adherence of non-majority faiths.

In recent months Muslims and Christians alike have faced numerous attacks and violence against their practice worship. Additionally Muslim owned business establishments and Muslim women in their religious attire have faced attack and assault.

These attacks have occurred with impunity. In most instances there have been no arrests or punitive action taken, so the attacks have occurred openly with eyewitnesses, video and photographic evidence available. The law enforcement authorities have been generally passive onlookers in the outrageous assault on basic human rights and liberties, including religious freedom, economic and cultural rights of minority religious communities.

Ongoing social violence against ethnic and religious minorities is a phenomenon that Sri Lanka can ill afford, as it struggles to reconcile after close upon three decades of civil war. Internationally, Sri Lanka's request for time and space to reconcile, subsequent to two resolutions at the United Nations Human Rights Council (UNHRC), sound hollow and lack credibility in the face of ongoing intimidation and violence against ethnic and religious minorities.

There are two alarming factors about the current situation. The first is that the violence seems to be organised and orchestrated by two organisations. Hence the violence has sustainability. Second and most alarmingly both the extremist violent organisations seemingly have patronage and support from authorities and hence the impunity with which they operate.

The NCEASL in this period right after Easter Sunday reminds Christians that just as Jesus Christ before his accusers was silent like a lamb as He was led to the cross, so we must not and will not retaliate against those that perpetrate violence against us, while we strive to enjoy our fundamental constitutional human rights.

However, the NCEASL calls upon the Government of Sri Lanka to make clear its commitment to equality in the context of our multi-ethnic and multi-religious society, desist from actions, words and political signals that provide patronage to extremist organisations and to instruct its law enforcement and security authorities to stop majoritarian vigilantism, enforce the law and ensure the peace.

29. A further article from Barnabas Aid dated 15 August 2013 names the two prominent Buddhist nationalist groups as the Bodu Bala Sena (Buddhist Power Force or BBS) and Sinhala Ravaya (Sinhala Echo), who along with others lead hate campaign against Christian and Muslim groups. The article also recalls that in May 2013 a Buddhist monk set himself alight as a protest against the conversion of Buddhists by Christians and other minority groups and of the *halal* slaughter of cattle by Muslims. It is said supporters of the Sinhalese Ravaya praised the actions of the monk whilst members of the Buddhist political party Jathika Hela Urumaya (JHU) had promised to "transform his demands into reality" through a new law.
30. The article also noted that 20 mosques and 30 churches had been targeted by Buddhist monks with a rise in attacks upon Christians, there being 52 in 2012 and 49 having been recorded up to July 2013 including physical assaults on church leaders and members, death threats, forced displacement, and destruction of churches and damage to property.
31. The response to the Country of Origin Information (COI) Request provided in the respondent's bundle at section D was published in response to a request for information about the treatment of Christians in Sri Lanka and specifically the treatment of Christian pastors.

32. The Report refers to the US Department of State 2013 International religious freedom report together with earlier reports, and set out details of some violent attacks upon Christian groups led by Buddhist monks together with attacks on Muslims Hindus and Christians by extremist groups, a number of which repeat information provided in the earlier articles.
33. At [4] of the COI is a quote from an article by the World Socialist Web Site in January 2014 reporting that extremist groups have attacked 200 Christian and Muslim religious places in recent years, targeted Muslim owned businesses, but asserting that nobody had been prosecuted over any of the assaults.
34. At [5] it is written *"the government was hesitant to arrest and prosecute Buddhist monks involved in numerous attacks upon Muslims and Christians. Buddhist monks generally operate under the protection of the government. Some monks, particularly outside Colombo, operate with impunity in trying to eliminate Christian and Muslim places of worship"*.
35. In relation to pastors, it is written at [7 and 8] of the COI:

7. The US - IRFR report cited a number of recorded incidents towards pastors, including:

'On September 2 [2013], when a group of unidentified individuals threw plastic bags filled with kerosene at the home of the pastor of the Assemblies of God Church in Agunukolapalassa, Hambanthola District. The attackers fled when the pastor awoke and came out of the house. Police found evidence of lit matches outside the premises. The pastor filed a police complaint, but there had been no progress reported on the investigation by the end of the year.

'On December 21, unidentified assailants threw two gasoline bombs at the Samaritan Church premises occupied by the pastor and his family in Ahangana, Galle District. On December 10, an unknown gunman shot at the home of the pastor in Western Province. No injuries were reported in either case. The police stated they were investigating but had made no arrests by the year's end.

'Several churches were attacked on Christmas Eve. Buddhist monks were among the mob of over 300 villagers who surrounded the pastor of the Assemblies of God Church in Angunukplapalassa, Hambanthola District, demanding he stop all worship activities planned for Christmas. The villagers alleged that a Buddhist monk had filed a police complaint against the pastor's religious activities. The pastor cited his right to hold services and was given police protection. At 11:30 p.m. the same night, a group of unidentified assailants threw stones at the Light House Church in Hikkaduwa, Galle District, shattering windows and causing minor damage. The pastor lodged police complaints, but no progress was reported on the investigation at the year's end.

8. The US - IRFR further recorded that:

'On March 18 [2013], a mob reportedly led by Buddhist monks attacked the wife, two children, and residence of the pastor of the Jeevana Alokaya church in Weeraketiya, Hambanthota District, causing serious injury to the pastor's wife and damage to the property. The pastor was in Colombo at the time attending the Supreme Court hearing on a petition he filed following an early attack on the church in December 2012. During the three-hour attack, shattered glass struck the pastor's wife in the eye, requiring surgery. Police were present during the attack, in which the pastor's home was vandalised and some Bibles burnt, but took no action. Following the attack, police reportedly instructed the pastor's family to relocate outside the district for their own safety. The next day police made several arrests in connection with the attack, but the perpetrators were later released from custody after a protesting mob led by Buddhist monks hurled stones at the police station and politicians intervened to demand their release.

36. In addition to the witness statements of the two appellants, the country material provided on their behalf included a number of items by Barnabas Aid (UK) and other organisations. These repeat examples of attacks referred to in earlier articles but also the nature of the attacks upon religious minorities carried out by Buddhist extremist groups.
37. In an article published by Release International (UK) entitled 'Sri Lanka: a growing hate campaign against Christians, 11/03/2014' it is claimed a number of churches have been forced to close and Christians have been forbidden from holding prayer meetings or Bible studies in their homes and that religious intolerance has been building in Sri Lanka for a decade. It refers to 450 documented attacks of violence against Christians including arson and murder and the burning and demolition of churches "in recent years".
38. An article from Barnabas Aid, dated 28 January 2014, refers to a letter published in the Sri Lankan Guardian on 23 January 2014 expressing outrage over the spate of attacks on Christian, Muslim and Hindu places of worship, signed by 108 organisations and individuals including NCEASL and the Muslim Council of Sri Lanka. It is said that letter complains about the failure of the police to use even minimal force to dispel mobs, and a senior police officer on one occasion instead giving an assurance to the mobs that the churches will be closed within two weeks while the issue was resolved. The letter is said to have highlighted the role of the Ministry of Buddha Sasana (Buddhist) and Religious affairs, to which the police handed over investigations regarding religious protests. In 2008 the Ministry issued an order saying that it's written permission was required for all new places of worship.
39. An article from World Watch Monitor (USA), dated 28 January 2014, noted that an Anglican bishop has asked for religious freedom and an end to 'hate mongering' and that 2000 Christians gathered in Colombo on 26 January 2014 to protest against a perceived lack of religious freedoms in Sri Lanka following attacks on Christian places of worship by Buddhist extremists.

40. A number of the articles provided by the appellant mirror those relied upon by the Secretary of State in relation to the percentage of minority religious groups and incidents of attacks against these groups.
41. At [33] is an article written by the Islamic Human Rights Commission (UK) dated 11 March 2013 urging the Sri Lankan government to fulfil its commitment to promote and protect human rights of all citizens by ensuring that the Muslim and Christian communities are safeguarded and the spreading religious hatred is stopped.
42. In light of the element of duplication it may have assisted the Judge if a schedule had been provided of the individual incidents, although the Judge was able to glean from the material provided the nature of the objection, the perpetrators, the nature of assaults, and the assertion in the articles regarding the activities of Buddhist extremists and the activities of the authorities.
43. It was submitted on the appellant's behalf that the weight of material had not been considered by the Judge and that even though those causing the problem amounted to a small group this was irrelevant as it still raised an *HJ (Iran)* point. It was submitted that the Judge failed to consider the *HJ (Iran)* issue.

Error of law

44. The issue was clearly identified by the Judge who took into account the country material provided by both parties. There is specific reference, for example, to the US State Department report for 2013.
45. An important finding by the Judge was that the first appellant's problems arose solely as a result of his contact with M and his family. If the family had contacts or associations with one of the Buddhist political groups referred to above that is not surprising. The appellant in his witness statement refers to the only difficulties he experienced being as a result of this specific issue in January - mid 2013. This appears to be despite the assertion by the appellant that he was now at real risk as a result of his Christian faith and activities. There was insufficient evidence of such individual risk, notwithstanding the fact the first appellant became a full-time Minister in 2006 and in 2010 a full-time evangelical Christian pastor in Colombo. The appellant does not indicate or provide evidence of any specific problems experienced as a result of his activities on any other occasion.
46. The Judge also accepted at [51] that the first appellant actively evangelised yet, apart from the one incident complained about, there

was no evidence of persecution as a result of his religious activities, in his home area or otherwise. The finding by the Judge that the appellant could continue to evangelise, that his problems arose almost exclusively from his contact with M and his family, and that there was no evidence of substance which indicates the first appellant faces a particular risk from other Buddhists, is a finding within those reasonably available to the Judge on the facts of this case and evidence provided.

47. The material made available to the Judge clearly shows the specific date of its publication which was considered in relation to an appeal heard in October 2015. It is not suggested by the Secretary of State that there has been a substantial material change in the country situation, which means there will be throughout Sri Lanka examples of extremist activities targeting Christian and other minority religious groups by Buddhist extremists. This was not doubted by the Judge.
48. In relation to the sufficiency of protection point, the Judge noted the appellants had failed to contact the police. Their explanation was noted but the country material indicates there are occasions when the police have investigated and even cases being considered by the Supreme Court in Sri Lanka. It is an established principle that a sufficiency of protection does not mean protection in relation to each and every matter complained of being investigations by the police leading to conviction, for as is often the case in the UK, there may be insufficient evidence to support the same. The appellant's own articles refer to unknown assailants and perpetrators of criminal damage.
49. The Refugee or Person in Need of International Protection (Qualification) Regulations 2006. Regulation 4 (2) states:

“(2) Protection shall be regarded as generally provided when the actors mentioned in paragraph (1)(a) and (b) (see above) take reasonable steps to prevent the persecution or suffering of serious harm by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the person mentioned in paragraph (1) has access to such protection”.
50. The duty imposed on states to take “reasonable steps” imports the concepts of margin of appreciation and proportionality. The appellant's own evidence shows that Sri Lanka operates a legal system for the detection, prosecution and punishment of acts constituting persecution, although there may be incidents, as outlined in the country material, where certain individuals have failed to act as required. The Judge noted this in [56] although also noted action taken by other members of the police and the judiciary including a Magistrate ordering police to arrest Buddhist perpetrators of attacks against Christians which falls within the definition of “reasonable steps”.

51. The specific finding of the Judge was that the appellants had failed to demonstrate that there was no sufficiency protection, meaning they failed to discharge the burden upon them to substantiate their allegation they would not receive protection from the authorities. This is a finding reasonably open to the Judge on the material made available. The Judge also noted members of the Christian church are employed within the police service.

52. The issue of internal protection arose as the Judge found that even if the appellants were at some risk in their home area it would not be sufficient to amount to persecution, which on the facts as a finding reasonably open to the Judge, but that if they could not return to their home area, the appellants had not established they could not internally relocate within Sri Lanka away from the family who had caused them difficulties.

53. The issue of internal relocation was raised by the Secretary of State in the reasons for refusal letter for both appellants. In *AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG [2011] UKUT 00445 (IAC)* the Tribunal held that there is no legal burden on the Secretary of State to prove that there is a part of the country of nationality etc. of an appellant, who has established a well-founded fear in their home area, to which the appellant could reasonably be expected to go and live. The appellant bears the legal burden of proving entitlement to international protection; but what that entails will very much depend upon the circumstances of the particular case. In practice, the issue of internal relocation needs to be raised by the Secretary of State in the letter of refusal or (subject to procedural fairness) during the appellate proceedings. It will then be for the appellant to make good an assertion that, notwithstanding the general conditions in the proposed place of relocation, it would not be reasonable to relocate there. In an Article 3 claim, a similar position pertains, in that, although the test of reasonableness/undue harshness does not formally apply, unduly harsh living conditions etc. – albeit not themselves amounting to a breach of Article 3 – may nevertheless be reasonably likely to lead to a person returning to their home area, where such a breach is reasonably likely.

54. The finding of the Judge is that there was no evidence the first appellant would be at real risk of serious harm if he continued to evangelise to Buddhists in Sri Lanka. There is no finding based upon the available evidence that the appellants could not return to their home area. As stated, even if they could not, the Judge found the appellants had not established that they could not internally relocate within Sri Lanka. The burden of proving internal relocation was not available or a reasonable option fell upon the appellants in accordance with the case law which the evidence failed to establish. The fact there is an availability of internal flight is a finding fully open to the Judge on the evidence made available. There are areas of Sri Lanka,

such as the North and North-West, which have a higher number of Christian residents.

55. The evidenced provided does not support the claim that even if the first appellant returned and evangelised as he had in the past he would face a real risk of harm throughout the whole of Sri Lanka.
56. The finding of lack of risk based upon the appellant's Tamil ethnicity has not been shown to be infected by arguable legal error.
57. I do not find on the basis the material provided that the appellants have established the Judge erred in law in a manner material to the decision to dismiss the appeals. Although specific issues were raised in relation to the second appellant and risk associated with her father, the father's claim was not found to establish a real risk sufficient to warrant a grant of international protection. The Judge was entitled to find, based upon the available evidence, that the second appellant had not established a real risk sufficient to warrant a grant of international protection either.

Decision

- 58. There is no material error of law in the First-tier Tribunal Judge's decision. The determination shall stand.**

Anonymity.

59. The anonymity order made by the Upper Tribunal on 24 March 2017 shall continue until further order.

Signed.....
Upper Tribunal Judge Hanson

Dated the 6 July 2017