



Legal Aid Board, Ireland  
Refugee Documentation Centre



**UNHCR**  
United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

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### COUNTRY PROFILE – PAKISTAN

The views and opinions stated in this report do not necessarily reflect the views of the organizers of the workshop. This paper is not, and does not purport to be, fully exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum.

## Pakistan

**Country Name:**

*Conventional long form:* Islamic Republic of Pakistan

*Conventional short form:* Pakistan

*Former:* West Pakistan

**Capital:** Islamabad

**Location:** Southern Asia, bordering the Arabian Sea, between India on the east and Iran and Afghanistan on the west and China in the north

**Area:** 803,940 sq km

**Population:** 165,803,560 (July 2006 est.)

**Ethnic groups:** Punjabi, Sindhi, Pashtun (Pathan), Baloch, Muhajir (immigrants from India at the time of partition and their descendants)

**Religions:** Muslim 97% (Sunni 77%, Shi'a 20%), Christian, Hindu, and other 3%

**Languages:** Punjabi 48%, Sindhi 12%, Siraiki (a Punjabi variant) 10%, Pashtu 8%, Urdu (official) 8%, Balochi 3%, Hindko 2%, Brahui 1%, English

(official and lingua franca of Pakistani elite and most government ministries), Burushaski, and other 8%

**Literacy:** definition: age 15 and over can read and write  
total population: 48.7%  
male: 61.7%  
female: 35.2% (2004 est.)

**Independence:** 14 August 1947 (from UK)

**Constitution:** 12 April 1973; suspended 5 July 1977, restored with amendments 30 December 1985; suspended 15 October 1999, restored in stages in 2002; amended 31 December 2003

**Suffrage:** 18 years of age; universal; joint electorates and reserved parliamentary seats for women and non-Muslims

### **Executive Branch:**

**Chief of State:** President General Pervez MUSHARRAF (since 20 June 2001)

**Head of Government:** Prime Minister Shaukat AZIZ (since 28 August 2004)

**Cabinet:** Cabinet appointed by the prime minister

**Elections:** The president is elected by Parliament for a five-year term; note - in a referendum held on 30 April 2002, MUSHARRAF's presidency was extended by five more years (next to be held in 2007); the prime minister is selected by the National Assembly (next to be held in 2007)

**Election results:** AZIZ elected by the National Assembly on 27 August 2004 with 191 of the votes

### **Legislative Branch:**

**Parliament:** Bicameral Parliament or Majlis-e-Shoora consists of the Senate (100 seats - formerly 87; members indirectly elected by provincial assemblies to serve six-year terms and the National Assembly (342 seats - formerly 217; 60 seats represent women; 10 seats represent minorities; members elected by popular vote to serve five-year terms)

**Elections:** Senate - last held in March 2006 (next to be held in March 2009); National Assembly - last held 10 October 2002 (next to be held in 2007)

*Election results:* Senate results - percent of vote by party - NA; seats by party - PML 47, PPPP 9, MMA 20, MQM/A 6, PML/N 4, PML/F 1, PkMAP 3, ANP 2, PPP 3, JWP 1, BNP-Awami 1, BNP-Mengal 1, BNP/H 1, independents 1; National Assembly results - percent of votes by party - NA; seats by party - PML/Q 126, PPPP 81, MMA 63, PML/N 19, MQM/A 17, NA 16, PML/F 5, PML/J 3, PPP/S 2, BNP 1, JWP 1, PAT 1, PML/Z 1, PTI 1, MQM/H 1, PkMAP 1, independents 3

**Judicial Branch:**

Supreme Court (justices appointed by the president); Federal Islamic or Shari'a Court

**Political Parties and Leaders:**

Awami National Party or ANP [Asfandyar Wali KHAN]; Balochistan National Party/Hayee Group or BNP/H [Dr. Hayee BALUCH]; Baluch National Party/Awami or BNP/Awami [Moheem Khan BALOCH]; Baluch National Party-Mengal or BNP/M [Sardar Ataullah MENGAL]; Jamhoori Watan Party or JWP [Akbar Khan BUGTI]; Jamiat-al-Hadith or JAH [Sajid MIR]; Jamiat-i-Islami or JI [Qazi Hussain AHMED]; Jamiat Ulema-i-Islam, Fazlur Rehman faction or JUI/F [Fazlur REHMAN]; Jamiat Ulema-i-Islam, Sami ul-HAQ faction or JUI/S [Sami ul-HAQ]; Jamiat Ulema-i-Pakistan or JUP [Shah Faridul HAQ]; Muttahida Majlis-e-Amal Pakistan or MMA [Qazi Hussain AHMED]; Muttahida Quami Movement, Altaf faction or MQM/A [Altaf HUSSAIN]; Muttahida Quami Movement, Haqiqi faction or MQM/H [Afaq AHMAD]; National Alliance or NA [Ghulam Mustapha JATOI]; Pakhtun Khwa Milli Awami Party or PkMAP [Mahmood Khan ACHAKZAI]; Pakhtun Quami Party or PQP [Mohammed Afzal KHAN]; Pakistan Awami Tehrik or PAT [Tahir ul QADRI]; Pakistan Muslim League, Functional Group or PML/F [Pir PAGARO]; Pakistan Muslim League, Nawaz Sharif faction or PML/N [Nawaz SHARIF]; Pakistan Muslim League or PML [Chaudhry Shujaat HUSSAIN]; note - as of May 2004, the PML/Q changed its name to PML and absorbed the PML/J, PML/Z, and NA; Pakistan National Party or PNP [Hasil BIZENJO]; Pakistan People's Party or PPP [Aftab Ahmed Khan SHERPAO]; Pakistan People's Party Parliamentarians or PPPP [Benazir BHUTTO]; Pakistan Tehrik-e-Insaaf or PTI [Imran KHAN]; Tehrik-i-Islami [Allama Sajid NAQVI]

note: political alliances in Pakistan can shift frequently

**Economy:**

***GDP – per capita***  
*(purchasing power parity):* \$2,400 (2005 est.)

***Exports:*** \$14.85 billion f.o.b. (2005 est.)

***Imports:*** \$21.26 billion f.o.b. (2005 est.)

*Currency (code):*

Pakistani rupee (PKR)

**Sources:**

CIA World Fact Book 2006



<http://www.un.org/Depts/Cartographic/map/profile/pakistan.pdf>

## Presentation by Mr. Indrika Ratwatte, UNHCR

The report below is based on a presentation given by Mr. Indrika Ratwatte, UNHCR at the 9th European Country of Origin Information Seminar which was held in Dublin in May 2004. Mr. Afrasiab Khattak, a country expert on Pakistan, was also in attendance but his views or opinions are not contained in this report.

## Country Report

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### 1. Introduction

I'd like to welcome our UNHCR speaker from Islamabad, Pakistan, Mr. Indrika Ratwatte.

This presentation will try to focus specifically on responses to some of the queries that have been raised. If there are some facts and data which sound a little too specific to those who might not know the acronyms, please let me know and I will explain a little further. I will begin with the major themes and issues and then go on to some of the specifics.

### 2. Political Developments

The nuances of political developments today are very important to understand and clearly these are individual themes. Sometimes, I think one has to look carefully into what are the nuances, what are the implications of some of the claims that one might be looking at. While country of origin information, at a basic level, would help one to understand, I think what is interesting is the mixing of the individual aspects of the claim vis-à-vis the country of origin information. This is critical to ensure that the applicant is given a fair chance, and also make sure that there is due process in the determination process. One of the themes that has come up, is sectarian violence; this has indeed been an issue and continues to be an issue in the context of Pakistan.

At the outset, one could say that sectarian violence in Pakistan stems mainly from the political and social economic problems. These problems have resulted not only in the violent clashes between different communities but also there are distinct political connotations in some of these clashes and conflicts. The clear groups that come to mind when looking at the Sunnis and Shi'as are the Deobandi's or the Wahabies, as these groups are called. Deobandi's and Wahabies represent Sunni's; Sipah-e-Mohammad Pakistan and Tehrik-e-Nifaz-e-Fiqah Jafferia represent Shi'as. In general, there are feelings that in the absence of an accountable system of Government, people have taken the law into their own hands or have been even more attracted to religious institutions and extremist militant organisations to try and vent their frustrations. Issues they would perceive as due process or the lack thereof and this has been a trend particularly in the late 1990's where there was an 'X' increase in sectarian violence.

#### *Jamiat Ulema-i-Islam (JUI)*

I will not go through all the various groups but amongst the main religious groups that we will focus on is JUI (Jamiat Ulema-i-Islam). One may be familiar with this group; it is headed by Maulana Fazalur Rahman. Interestingly, the JUI today has a majority in the Balochistan Provincial Parliament. This impacts on some of the developments in Balochistan. When one looks at some of the sectarian violence that has happened there and obviously JUI's platform is advocating for constitution in accordance with Sunni teaching. When one looks at it in terms of the Sunnis and Shi'as, the



political platform would have a bearing on that as well. JUI is part of the MMA alliance that also includes Shia religious political parties. Sectarian tensions in Balochistan primarily owes to the fact that Sipah-e-Sahaba and Lashkar-e-Jhangvi, two anti Shi'a parties are gaining ground in Quetta and Mastung Districts. If one looks at what the JUI propose, clearly the leader, Maulana Fazalur Rahman, wants to turn or see Pakistan as an Islamic state. That would be a very clear goal in most of the activities. Interestingly, they have the majority in NWFP (North West Frontier Province). When one looks at some of the major developments last year, where there was a Bill trying to introduce the Sharia law in NWFP, one could see why it happened the way it did, because that is how important it was considered to be and a frightening development of last year. The student organisation of the JUI is the Islami Jamiat-e-Talaba (IJT). This is one of the best organised student groups and they have representations in the Universities.

In terms of domestic politics, the MMA's (Muttahida Majlis-e-Amal) rule has to be taken into consideration, even though it's the first ever coalition of six Islamic parties since 2002. It has definitely impacted and changed the dynamics of Pakistan politics.

### *Sipah-e-Sahaba Pakistan (SSP)*

The SSP (Sipah-e-Sahaba Pakistan), which has recently been banned by the Government in 2003, has been responsible for conducting quite a few anti-Shi'a activities and attacks, in particular through what is seen as the militant squads of the Lashkar-e-Jhangvi (LEJ), which is pretty much the arm of their party.

### *Tehreek-e-Jaferia Pakistan (TJP)*

The TJP (Tehreek-e-Jaferia Pakistan) (TJP), which is the Share Party of TNJF (Tehrik Nifaz-e-Fiqah-e-Jafria) is led by Allama Sajid Ali Naqvi. He was recently arrested for the murder of the former SSP leader Maulana Azam Tariq in 2003. There are tensions bearing out of the last assassination of the SSP but, at the same time, this SSP had backed the Government in quite a few key political changes and issues. Some feel that sectarian violence continues under the new military government despite the Government recently banning six parties. It is important that when one is assessing the claims, particularly of the extremist groups, one should look very carefully at the application of exclusion clauses and particularly article 1F of the convention because some of these groups have been involved in very serious activities of violence. That, in fact, is the political opinion and the intentions in the country.

Pakistan is fragile, the language and identity politics have exacerbated many of the tensions, and it has led to a lot of violent civil unrest and clashes. If one looks at the ANP (Awami National Party) and also look at the MQM (Muttahida Quami Movement), they are key actors who play a positive role in diffusing tension or on the contrary, incidents where there are instantaneous flare ups. The main actor involved would have been the MQM. The ANP has a political background very contrary to MQM. Though it's Pashtoon ethnic on the outset, the main preaching principle of the party are based on peaceful political

struggle for rights. I am sure the country of origin information recorded in the public domain indicates that there has been a bloody past, particularly in the case of the MQM.

### *Muttahida Quami Movement (MQM)*

Today, the MQM has strong representation in the Sindh Province. MQM's strength base is in Urban Sindh i.e. cities like Karachi - most populous city of Pakistan - and Hyderabad. They are a strong political force because of the number of parliament seats that are allocated to urban centres in Sindh on the basis of population ratio. If one looks at how the regional representation has gone and also at Federal level, their platform has been very much to seek the designation of the Mohajirs as a fifth nationality after the Sindhi. The MQM say that they want the Mohajirs as the fifth nationality and that has sparked off many fears in other communities. These communities believe that the agenda has to be stopped or that it is a very threatening phenomenon in terms of Pakistan politics. The MQM has always had a very strong majority in Karachi.

In 1992, the MQM split into two factions. The majority faction is led by the founder Altaf Hussain. Mr. Hussain is in self exile in London fearing state prosecution on the basis of criminal charges registered against him in Benazir Bhutto's second term as prime minister of Pakistan. The smaller faction, MQM(H), retained the original name, Mohajir Qaumi Movement.

MQM has emerged as the fifth largest party with 17 National Assembly seats in a house of 342. That impacts on the entire domestic political environment and how legislation is negotiated. Not only are the MQM the third largest party in the National Assembly, they also have a vested interest in not bringing certain issues to the forefront such as trying to address the Hudood Ordinance and why there is not proactive movement towards that dialogue. It has impacted on how the progress of policies and issues of human rights have been addressed or have not been addressed. The PML (Pakistan Muslim League) and the PPP (People's Party of Pakistan) have, even though they have representation in Government, very much been marginalised in the process and are still marginalised today.

### *Pakistan Muslim League (PML)*

The PML split into PML(N) (Nawaz) and PML(Q) (Quaid-e-Azam) and then there is the PPPP (People's Party of Pakistan Parliamentarians) which is the parliamentarians. Even for a very well briefed and researched case, I think it could cause confusion, but that is a dynamic of politics and the alliances do shift and change. One sees a lot of crime including robberies and hold ups and various killings which have also been a result of some of these members going off on their own and pursuing either their narrow political agendas, inter family or other disputes.

### *Anti Terrorist Act 1997*

Since the introduction of the Anti Terrorist Act 1997, the presence of the MQM in the Government has perhaps led a little to the decrease in the violence particularly in Karachi. When I say decrease, I mean statistically, by

comparing incidents and numbers to the past. My analysis might be proved wrong but I think the element of the MQM having a representation in the Government and the rather draconian implementation of the Anti Terrorist Act has resulted perhaps in the downward trend in some of these incidents.

To mention Karachi, there were two car bombs yesterday; this city has seen its fair share of violence in 2004. I will not document the incidents but if one is interested, I can give some of the key incidents that have happened in the last twelve months. Allegedly, the MQM was involved in some of these incidents. Also President Pervez Musharraf himself is a Mohajir and the politics and the turning key effect of control and release of pressure as well on various groups might have resulted in this recent relative decrease.

I will recap on some of the most salient points here. In principle, the laws in Pakistan are in accordance with international standards; technically and based on the English common law system even though the provisions are clearly there to accommodate Pakistan's status as an Islamic state. For example, there is the premise that no-one should be condemned or unheard and the law of Pakistan does provide the right of appeal to all parties. There are some questions about how progressive it has been especially if one looks at the implementation practice, the law and how it is moved.

In 2001/2002, after the approval of the amendments to the Anti Terrorist Act 1997, the definition of terrorism was coming in. Under that, I can quote some sections which just says something like 'the action and the use of violence against the Government, the public, the section of the public community and the use of threat is made for the purposes of advancing political, religious, ideological or ethnic causes'. It is linked to a wide variety of issues but it is significant, at this point in time, that the Parliament has not yet ratified the amendments. These amendments give the power to restrict the activities of suspected terrorists, probe into their assets and hold them up to appear without filing charges. It has yet to be approved and when it is approved one might see a different set of issues coming up.

### **3. Hudood Ordinance**

The Hudood Ordinance of 1980 was a clear attempt to make the Penal Court more Islamic and the laws apply to Muslims and non-Muslims alike. Punishment is usually imprisonment but occasionally it also included flogging and other punishments which are clearly considered a violation of international human rights standards. There is no record of flogging being implemented in recent years, especially not after the reign of General Zia-ul-Haq.

Recently, in the parliament, amendments in the Hudood Laws have been proposed by the Government. Now it has been sent to the select committee of the parliament for review.

While the constitution requires that all laws are consistent with Islam, the Sharia law is derived from the Koran. The Koran has had an effect on many a decision. If one looks at the Federal Court (this is an independent court called Federal Sharia't court, which is equivalent to the High Court and the appellant court is the Supreme Court of Pakistan) to the Sharia bench of the Supreme Court, one might say that some decisions have set a precedent, particularly when it comes to marriage and consent.

The Federal Sharia't Court can also return any legislation that is judged to be inconsistent with the tenets of Islam. However, these decisions have to be appealed to the Sharia bench of the Supreme Court so there is somewhat of a check and balance, which has been a positive element there.

#### 4. Religion

##### *Freedom of Religion*

The statistics are clear; 97% of the population is Muslim and the Constitution requires the law be consistent with Islam. In principle, the Government permits Muslims to convert to another faith within the Muslim faith but conversion from Islam to any other religion and its proselytizing is prohibited. I think that distinction is important because there are elements which seem to be lawful but the repercussions are quite different. However, the reality for all non-Muslims including Christians is different, discrimination occurs despite the laws. The laws are abused and some discrimination happens because of customary practices and social behaviour.

Since 1985, the Constitution does not allow non-Muslims to participate in the democratic process other than to be nominated to parliamentary seats which are allocated to minorities, so that also shows a restrictive trend here. However, Musharraf introduced a new system in 2002 elections giving rights to minorities to contest elections on general seats as well as on reserved seats. In principle, the legal recourses, which are available to all minorities in Pakistan, are technically good. The general tendency of the court is taking too long to respond due to heavy work load. Many citizens receive the same treatment, which does not justify such treatment; however it may not be read as treatment of the higher court specifically against the minorities. Religious minorities have the right to complain to the High Court against abuses, but when they do, most of the individuals who have been detained, for example, on blasphemy laws and other charges were jailed for up to four years or more as the High Courts were not in a position to take up their cases expediently.

There is judicial remedy on one hand but then due process, shall we say, is quite a process because there have been instances clearly where the Courts feel intimidated. The Courts are not in a position to take up the case because of the fear of public opinion or backlashes. Some people have been killed either en-route to or after a trial or after giving testimony as a witness. This impacts on how these cases are resolved, the access and functioning of due

process. Moreover, according to the Sharia, non-Muslims cannot testify against Muslims in Hudood Laws.

### *Mixed Inter-Religious Couples*

Christian Muslim inter-religious marriage is widespread in Pakistan. Some reports say that mixed inter-religious couples encounter no problems relating to this, not even persecution, while other country of origin information states the opposite. For example, in Canada, there were mixed Sunni/Shi'a couples recognised as refugees, which I suspect is a weaker case. That does not mean that they don't have problems. For example, if one looks at the location, is it in an area where there are predominantly, democratically more Christians, is it a Christian family and is it a rural or urban family? It makes a big difference because if one is a Christian in a rural area then one is more exposed. One does not necessarily have the ability to get protection, which a person would have in a larger group, in a much more open environment. I would not say that they do not have problems; it could very well be that they face harassment in a place where there is not a large Christian community, if it is rural as opposed to urban and also elements of the faith. Some people practice their faith in a more robust manner and others do not. That might lead to irking a lot of people by the mere practice of their religion. That is my understanding on persecution.

### *Religious Minorities*

Statistics have shown that the situation for the religious minorities of the Ahmadis and the Christians has deteriorated and of course if one looks at the history, the persecution of the Ahmadis has been most severe in earlier years. The lack of security impacts nowadays. It seems like the situation for the Ahmadis and the Christians has also deteriorated. They are under much more pressure from attacks. If one wants to fill out a form, most of the official forms, for example, an order registrations form, a real estate transaction etc. have a question about religion. The applicant is immediately asked to mention their religion and identify themselves. Some say they will fill it out and no one will know the difference, but that does not mean that at some future point in time they might have serious problems. The trend is not one that I would consider has improved. I don't necessarily mean to say that there has been much of a tangible change but it has led to violent numbers a little less and people are a little afraid to go ahead and carry out attacks or intimidate and harass.

When it comes to minorities, on occasions, State protection is poor or non-existent. Quite often, minorities don't even bother going to seek protection because they know the process is not there.

## **5. Blasphemy Laws**

The Penal Code Section 295 to Section 298 concerns blasphemy laws which address offences relating to religion. There is a trend that blasphemy laws have been used to settle scores which are unrelated to religious activity.

Examples of this trend are where blasphemy laws have been used to resolve inter-family property disputes and particularly Section 295C of 1986 which establishes the death penalty or life imprisonment for directly or indirectly defiling the sacred name of the holy prophet. There is a movement towards a much more restrictive approach, where one sees that the 1986 section has changed; saying the option of life imprisonment is not valid for these offences.

Section 295, in particular, has been used by the authorities to harass, threaten and intimidate minorities including the Ahmadis, the Christians and even Orthodox Muslims. It has to be noted that it is not exclusive to the minorities. Some reports clearly indicate that Government officials maintain that some two-thirds of blasphemy cases that have been brought to trial have affected Muslims. I don't know the veracity of this but this is what has been quoted by the authorities.

To put some perspective to it, it has not only been a restrictive application and changes in that direction, there has also been some attempts, because of civil society groups, of individuals like Mr. Khattak and other activists to try and advance the agenda of the issues. Some of these issues have come under scrutiny and there have been lots of attempts to try and take them off the books. That hasn't progressed much, however very stringent changes have been made to procedures for filing blasphemy charges. Now, there must be a judicial review of evidence before charges are laid. This is a new administrative change and if blasphemy charges are found to be baseless then counter charges will be brought against the complainant. This is interesting because there is a penalty of up to seven years in prison.

Accusations are commonly accepted by the prosecuting authorities that they themselves may face intimidation and threats and there have been issues where people who criticised these have paid a heavy penalty. However, those who have escaped the death sentence have not necessarily survived because they have at times been subject to killings. Quite a few culprits were killed in prison and or in the hands of anonymous attackers. There are those extra judicial incidents. It is important to look at that angle also when one is looking at the blasphemy law.

We looked at the Ahmadis already, there was a question on the numbers and there are differing numbers, I think its two to three million. The importance is that demographically it does make a change whether in certain areas like the Sindh or the Punjab; there are high concentrations with large numbers of individuals. I think Ahmadis are also a tight community. The human development indicators also show the difference between them and the other minorities, for example the literacy rate is 60% compared to 22% for the rest of the Pakistan population. However, the religious activities of the Ahmadis are seriously restrictive, especially as a result of the 1974 constitutional amendment, this amendment declares them non-Muslims. In 1984 there was ordinance passed and the blasphemy law is also used against them.

There are quite a few reports of Ahmadis being prosecuted under 298C of the Penal Code relating to blasphemy laws. In terms of trends, the prosecution against Ahmadis in Pakistan reached a peak during the mid to late 1980's. In terms of statistics, trends have improved. However, one has on the ground cases and the pressures on the Ahmadis have been quite extensive. The recourse available and sought by the Ahmadis, as a result of this general lack of confidence in the system, has also been minimal. We touched on the minority in the Christian population here and it is around one to two million of the total population. The political, legal and social pressures against the Christians are generally mounted by the fundamentalist groups. Hostilities are usually vocal and active against the non-Muslims but in a country like Pakistan, where more than half the population is illiterate and religious harassment is of serious concern, conforming with them has a wide scope and sometimes charges against Christians appear to be brought solely because of their membership of this community. Under blasphemy laws, one might have this being used to settle other scores. Clearly, I think the membership of the Christian community has brought them into focus and this has led them being harassed on many an occasion. Sometimes the hostility towards religious minorities is exacerbated by social, economic, political and professional rivalries. There have been quite a few cases where Christian neighbours have ended bringing blasphemy charges as a means to settle scores, land disputes and other disagreements. Complaints were mainly filed at the insistence of the local clerics, for example, those who are members of Islamic parties.

In 2002, there were quite a few attacks on the Christian community. There was an attack near Islamabad. There has been an attempt to crack down on generic efforts to try and address the terror elements but perhaps if one looks at the statistics, the trend might appear. It has decreased but it should be looked at in the overall context of attempts to try and stamp out terrorism, so it might not necessarily reflect the changes on the ground.

## 6. Shi'as

### *Shi'as*

If one wants to draw a generalisation here, one could say that the Shi'as are generally protected by the Government, have integrated relatively well into society and are not systematically discriminated against in Pakistan.

One has Shi'as, the military and the Government and most of them live in small communities in the environment. They do stand out because they are targeted as a group on occasions when there are religious processions, when religious activities are being conducted or when they go to the Mosque. Perhaps one could even deduce that the intention here is to spark off a reaction by targeting a Mosque during prayer time on a very significant religious holiday. One might wonder what the motivation is; that political context is there. What is it, just a local grudge being settled, perhaps not? The political context of how things are panning out is equally important when

looking at some of these incidents, whether they are individual or attacks on the community.

So far, despite the heavy burden put on religious minorities, one may consider the level of harassment faced by these minorities does not amount to group prosecution per se. It is important to look at, and again the individual elements have to be carefully looked at in all these cases. It is very clearly linked to some of the developments that are happening in the region, some of the tensions that are overflowing and the perception of the Governments' support of the US led war on terror.

There are lots of implications that have also brought the simmering tensions to a head. We may see an escalation of some of these tensions when the Afghan elections come up towards the end of the year. This depends on how the situation works out or does not work out in Iraq.

### *Shi'a Identification*

With reference to the Shi'as, a question was raised on whether there is any other documentation that one can look at which will give one an indication that the person is a Shi'a. The reason for the question was that there are Shi'as and Shi'a converts who were originally Sunnis and they say that the reason they are being targeted today is because they converted from the Sunni faith to the Shi'a faith and therefore they have become a prime target. Of course credibility becomes an issue. There is no specific document for Shi'at community, which distinguish them from the rest.

## **7. Treatment of Women**

I will briefly address the treatment of women. One may know that Pakistan did ratify the United Nations Convention on the Elimination of All Forms of Discrimination against Women in March 1996. However, there were so many reservations inserted whereby it was essentially trying to make sure that nothing in the Convention came into conflict with the Constitution as Sharia law, which has made it a rather meaningless ratification. When one looks at the estimated population, 60% of the population is illiterate, women form part of the illiterate population. This is a significant statistic. According to a recent Asian Development Bank Report on the status of women, female literacy is something around 30%-32%. Literacy of women is relatively low as we have seen and they were often prevented for voting and particularly in the rural areas and in border zones and women cannot testify in court alone but need at least four witnesses in order to apply the Haad punishment of stoning. The Hudood Ordinance is said to be more oppressive against women charged with adultery and the death penalty is still in force for women notwithstanding efforts of trying to abolish this.

If one looks at the representation in the police, in the courts, it is minimal and women are still interrogated and continue to be abused by male officers despite the existence of court orders and regulations that clearly make it



unnecessary for women to be interrogated by male police officers. Again, there is the contrast between theory and practice. Statistically there are 73 women seats of the 342 seats in the National Assembly, there are very few women in the Cabinet and there are no women in the Supreme Court. At provincial level, Chief Ministers have appointed quite a few women to serve in the Cabinet.

According to the Asian Development Bank Report, on the issue of inheritance, it is important to say that there are often very few women who have access and control over their resources, despite women's legal right to own and inherit property from their families. This is a significant point when it comes to inheritance rights and issues. Looking at domestic violence and the link there, domestic violence is clearly widespread and one may know that marital rape is not considered to be a crime except when it results in serious injury.

### **8. Sexual Violence and Homosexuality**

#### *Sexual Violence*

Victims of sexual violence, women, men and homosexuals alike do not seek protection from law enforcement authorities and the judiciary for cultural and societal reasons and also the perception of threat they have of being exposed, which in itself would cause problems for them. I think the main reason why there are relatively few applications lodged by women asylum seekers on gender based persecution is also mainly due to the fact that they dare not reveal themselves for fear of being humiliated and also being brought into the process. Women have been killed and mutilated by male relatives who suspected them of adultery. These attacks have passed without any retribution it has just gone without any action.

In August 2002, the Islamic Court issued a ruling that women forced into adultery should not face legal proceedings under Islamic Sharia law. It also ruled that pregnancy in the absence of evidence to show that adultery has taken place, did not provide grounds for the punishment and the Sharia law. This is significant. It is unfortunate that the case has to get to that level. I don't mean to paint a bleak picture because there have been some developments. Hopefully, in terms of the judicial system, it will pan out in future. The law, in practice and due process have been two different things.

#### *Homosexuality*

It is clearly considered immoral and the Government does not provide any legal protection against the discrimination of homosexual men or women. Homosexual acts constitute an offence punishable by imprisonment under Section 377 of the Pakistan Penal Code and it is very much the case that known homosexuals are often outcasts in society. I will not go into the Penal Code Section, but Hudood Ordinance also applies here.

### **9. Honour Killings**

According to Mr. Khattak's report of the Human Rights Commission of Pakistan, in 2003 some 600 women were killed by relatives or family members in a bid to save family honour under the old tradition of honour killings. All consensual extra marital sexual relations are considered a violation of the Hudood Ordinance and carry either the Haad or the Tazir punishment.

If requirements for a Haad punishment are not met, the accused may then be sentenced under the lesser class of penalty, which is the Tazir punishment. In practice, most of the rape cases are tried at this level, that's a significant point. The Haad punishment has been applied for more than 20 years than the Hudood Ordinance has been in force. In the case of the Tazir punishments, there is no discrimination being made between Muslim and non-Muslim offenders.

In December 2003, there was a landmark ruling in the Supreme Court which upheld the 1997 Sharia Court ruling that Muslim women can marry a man of her own free will, without the prior consent of her guardian. There were quite a few cases where honour killings were brought against women who claimed that she had gone against her mother, she had not obtained the consent. This court ruling is significant in that it clearly stipulates that an adult Muslim woman was free to marry anyone she wanted and did not require the consent of a guardian to do so. This is not grounds for violence in the Hudood Ordinance and also whatever domestic violence goes with that but again in practice, social custom dictates that couples are married at the direction of the family.

Honour killing is a tribal tradition of the pre-state days when modern court was not in existence. Tribes would punish people for what they called illicit relations. Now it is normally used for taking revenge, scoring property disputes - all this leads to honour killings. In more than 80% of cases it is only the female that is killed and the male gets away with it, although in some cases, both of them are killed. For example, these days it is very well known that in a situation in which a girl and a boy from two different tribes have married, the so-called 'Jirga' (tribal council) can call for a death penalty on them. They couple may escape, perhaps to Karachi, they are in hiding there but a feud occurs where six people lose their lives. Therefore, in some cases, the males are also killed.

### **10. First Information Report (FIR)**

There were quite a few detailed questions including procedural aspects of FIRs (First Information Reports). If there are any specifics, I can talk about them, but let's quickly look at FIRs because there were some specific questions. A couple of things that are important about FIRs are that the criminal complaint can be lodged by anyone against a cognisable offence,

also the complainant has to either go to the police station or the police officer may visit the complainant.

There are two parts of the FIR when lodging a claim; the first part is a basic information matrix of the individual, the second part details the descriptive part of the incident. Everything that is reported by the complainant is to be included in the report and the officer writing the report has to read out the report to the complainant before it is signed by the complainant and the Station House Officer. The rule is not the Officer taking the complaint but the Station House Officer. Again, there might be a gap in theory and practice but that is the Standard Operating Procedure. The systematic problem is that an FIR can only be amended during the investigation. If the Investigating Officer finds out something contrary to the facts reported in FIR, it can only be amended by an officer of the rank of Superintendent of the police. One reason for checking out the credibility of an FIR is if the FIR has been amended by an officer other than at the level of Superintendent.

In practice, nobody usually amends FIRs as it makes the whole investigation rather doubtful. What happens is that the FIR will remain valid at all times with no state limitations applicable to it, unless it is proved to be falsely lodged or quashed through a court of law. The complainant can withdraw the FIR at any time. If one is wondering whether it has an impact, yes it does have an impact, particularly if one is in the minority. If a FIR is filed against a person, there are clear implications of a FIR – the employability or getting jobs, mobility etc.

A question was raised on whether an FIR is de facto an arrest warrant? No, it is not but in reality, yes it is very often used as an arrest warrant. The FIR is lodged just after the offence takes place. It is not necessarily a warrant of arrest; arrests can be made even without FIR's. There are four copies made of an FIR - three copies for the judicial system and one copy for the complainant. Though the complaint is supposed to be investigated prior to a person being arrested in Pakistan, the practice is that as soon as a FIR is lodged, the police tend to arrest the individual concerned and then start the investigation, so there is an abuse of that. This is due to the prevailing trend of poor investigation system in which the 'suspect' is investigated before the crime and the crime scene.

### **11. Identification**

#### *Document Verification*

Document verification is very difficult for a number of reasons. One reason is because of the low level of pay of Government officers and authorities, this causes corruption. There are two scenarios, one is that you can get a forged document; the second scenario is that you can get any document authenticated with a bona fide stamp.

These are the possibilities and as with other documents, depending on the level of sophistication and the ability to remunerate, one can have the genuine document. The techniques of forgery and document changes are quite sophisticated. It is possible to get most of the documents if one had the right contacts and the resources to go with it.

### *National Identity Cards*

There is a new system of National Identity cards being used now. The new national identity card is a biometric computer generated card that includes finger prints and a digital photo saved and shared on a data base across the country. A mere old ID card does not give right to obtain a new ID card. Even for old ID cards holders the process takes a few days and it also requires a family tree in the new system. When we look at the Afghan situation, where many Afghans over time have got Pakistan National I.D. cards. it is a problem, not only in terms of asylum claims but also when looking at the eligibility for voting in Afghan elections; who is an Afghan, who is an Afghan from Pakistan? It is a very difficult issue and the documentation further complicates it because what does one do if an Afghan arrives and has a Pakistan National Identity card and says that he is a Pakistani, speaks fluent Urdu and is from NWFP (North West Frontier Province). One will not know the difference of who is a Pakistani and who is an Afghan.

I am not trying to make one feel that there is no light at the end of the tunnel but in reality it is something very difficult to differentiate. Over time, it has just complicated things because there are second generation, third generation children who speak fluent Urdu. Sometimes, a Pakistani from the area of NWFP wouldn't know, unless one is really familiar whether this person is a native from NWFP or somebody from right across the border in Afghanistan.

A query was raised in relation to ID Documents whereby in North America and Canada there are some claimants who, due to September 11<sup>th</sup>, have resided in the United States for many years. They have left Pakistan maybe between the years 1991 and 1995. They have eventually come to Canada and most are not documented when they come through the border but they are able to acquire documents while they are outside of their country of origin, such as a driver's licence. They are able to renew licences without being present in the home country. There are National Identity cards that which have been acquired while outside the country. The query was how these people are able to have documents issued to them while they are outside their country of origin. This is a very complicated situation. There are no simple solutions. After September 11<sup>th</sup>, there has been witch hunting in the United States. I have investigated cases where innocent people were persecuted and hounded and they had to flee the United States. I think they may have connections in Canada; communities who live in Canada support them.

We have to understand the situation, first of all, Europe and North America should not become a closed fortress. There has to be respect for the very genuine cases of refuge but unfortunately the Government have failed to come out with effective mechanisms. The result is that 80% or 90% of people

land in Europe, mostly in Germany. They have landed in Germany, France and Holland with the help of mafias, who are involved in human trafficking.

The real people who want to take refuge cannot because there are so many people already claiming refuge, these people may not be real victims of any situation back home. I think the problem has to be carefully studied and effective verification processes have to be created, with checking points in the countries.

### *Marriage Document*

A query was raised on whether there is a document which details the outcome of a marriage. When some agencies deal with women who have been separated from their husbands, the agency may question the issue of divorce. There are parts on the document that state: is there an exception to, what rights does the female have to request a divorce? Article 18 in the Nikah-Nama (Marriage deed) give right to women to divorce the man but often it is left blank. On the other hand, a woman can file a dissolution of marriage suit in the court (Khula) and has the right to get it.

## **12. Kashmir**

Kashmir raises a couple of interesting issues. Perhaps of significance, is that there has been a tremendous lessening of tensions since the announcement of the ceasefire in November 2003. I think that is very important because right after the fall of the Taliban regime, post 9/11, there was an escalation, but tension was really terrible, almost coming to a point where confrontation was imminent but since that time there have been two efforts made by the Government. Clearly they have tried to crack down on the groups and also, under tremendous pressure from the parties, to show movement in the peace process and to engage the Indian Government. There has been a marked decrease in the level of tension after the ceasefire was declared along the LoC (the frontier dividing Pakistan and India in Kashmir is known as the Line of Control (LoC) or the ceasefire line). Especially after the earthquake, there have been six new crossing points been opened between Indian and Pakistani sides of Kashmir.

If one looks at some of the political parties, Kashmir Liberation Party, I mean there are some parties, some are being banned; the SSP (Sipah-e-Sahaba Pakistan) was banned in 2003 by the Government. The PML split into PML(N) (Nawaz) and PML(Q) (Quaid-e-Azam) in 2003 as well. Individual elements of the claims, by and large, do have an internal flight option because one can move freely in Pakistan.

## **13. Caste System**

I am not an expert on the caste system but I think the first elements of the claim a person should look at is the issue of caste within the religion. I think

one has more of a class oriented society specification which is important in terms of income generation capacity. For example, one could be a farmer or a bricklayer, who might, per capita, be on the same amount per month, depending on their marital circumstances. Another example is if one has some access within the social hierarchy then immediately the circumstances within that structure have changed because one is in a better position to access services and recourse. I do not think it is as prevalent as one might find in, for example, Hindu caste system within the Muslim community. I would say it is mostly an issue of society class, income generation possibilities and maybe links to the tribe and what are the spheres and influences of the tribe. If one is a member of a very influential popular tribe, the elders of the tribe would have a different level of representation than the average person. Their recourse would be meted out accordingly to, not only the tribal system, but also the relative merits of the power of ones structure. For the Hindu minority, yes the stratification is pretty much a lesser sophisticated version of India. One can have marriage and also the capacity to advance, maybe as an Elder in the family or connections to that. It is important to make the distinction of the tribal justice system, particularly when one is looking at the ruler situation, where this is an issue and other environments, where it is not really an issue.

#### **14. Directorate of Inter-Services Intelligence**

A question was raised in regard to the ISI's (Directorate for Inter-Services Intelligence) role and whether they are used by Government military for monitoring people not so critical to the Government, whether they are openly threatening people, for example, journalists, human rights workers and those who criticise the lack of democracy? The Directorate for Inter-Services Intelligence is the main internal intelligence body. It was founded in the very early 1970's under General Gulam Jilani Khan. It was under him that they made a pretext that after the cessation of peace between Pakistan and India, which led to the formation of Bangladesh, they thought that the military also needed to handle internal security. I know a little bit about it because I have been arrested by them and have been investigated. It also has a political influence that intervenes in politics.

I had said in a seminar, before these elections, that the ISI is the most organised political party without registration. In fact, it is not political party but it works like one. Billions of dollars were filtered through them to people who were fighting in the war, so it operated like an agency of the United States. They have modern techniques, resources and skills. It is not content with macro level; it micro manages political parties these days, forms political parties, dissolves political parties, creates test tube politicians and is calling the shots. It threatens everybody who opposes that. Of course one would say; how do people tolerate this? Well they have tried their best to silence the voices of dissent. It has been publicised that political activists and Human Rights activists have been imprisoned because of opposing the domination of

ruling parties. It is important that they, in the recent past, have arrested journalists who have terrorised them.

The then Pakistan Prime Minister Mir Zafarullah Khan Jamali was charged but he is the Prime Minister of the country, but since he supported the army he is alright. This is also the case with a number of other Ministers. I don't say they are corrupt politicians but they have singled out those who are against the army domination. Around this time a politician was sentenced to a very long prison term. This was a very glaring example of punishing political dissent.

Shahbaz Sharif is a brother of ex-Prime Minister Nawaz Sharif. He led in Pakistan on May 6<sup>th</sup>. Before he led in Pakistan his lawyers went to the Supreme Court. The Supreme Court of the country decided that he can come to the country - he has every right to enter the country and stay but just as he did so he was arrested and sent back. He was deported as Saudi Arabia had demanded him. Although many people have gone into exile, I have lived in exile for eight and a half years. However, the law in Pakistan prohibits forced exile.

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