

1213297 [2013] RRTA 91 (25 January 2013)

DECISION RECORD

RRT CASE NUMBER:	1213297
DIAC REFERENCE(S):	CLF2012/141724
COUNTRY OF REFERENCE:	Pakistan
TRIBUNAL MEMBER:	Amanda Goodier
DATE:	25 January 2013
PLACE OF DECISION:	Perth
DECISION:	The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant who claims to be a citizen of Pakistan applied to the Department of Immigration for the visa on [date deleted under s.431(2) of the *Migration Act 1958* as this information may identify the applicant] June 2012.
3. The delegate refused to grant the visa [in] August 2012, and the applicant applied to the Tribunal for review of that decision.

RELEVANT LAW

4. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. The criteria for a protection visa are set out in s.36 of the Act and Part 866 of Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention), or on other 'complementary protection' grounds, or is a member of the same family unit as a person in respect of whom Australia has protection obligations under s.36(2) and that person holds a protection visa.

Refugee criterion

5. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the Refugees Convention.
6. Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.
7. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1, *Applicant S v MIMA* (2004) 217 CLR 387, *Appellant S395/2002 v MIMA* (2003) 216 CLR 473, *SZATV v MIAC* (2007) 233 CLR 18 and *SZFDV v MIAC* (2007) 233 CLR 51.

8. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
9. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
10. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve 'serious harm' to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression 'serious harm' includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant's capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
11. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors.
12. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase 'for reasons of' serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.
13. Fourth, an applicant's fear of persecution for a Convention reason must be a 'well-founded' fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a 'well-founded fear' of persecution under the Convention if they have genuine fear founded upon a 'real chance' of being persecuted for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A 'real chance' is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.
14. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence. The expression 'the protection of that country' in the second limb of Article 1A(2) is concerned with external or diplomatic protection extended to citizens abroad. Internal protection is nevertheless relevant to the first limb of the definition, in particular to whether a fear is well-founded and whether the conduct giving rise to the fear is persecution.

15. Whether an applicant is a person in respect of whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

Complementary protection criterion

16. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').
17. 'Significant harm' for these purposes is exhaustively defined in s.36(2A): s.5(1). A person will suffer significant harm if he or she will be arbitrarily deprived of their life; or the death penalty will be carried out on the person; or the person will be subjected to torture; or to cruel or inhuman treatment or punishment; or to degrading treatment or punishment. 'Cruel or inhuman treatment or punishment', 'degrading treatment or punishment', and 'torture', are further defined in s.5(1) of the Act.
18. There are certain circumstances in which there is taken not to be a real risk that an applicant will suffer significant harm in a country. These arise where it would be reasonable for the applicant to relocate to an area of the country where there would not be a real risk that the applicant will suffer significant harm; where the applicant could obtain, from an authority of the country, protection such that there would not be a real risk that the applicant will suffer significant harm; or where the real risk is one faced by the population of the country generally and is not faced by the applicant personally: s.36(2B) of the Act.

CLAIMS AND EVIDENCE

19. The Tribunal has before it the Department's file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources. A copy of the delegate's decision was attached to the application for review. Prior to the first scheduled hearing a detailed submission was received from the applicant's representative.

Background and protection claims

Entry Interview

20. The applicant attended an entry interview [in] June 2012 with an officer from the Department of Immigration and Citizenship (DIAC). The applicant arrived in Australia as an unauthorised Irregular Maritime Arrival [in] February 2012. He provided copies of a number of identity documents from Pakistan including a driver's licence, school documents and penal certificates.
21. He was born on [age deleted: s.431(2)] in [Village 1], Kurram Agency, Pakistan where he lived most of his life. His mother, father and [a number of] siblings still reside in the village. His [brother] has been missing since [2011]. He has never married and has no children. He is of the Bangash caste and a Shi'a Muslim.

22. He lived at [School 2], Islamabad, Pakistan from [2010 to 2011].
23. He attended [school] at [Village 1] [to 2006], from 2006 to 2008 he was ill and missed the first year and was too late to enrol [and attended further schooling] from 2008 to 2009. From 2006 to 2008, he assisted his father and brother with farming activities on their land as well as completing basic family chores.
24. He claims to have left Pakistan as he has been unable to complete his education. He states that the Sunni Muslims get preference for entry into College over the Shi'a Muslims. The Sunni are close to the Taliban. The Taliban need the road to access Afghanistan and his village refuse access. When he went to [School 2] in Islamabad, he was identified as Shi'a and threatened. Other students threatened him and would not allow him to give blood for victims of bombings, as he was Shi'a. About August 2010, he was supposed to be going on a picnic and when he went to the car there were much older men, not students in the vehicle so he refused to get in. The Taliban informers told him that as they will not let the Taliban through his area he would be in trouble. He stayed with a friend for about five to six nights then called his father who told him to come home. His father was concerned as he had lost his brother and a son so wanted his son to return and forget about getting an education. [A relative] was killed on the way from Peshawar he was Shi'a and the Taliban have control of the roads and will kill you if you are Shi'a. They cut his hands, legs and head off and he saw this as he had to go and collect the body. His brother was kidnapped on the way to Peshawar. He had trouble with his legs and needed treatment. It was [2011] and they received calls asking for money. It was the Taliban and the place they asked them to take the money to was very dangerous. He does not know if his brother is dead or alive but bones have been brought into Parachinar but they cannot be identified. His parents were very worried after the death of his [relative] and kidnapping of his brother. Other students were not threatened, they just disappeared, so his father sent him away to save his life.

Application for Protection

25. He is [age deleted: s.431(2)] years old and has [a number of siblings]. He was studying to complete his [course] at [School 2] in Islamabad until he had to quit. He worked on the family farm between finishing school and commencing at [School 2].
26. In his application for protection the applicant claimed to be seeking protection as the Taliban are very powerful and want to establish a passage through his province in to Afghanistan. The community leaders and elders were put under pressure to allow the Taliban to pass through. The elders felt that if they allowed the Taliban access they would recruit the young men and dominate the area.
27. [A family member] was driving a van in [2011] when it was attacked and he was killed and his brother taken. They have never heard from his brother again. The refusals by the village elders to allow the Taliban to pass have resulted in bombings, fighting, and many fatalities since 2007. Teachers from the school have disappeared. His father was worried that he would be killed or abducted.
28. The applicant is afraid that he will suffer the same fate as his [relative] and brother, especially if the Taliban learned he had travelled to a western, godless country. It will be the Taliban and militia that have targeted his area since 2007 that will harm him. They will harm him because of his Shi'a religions and imputed political opinion as a resister to them. The Pakistanis police and army cannot protect him as they are powerless to defeat the Taliban,

especially in the northwest. He is an educated person who will not co-operate with the Taliban's religious and moral teachings and military strategies.

Delegate's decision

29. The delegate found the applicant was not a person to whom Australia has protection obligations.
30. He attended an interview [in] July 2012. The applicant found that he was a Shi'a Muslim from the Bangesh Tribe and accepted he lived in [Village 1] in the Kurram Agency in Pakistan.
31. The delegate found that the applicant faces a real chance of being targeted for reason of his religion should he return to his home village in Kurram Agency.
32. The delegate was satisfied that effective state protection does not exist.
33. The delegate found that the applicant was able to safely relocate to Islamabad. He had previously resided in Islamabad where his father financially supported him and he has a circle of friends. He can speak Urdu and English. The delegate did not accept his claims in relation to the attempted kidnapping.

Tribunal hearing

34. The applicant appeared before the Tribunal on Thursday [in] November 2012 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Pashto and English languages. Unfortunately, the hearing was unable to continue due to difficulties using a telephone interpreter for a video hearing and was rescheduled [in] January 2013. Again, there were interpreter issues and the hearing did not proceed.
35. The applicant was represented in relation to the review by his registered migration agent.
36. At the hearing [in] November 2012, the Tribunal indicated to the applicant and his representative the areas of concern. The Tribunal accepted the delegate's findings, that the applicant was a Shi'a Muslim from the Bangesh Tribe and lived in [Village 1], in the Kurram Agency in Pakistan, that he faces a real chance of being targeted for reason of his religion should he return to his home village in Kurram Agency and that effective state protection does not exist. The Tribunal indicated that it wished to hear further on the events surrounding the applicant's attempted kidnapping in Islamabad and relocation to Islamabad.
37. Prior to the hearing [in] January 2013, the Tribunal received a detailed submission covering the issues raised by the delegate as well as the inability of the applicant to relocate safely anywhere in Pakistan, how the applicant could be identified as a Shi'a Pashtun from the Kurram Agency and further information on the attempted kidnapping in Islamabad.
38. The applicant submitted that he would be easily identifiable as a Pashtun Shia from the Kurram Agency. His accent and dialect are from the Kurram Agency and his identity documents identify him as being from the Kurram Agency and display his name as being from the Bangesh tribe. He will be identified as a Shi'a from the way he greets people, the way he prays, holds his arms and practices flagellation. He risks being identified by appearance and dress while participating in ceremonies and processions. He states it is

difficult to find Pashtun Shi'a places of worship outside Kurrum Agency and would have to share a Shi'a mosque with Hazara people where he would be clearly identified as not being a Hazara.

39. The applicant submitted in relation to his risk of being kidnapped that the security guard did inform him that the Taliban were going to try and kidnap him. The security guard was a friend or good acquaintance and the applicant's impression was that he was also motivated by his responsibility of employment by the government in the position of security guard at an educational institution to protect the students. The applicant has previously stated that the security guard was told of the plot by the Taliban because they sought the security guard's assistance.
40. The applicant further submitted that he did not have Shi'a friends in Islamabad but had more aptly described as Pashtuns acquaintances at [school]. He has stated on more than two occasions that the people he was engaging with were not known to him and that the first time the term "friend" was used was by the primary decision maker. He telephoned a Punjab Shi'a friend who he knew outside of [school] when he was in trouble and stayed with him. His father urged him to flee when his brother's vehicle was ambushed.
41. It was further submitted that the applicant has no family in any other area of Pakistan to provide him with a support network and he would have difficulty subsisting if he had to relocate elsewhere. He submits that Shi'as are persecuted everywhere in Pakistan. It was further submitted that in many cities, Shi'a are unable to practice their faith or take part in religious festivals. The submission referred to various country information reports on the lack of support and safety for Shi'as relocating elsewhere in Pakistan.
42. After considering all the information provided by the applicant and his representative and the available country information, the Tribunal decided it was able to make a decision without taking further evidence from the applicant.

Country information

Shia Muslims

43. The United Nations High Commissioner for Refugees (UNHCR) May 2012 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan states the following:

The largest Muslim minority in Pakistan, Shias, are the target of violent attacks by Sunni fundamentalist groups throughout the country.

...

In the last year sectarian violence targeting the Shia minority, including through attacks on Shia processions and religious gatherings and sites, reportedly continued. Such attacks were carried out predominantly in the North-West of the country – including in Dera Ismail Khan, Hangu, Kohat and Tank districts of Khyber Pakhtunkhwa province, and Kurram and Orakzai Agencies in FATA – as well as in urban centres throughout the country – including Gilgit (Northern Areas), Lahore (Punjab province), Karachi (Sindh province) and Quetta (Balochistan province).

*Sectarian violence has resulted in hundreds of deaths and large-scale displacements from Kurram.*¹

44. On the adequacy of state protection, the UNHCR states:

Law enforcement authorities are reportedly unable or unwilling to protect members of religious minorities, including Shias. Sunni militant groups, such as the banned Lashkar-e Jhangvi, reportedly operated with impunity, including in areas where State authority is well established, such as Punjab province and Karachi.

*In light of the foregoing, UNHCR considers that members of the Shia community, particularly those in areas where Taliban-affiliated groups are active, such as the northwest of Pakistan and in urban centres, may, depending on the individual circumstances of the case, be in need of international refugee protection on account of their religion and/or (imputed) political opinion.*²

45. The United States Commission on International Religious Freedom (USCIRF) classifies Pakistan as a “country of concern”. In its annual report, dated 20 March 2012, the USCIRF described religious freedom in Pakistan as “exceedingly poor” Furthermore, “perpetrators of attacks on minorities rarely are brought to justice. This impunity is partly due to the fact that Pakistan’s democratic institutions, particularly the judiciary and the police, have been weakened by endemic corruption, ineffectiveness, and a general lack of accountability”.³
46. The Asian Human Rights Commission reported that “[d]uring the first two months of 2012 more than 100 Shias were killed in different parts of the country including the Gilgit Baltistan incident. Among them 34 in Khanpur, Punjab province, 49 in Parachinar, Khyber Pakhtunkhwa province and 18 in Gilgit”.⁴
47. A recent report on Islamic parties in Pakistan by the International Crisis Group concludes that sectarian politics in Pakistan overall is becoming more violent. It states:

*Sectarian politics are, in fact, becoming increasingly violent, as more Islamic parties and groups espouse militancy as the most effective method to promote their interests. Indeed, the majority of Islamic parties are far from abandoning the concept of militant jihad or cutting their ties to local and regional militants, including sectarian extremists, the Afghan and Pakistani Taliban and al-Qaeda-linked jihadi outfits.*⁵

Kurram Agency

¹ United Nations High Commissioner for Refugees 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan*, HCR/EG/PAK/12/02, 14 May, pp.37-39 <<http://www.unhcr.org/refworld/docid/4fb0ec662.html>>

² United Nations High Commissioner for Refugees 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan*, HCR/EG/PAK/12/02, 14 May, p.40 <<http://www.unhcr.org/refworld/docid/4fb0ec662.html>>

³ United States Commission on International Religious Freedom 2012, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, UNHCR Refworld, 20 March <<http://www.unhcr.org/refworld/docid/4f71a674c.html>>

⁴ Asian Human Rights Commission 2012, *Pakistan: The killing of Shias – it is hard to refute the accusation that the military was involved*, 29 February <<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-038-2012>> Accessed 1 March 2012

⁵ International Crisis Group 2011, *Islamic Parties in Pakistan*, Asia Report No 216, 12 December 2011

48. Kurram Agency is one of seven Federally Administered Tribal Agencies in the north-west of Pakistan and is approximately 115 kilometres long, covering an area of approximately 3,380 square kilometres. It is bordered on the north and west by Afghanistan and is reported to have a population of about 448,310 according to 1998 census data.⁶ Numerous sources suggest that the agency has a slight Shi'a majority and almost all sources agree that the Upper Kurram tehsil (administrative district), which includes Parachinar, has a large Shi'a majority.⁷ ⁸ ⁹ The area which now forms Kurram Agency was part of Afghanistan before the second Afghan War in 1878-9 and the local population are reported to have continuously resisted and resented Afghan domination.¹⁰
49. Pakistan's Pashtuns are overwhelmingly Sunni Muslim; however a small minority of Pakistan's Pashtun population are Shi'a, reported to be concentrated in a small number of tribes. The most significant Shi'a Pashtun tribe in Pakistan is the Turi of Upper Kurram, while some members of the Pashtun Bangash tribe in Kurram and Orakzai agencies are also Shi'a.¹¹
50. Despite being members of the Pashtun 'nation', Shi'a Turi and Bangash have a history of harm being perpetrated against them by Sunni Pashtuns in Kurram and Orakzai arising out of a long running conflict with Sunni tribes. They also have a history of armed conflict with the Haqqani Network, one of three main Afghani Taliban factions.¹² ¹³ This conflict arose due to their strong resistance to the presence and movement of Haqqani, Al Qaeda and Tehrik-e-Taliban (TTP) militants in Upper Kurram, all of whom are violently anti-Shi'a.¹⁴ ¹⁵ ¹⁶ Although much of the country information refers to the resistance offered by the Turi tribe, it is apparent that they were joined in that resistance by Shi'a members of the Bangash tribe:

⁶ <http://parachinar.net/kurramprofile.htm>

⁷ Khan, R. et al. 2010, 'Status of the Taliban Insurgency in Kurram Agency', Politact website, 24 September <http://www.politact.com/statusofkurramagency.html>

⁸ Chandran, S. 2008, 'Sectarian Violence in Pakistan's Kurram Agency', Pakistan Security Research Unit (PSRU), Brief Number 40, 22 September, p.3

<http://spaces.brad.ac.uk:8080/download/attachments/748/Brief+40.pdf>

⁹ Mahsud, M.K. 2010, 'The Battle for Pakistan: Militancy and Conflict in Kurram', New America Foundation, April, p.3

http://www.humansecuritygateway.com/documents/NAF_TheBattleforPakistan_MilitancyandConflictinKurram.pdf

¹⁰ <http://www.globalsecurity.org/military/world/pakistan/fata-kurram.htm>

¹¹ Schetter, C. 2003, 'Ethnicity and the Political Reconstruction in Afghanistan', Arbeitsgemeinschaft Afghanistan website, 21 May, p.2 <http://www.ag-afghanistan.de/arg/arp/schetter.pdf>

¹² Khan, M.I. 2010, 'The Pakistani tribe that is taking on the Taliban', *BBC News*, 7 October <http://www.bbc.co.uk/news/world-south-asia-11486528>

¹³ 'Siraj Haqqani sheltering in Kurram, near area of US helicopter strikes' 2010, *The Long War Journal*, , 22 October http://www.longwarjournal.org/archives/2010/10/siraj_haqqani_shelte.php

¹⁴ Khattak, I. 2010, 'Parachinar boy released after paying ransom', *Dawn*, 16 August <http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/local/peshawar/parachinar-boy-released-after-paying-ransom-680>

¹⁵ Afzal, H. 2010, 'Militants Free Six Students', *Dawn*, 8 November <http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/national/militants-free-six-students-810>

¹⁶ 'U.S. concerns grow as militants move bases along Pakistan border' 2010, *The Los Angeles Times*, 7 November <http://www.latimes.com/news/nationworld/world/la-fg-pakistan-haqqani-20101108,0,7180350.story>

Members of the Turi tribe, a Shi'a tribe in Kurram, as well as members of the Bangash tribe attempted to resist the influx of Haqqani network fighters into areas run by rival tribes, and clashed with the Haqqanis.¹⁷

51. Similarly other commentators report that members of the Bangash tribe have been targeted in a similar manner as Turis in Kurram Agency”

On February 3,2011 Interior Minister Rehman Malik said that they had reached a peace agreement in Kurram and that Thall-Parachinar Road would be opened... A month later peace ended. Two children were kidnapped from Lower Kurram. Then people of Turi-Bangash tribes, travelling from Peshawar to Parachinar, were kidnapped along with drivers and coaches. The drivers were warned not to carry people belonging to the Turi-Bangash tribes.¹⁸

52. Both the Haqqani Network and the TTP adhere to a strict Deobandi theology that is violently opposed to Shia Islam, as well as the more moderate Barelvi Islam that is practiced by the majority of Sunni Pakistanis. As a consequence of their fierce resistance to the Haqqani and the TTP, the Turi tribe have gained an international profile and have raised the ire of Deobandi militants throughout South Asia.¹⁹ Furthermore, large numbers of Turi have become internally displaced, with most internally displaced persons (IDPs) relocating to either the Upper Kurram headquarters of Parachinar, or the districts of Hangu and Kohat in nearby Khyber-Pakhtunkhwa, which have their own sizeable Pashtun Shi'ite populations.
53. Violent conflict between Shi'a Turi/Bangash and Sunni Bangash in Kurram Agency has occurred sporadically since the 1970s and the Shi'a population is reported to have been inspired by the Iranian Revolution in the 1970s and early 1980s and concerned by a radical shift of the demography of the Agency caused by the influx of Afghan refugees and Mujahideen, nearly all Sunnis.²⁰
54. More recently, members of the Afghan Taliban have regularly sought passage through Kurram following the arrival in Afghanistan of NATO forces in 2001.²¹ The most recent period of conflict between Turis and Bangash began in April 2007, when Sunni members of the Bangash tribe attacked a Shi'a procession in Parachinar, killing over 50 people and sparking the most recent conflict. By 2009, fighting had claimed more than 1,500 lives, injured thousands more, and caused massive dislocation of residents. The International Crisis Group (ICG) has argued that Sunni Bangash tribesmen carried out this attack after they were emboldened by the presence of the Taliban and their “hard-core brand” of Sunni ideology.²²

²³

¹⁷ http://www.longwarjournal.org/archives/2010/10/siraj_haqqani_shelte.php#ixzz1XysZPybh.

¹⁸ <http://parachinar616.wordpress.com/2011/06/20/bad-investment-continued-terrorism-in-kurram-the-real-facts/>

¹⁹ Khan, M.I. 2010, ‘The Pakistani tribe that is taking on the Taliban’, *BBC News*, 7 October

<http://www.bbc.co.uk/news/world-south-asia-11486528> – Accessed 14 October 2010

²⁰ <http://www.globalsecurity.org/military/world/pakistan/fata-kurram.htm>

²¹ ‘Siraj Haqqani sheltering in Kurram, near area of US helicopter strikes’ 2010, *The Long War Journal*, 22 October http://www.longwarjournal.org/archives/2010/10/siraj_haqqani_shelte.php

²² International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report N°164, 13 March, p.15

²³ Chandran, S. 2008, ‘Sectarian Violence in Pakistan’s Kurram Agency’, Pakistan Security Research Unit (PSRU), Brief Number 40, 22 September, p.6

<http://spaces.brad.ac.uk:8080/download/attachments/748/Brief+40.pdf>

55. The effects of this conflict on the Shi'a residents of Parachinar have been devastating and widely reported. On 21 October 2010, the BBC published a report entitled *The Pakistani tribe that is taking on the Taliban* which reads in part as follows:

The Turi tribe, which belongs to the Shi'a sect of Islam, has traditionally abhorred the Taliban - who adhere to a hard-line Sunni form of the faith and many of whom consider Shi'as to be non-Muslims. Two years ago, the Turis fought a major battle with the Taliban in the surroundings of Alizai. They are now consolidating their hold on the region. To the south of Alizai, across the Kurram River, the tribe is building a 14km (8.6 miles) road to link Alizai with the Turi stronghold of Parachinar in the west.

... Fighting between the locals and the Taliban erupted in April 2007, and dozens of people were killed over the next year. The Turi community have had to defend themselves from Taliban attacks. Devoid of local support, the Taliban were forced to retreat to their bases in Sadda and Alizai in eastern Kurram, but from there they enforced a blockade of Kurram's only road link to Pakistan.

56. The BBC reported on 17 February 2012 bombing of a Shi'a market in Parachinar as follows:

A suicide bomb attack on a market in a Shia Muslim area of north-west Pakistan has killed 26 people and injured at least 50 others, officials say. The attacker blew himself up close to a mosque in the town of Parachinar in Pakistan's tribal area of Kurram. Three more people died when security forces fired on crowds protesting against the attack. Fazal Saeed, the leader of a breakaway faction of the Pakistani Taliban, said it carried out the attack.

"We have targeted the Shia community of Parachinar because they were involved in activities against us", he told Reuters news agency.

Residents did the bombing destroyed at least eight shops in the bazaar, AFP reports. A curfew has been imposed in the town.

Pakistan has been plagued by sectarian attacks, with Shia Muslims targeted by radical Sunni groups.

The Kurram region in particular has a history of violence between Sunni and Shia groups. Prior to a peace deal last February, Shia tribes had been waging a three-year war to keep the Taliban out of the area. Last July, Pakistani security forces launched an offensive against militant groups in Kurram.²⁴

57. The Jamestown Foundation's *Terrorism Monitor* reported in March 2012 that, despite the October 2011 peace deal, Haqqani Network fighters with the Afghan Taliban continued to use Kurram. Furthermore, the TTP remains a "potent" force in Kurram:

...the Haqqani Network was able to continue using Kurram for entry into Afghanistan's Paktia province. Situated less than 100km from Kabul, this is likely the access point of choice for Haqqani's "Kabul Attack Network," the group responsible for several major attacks in Kabul in 2011. The February peace deal was so critical to Haqqani Network operations that Jalaluddin Haqqani's brothers, Khalil and Ibrahim, were both reported to have attended the talks.²⁵

...the TTP remains a potent anti-state fighting force, especially in eastern Kurram along the Orakzai and Hangu borders. In the last few months the Pakistani Frontier Corps has suffered significant losses at the hands of the TTP.²⁶

²⁴ BBC, 'Blast at Pakistan town 'kills 26'', 17 February 2012, <http://www.bbc.co.uk/news/world-asia-17077358>

²⁵ Dawn, October 21, 2010, www.dawn.com

²⁶ Express Tribune, 2 February 2012

*Many of the battles are currently taking place in the Shahedano Dand area, a vital thruway for those coming from North Waziristan*²⁷.

58. The Turi-Bangash conflict that began in April 2007 quickly attracted the participation of *Tehrik-e-Taliban Pakistan* (TTP), particularly following the elevation to the leadership of Hakimullah Mehsud, a man described as “violently sectarian” and the “scourge of the Shias in Kurram”. The ICG also state that Sunni Bangash militias also received backing from *Lashkar-e-Jhangvi* (LeJ) and *Sipah-e-Sahaba Pakistan* (SSP).²⁸
59. According to Mansur Khan Mahsud’s 2010 paper *The Battle for Pakistan: Militancy and Conflict in Kurram*, the TTP offered to make peace with the Turi in 2008, on the proviso that the Turi allow them free passage in and out of Afghanistan via Upper Kurram. The Turi reportedly rejected the offer, “believing that the TTP was likely to draw unwanted military attention to Kurram and suspecting that the TTP would simply take over their areas”.²⁹
60. According to the Center for Strategic & International Studies, between 2000 and 3000 people were killed and over 3500 wounded in the conflict in Kurram between April 2007 and the beginning of 2011.³⁰ Furthermore, the war destroyed much of the agency’s health, education and agriculture infrastructure, while the closure of the Thall Road devastated trade and development work in Kurram, severely damaging the economy.³¹ By 2010, there were almost no doctors, nurses or teachers left in Kurram.³² The closure of the Thall road led to the KPK government reaching an agreement with “a UK-based flight club to airlift Kurram residents cut off from the rest of the country”.³³
61. In early 2011, *BBC News* reported that Pakistani security forces brokered a peace deal between the Turi and the Haqqani Network, allowing the Thall Road to reopen. However, within days of the deal, militants attacked two vehicles on the Thall Road, killing at least eight and kidnapping 15. *BBC News* suggests that the attack was designed to undermine the peace deal. In mid-March 2011, a similar attack on the Thall Road left at least 11 dead. Weeks earlier, “gunmen from the North Waziristan region kidnapped 20 Shia residents of Kurram”.³⁴

²⁷ Grubbs, J.T. 2012, ‘The Looming Storm in Pakistan’s Kurram Agency’, Jamestown Foundation, *Terrorism Monitor*, Vol.X, Issue 5, 9 March http://www.jamestown.org/uploads/media/TM_010_Issue05_02.pdf

²⁸ International Crisis Group 2009, *Pakistan: Countering Militancy in FATA*, Asia Report N°178, 21 October, p.6

²⁹ Mahsud, M.K. 2010, *The Battle for Pakistan: Militancy and Conflict in Kurram*, Human Security Report Project website, April, p.4
<http://www.humansecuritygateway.com/documents/NAF_TheBattleforPakistan_MilitancyandConflictinKurram.pdf> Accessed 23 November 2010

³⁰ Vira, V. & Cordesman, A.H. 2011, *Pakistan: Violence Vs. Stability*, Center for Strategic & International Studies, 5 May, p.54 <http://csis.org/files/publication/110504_stabilizing_pakistan.pdf>

³¹ Khan, M.I. 2010, ‘The Pakistani tribe that is taking on the Taliban’, *BBC News*, 7 October <http://www.bbc.co.uk/news/world-south-asia-11486528> – Accessed 14 October 2010; International Crisis Group 2009, *Pakistan: Countering Militancy in FATA*, Asia Report N°178, 21 October, pp.6-8

³² Internal Displacement Monitoring Centre 2010, *Pakistan: Flooding worsens situation for people displaced by conflict in north-west*, 6 September, p.62 <[http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/719B7634A7238264C12577960032832C/\\$file/Pakistan+-+September+2010.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/719B7634A7238264C12577960032832C/$file/Pakistan+-+September+2010.pdf)>

³³ International Crisis Group 2010, *Pakistan: The Worsening IDP Crisis*, Asia Briefing N°111, 16 September, p.7, footnote 55

³⁴ ‘Convoy in Pakistan Kurram agency ambushed by gunmen’ 2011, *BBC News*, 25 March <<http://www.bbc.co.uk/news/world-south-asia-12664454>>

Current Situation

62. By March 2012, the peace deal agreed to by Shia and Sunni elders in Parachinar in October 2011 was fragile following a major attack on a Shia Imambagh (mosque). The *BBC* reported on 10 September 2012 on a car bomb explosion that killed 12 and injured 30 in the Turi market of Parachinar.³⁵ In May 2012 several Shia passengers were injured following an ambush on their bus, which was on route from Parachinar to Peshawar, on the Tal-Parachinar Road “near Urwala Frontier Corps (FC) Fort in Lower Kurram”.³⁶ On 17 February 2012, a suicide bomber detonated a device in a market in front of a Shia mosque in Parachinar, killing at least 36.³⁷ *The Express Tribune* reported that following the blast, a number of Shia residents of Parachinar were shot dead by security forces. Consequently, the death toll from the blast and the security response totalled 43 people. According to the report, the shooting of protestors had led to demands by a jirga “consisting of six tribes of the Turi and Bangash... that an inquiry should be launched against the security personnel for opening fire on the people after the blast. The jirga also criticised the government for its inability to maintain peace in the area”.³⁸
63. Responsibility for the attack on the Shia mosque in Parachinar in February 2012 was claimed by Fazal Saeed, the leader of a breakaway faction of the TTP.³⁹ The Jamestown Foundation’s *Terrorism Monitor* reported in March 2012 that Fazal Saeed formed the group, known as *Tehrik-e Taliban Islami* (TTI), in June 2011; “I repeatedly told the leadership council [of the TTP] that they should stop suicide attacks against mosques, markets and other civilian targets... I have therefore decided to quit the TTP”. *Terrorism Monitor* states that this was welcomed by the Pakistan Army, who interpreted the move as weakening the TTP in Kurram, while strengthening the Afghan Haqqani Network, who use Kurram as an entry point into Afghanistan’s Paktia province; “[s]ituated less than 100 km from Kabul, this is likely the access point of choice for Haqqani’s ‘Kabul Attack Network,’ the group responsible for several major attacks in Kabul in 2011”.⁴⁰
64. There is an inference in *Terrorism Monitor* and *The Sunday Indian* that TTI attacked the Shia mosque in Parachinar in February 2012 due to ongoing Turi obstructions to the Haqqani Network’s use of Upper Kurram to attack NATO and other targets in Afghanistan.⁴¹

³⁵ ‘Pakistan blast: Bomb kills 12 in Parachinar market’ 2012, *BBC*, 10 September <<http://www.bbc.co.uk/news/world-asia-19540738>> Accessed 11 September 2012

³⁶ ‘Shia passenger coach attacked in Kurram’ 2012, *Daily Times*, 7 May <http://www.dailytimes.com.pk/default.asp?page=2012%5C05%5C07%5Cstory_7-5-2012_pg1_6> Accessed 11 May 2012

³⁷ ‘Death toll rises to 36 in Pak bombing’ 2012, *The Sunday Indian*, 18 February <<http://www.thesundayindian.com/en/story/Death-toll-rises-to-36-in-Pak-bombing/117/30215/>> Accessed 8 March 2012

³⁸ ‘Blast aftermath: Parachinar death toll climbs to 43’ 2012, *The Express Tribune*, 20 February <<http://tribune.com.pk/story/338950/blast-aftermath-parachinar-death-toll-climbs-to-43/>> Accessed 21 March 2012

³⁹ ‘Blast at Pakistan town kills 26’ 2012, *BBC News*, 17 February <<http://www.bbc.co.uk/news/world-asia-17077358>> Accessed 8 March 2012

⁴⁰ Grubbs, J.T. 2012, ‘The Looming Storm in Pakistan’s Kurram Agency’, Jamestown Foundation, *Terrorism Monitor*, Vol.X, Issue 5, 9 March <http://www.jamestown.org/uploads/media/TM_010_Issue05_02.pdf> Accessed 19 March 2012

⁴¹ Grubbs, J.T. 2012, ‘The Looming Storm in Pakistan’s Kurram Agency’, Jamestown Foundation, *Terrorism Monitor*, Vol.X, Issue 5, 9 March, p.7 <http://www.jamestown.org/uploads/media/TM_010_Issue05_02.pdf> Accessed 19 March 2012; ‘Death toll rises to 36 in Pak bombing’ 2012, *The Sunday Indian*, 18 February <<http://www.thesundayindian.com/en/story/Death-toll-rises-to-36-in-Pak-bombing/117/30215/>> Accessed 8 March 2012 >

65. As of March 2012, people were still being killed by roadside bombs on the Parachinar to Thall Road, the main road connecting the agency with the rest of Pakistan.⁴² A report on security in the Federally Administered Tribal Areas (FATA) states that there were 30 security incidents in Kurram in the first three months of 2012, resulting in 281 casualties, including 162 deaths. Incidents included 15 bomb attacks and at least one targeted killing.⁴³ The death toll is likely to include both civilians and members of the armed forces.
66. Further complicating the situation for the Turi, and indeed for NATO objectives in Afghanistan, is the fact that the Haqqani Network has very close links with Pakistan's Inter-Services Intelligence (ISI), who support the network in the hope of providing Islamabad with leverage in any post-conflict government in Kabul, which they believe will inevitably include members of the Afghan Taliban.^{44 45 46} This places the Turi at odds with the top security/intelligence organisation in the country, adding another dimension to their well-being. According to Stratfor Global Intelligence, Islamabad and the ISI would prefer a peaceful settlement between the Turi and the Haqqani Network.⁴⁷

The Parachinar to Thall Road

67. Residents of Parachinar and Upper Kurram travelling by road must take the Parachinar to Thall Road (also known as the Hangu Road) to reach any other region of Pakistan. This road passes through the predominantly Sunni lower Kurram and there are numerous reports of attacks by members of the Tehrik-e-Taliban and Lashkar-e-Islami on convoys of buses and trucks travelling to and from Parachinar.⁴⁸ This has led to the road being described as effectively closed since April 2007, leading to a humanitarian crisis in which a large number of people have reportedly died due to the lack of availability of medical supplies and food.⁴⁹
68. In March 2010, 12 people, 7 of whom were believed to be Shi'a, were reported to have been killed by a suicide bomber in Hangu while en route to Parachinar in Upper Kurram.⁵⁰ Another report dated 8 August 2011 suggests that at least 64 students have been killed by

⁴² '2 killed as coach hits roadside bomb in Kurram' 2012, *The News*, 13 March

<<http://www.thenews.com.pk/Todays-News-7-97374-2-killed-as-coach-hits-roadside-bomb-in-Kurram>>

Accessed 21 March 2012

⁴³ FATA Research Centre 2012, *Security Report First Quarter 2012*, p.12

<www.frc.com.pk/linkc/dsitu/17Security_Report_2012.pdf> Accessed 3 May 2012

⁴⁴ Waldman, M. 2010, *The Sun In The Sky: The Relationship Between Pakistan's ISI and Afghan Insurgents*, Crisis States Research Centre, Discussion Paper 18, June, p.3

<http://www.crisisstates.com/download/dp/DP%2018.pdf> – Accessed 13 January 2011 –

⁴⁵ 'Siraj Haqqani sheltering in Kurram, near area of US helicopter strikes' 2010, *The Long War Journal*, 22 October http://www.longwarjournal.org/archives/2010/10/siraj_haqqani_shelte.php – Accessed 11 November 2010 –

⁴⁶ 'U.S. concerns grow as militants move bases along Pakistan border' 2010, *The Los Angeles Times*, 7 November <http://www.latimes.com/news/nationworld/world/la-fg-pakistan-haqqani-20101108,0,7180350.story> Accessed 9 November 2010 –

⁴⁷ 'Kurram Agency and the U.S. and Pakistan's Divergent Interests' 2010, Stratfor Global Intelligence, 2 November

http://www.stratfor.com/analysis/20101101_kurram_agency_and_us_and_pakistans_divergent_interests – Accessed 11 January 2010 –

⁴⁸ International Crisis Group 2009, *Pakistan: Countering Militancy in FATA*, Asia Report N°178, 21 October, p.6, p.8

⁴⁹ <http://www.onepakistan.com/news/local/islamabad/22000-Restoration-peace-Parachinar-rally-Australia-Tuesday.html>

⁵⁰ 'Four women among 12 killed in Hangu suicide bombing' 2010, *Daily Times*, 6 March http://www.dailytimes.com.pk/default.asp?page=2010\03\06\story_6-3-2010_pg1_5

militants on the Thall-Parachinar road during the last five years and that militants have paralysed the whole area of Kurram, particularly its regional capital of Parachinar, by cutting its links with other parts of the country and occupying the 70km long Parachinar to Thall Road.⁵¹

69. In July 2011, the Pakistan Army launched an offensive to take full control of the security situation along the road and as a consequence, thousands of residents of Kurram are once again being displaced by the offensive.^{52 53} On 17 July 2011 it was reported that 11 people were abducted on the Parachinar to Thall Road and their vehicles torched and that three days later nine people were released alive with the dead bodies of the other two students. On 8 August 2011, reports indicated that security forces had killed more than 200 militants in Kurram where the military is waging an anti-Taliban offensive, but that access to Kurram remained restricted and the reports are difficult to independently verify.⁵⁴
70. In late October 2011, the road was officially declared free of insurgents and reopened by the Pakistan Army.⁵⁵ However it has closed again recently, following a bomb blast in Parachinar on 17 February 2012.

Relocation

71. The law in Pakistan provides for freedom of movement within the country; however, the US Department of State writes that the Pakistani government limits this right in practice.⁵⁶
72. Shi'ite Pashtun tribes the Turi and the Bangash have primarily sought refuge in the Kohat and Hangu districts of Khyber-Pakhtunkhwa, following their displacement from Kurram and Orakzai agencies in 2009 and 2010. Kohat and Hangu both have significant Shi'ite Pashtun populations of their own, mostly from the Bangash tribe; however neither of these districts has proven to be a safe haven. A combination of targeted mass killings and the floods of July 2010 have meant that many internally displaced persons (IDPs) have been once again displaced. Given the failure of peace talks between the Turi, the Haqqani Network and Tehrik-e-Taliban in November 2010, returning to Kurram and Orakzai is not a safe option for the foreseeable future.
73. Sources indicate that many Shi'ite IDPs have relocated further afield, to Peshawar, Dera Ismail Khan, and Karachi, cities with large Pashtun and Shi'ite populations. Some may have also moved to the Islamabad-Rawalpindi (IR) region. Shi'ite Pashtuns in both Peshawar and Dera Ismail Khan have recently also come under attack from Deobandi extremist groups such as Laskar-e-Jhangvi and therefore neither city constitutes a safe haven.

⁵¹ <http://pakobserver.net/201108/08/detailnews.asp?id=107789>

⁵² 'PAKISTAN: Rising shelter needs as more flee Kurram' 2011, IRIN News, 18 July
<http://www.irinnews.org/report.asp?reportID=93255>

⁵³ 'Pakistan launches military operation in Kurram Agency' 2011, *The Express Tribune*, source: Reuters, 4 July
<http://tribune.com.pk/story/202336/pakistan-launches-military-operation-in-kurram-agency/>

⁵⁴ <http://www.aaj.tv/2011/08/more-than-200-militants-killed-in-kurram-over-the-past-month/>

⁵⁵ 'Thall-Parachinar Road reopens as Murree accord implemented' 2011, *The News*, 31 October
<http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=75370&Cat=7&dt=10/31/2011>

⁵⁶ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Pakistan*, March, Section 2(d) –

Kohat

74. Kohat has a large Shi'ite Pashtun minority, especially in the towns of Chikarkot Bala, Sherkot, Kachai and Usterzai Payan. Usterzai Payan reportedly has the largest Shia population in the district and is home to the Shia run Al-Asar College and a large Shia Bangash population. Other villages with Shia Bangash populations include Chiker Kot Bala, Ali Zo, Khadi Zai, Sher Kot, Usterzai Bala, Khwaja, Khizar, Jauzara, Raisan, Lodikhel, Imbrhamzi, and Kachai.⁵⁷
75. Relief Web, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) information service, reported in February 2010 that Shia IDPs in Kohat were "terrified" of officially registering, with many expressing fear of venturing outdoors altogether. So strong is this fear that only 1,300 of the estimated 3,300 Shi'ite IDP families from the FATA in the district have registered for assistance. Relief Web adds that local Kohat Shi'ites believe that the presence of Shia IDPs from Kurram and Orakzai has increased their own risk of being harmed by extremists.⁵⁸
76. There is evidence to suggest that this fear is not simply a symptom of post-traumatic stress disorder (PTSD). On 17 April 2010 an IDP camp for Shi'ites in Kacha Pakha, Kohat was hit by two suicide bombs, killing 41 people. The IDPs were reportedly standing in a registration queue when the first attack took place. According to one source, "the second suicide bomber struck minutes later when people rushed to the spot to help the injured." Lashkar-e-Jhangvi al Alami claimed responsibility for the attacks. Kacha Pakha was also hit by a suicide bomber in September 2009, in which 33 people, mostly Shi'ite Pashtuns, were killed.⁵⁹

Hangu

77. Hangu is home to a large community of both Shia and Sunni Bangash. Religious affiliation among the Bangash appears to be divided along clan lines, with Alizai, Ibrahimzai, Jawz, Lodhi Khel, Marai, Mussa Khel, Raisan, Shawo, Sher Kot, and Ustarzai clans all believed to be exclusively Shia. The Hangu clan is unusual in that it is both Shia and Sunni.⁶⁰
78. Like Kohat, Hangu is also home to a large number of Sunni and Shia IDPs from the neighbouring FATA agencies. Precise demographic information on these IDPs is not available as, like their counterparts in Kohat, almost all Shia IDPs in the district are unregistered. According to a February 2010 report on behalf of IDP service providers, Shia IDPs in Hangu strongly fear that they will be targeted for harm in Sunni dominated areas, where the majority of registration centres are based.⁶¹ Again, this fear is not without foundation. According to Khyber-Pakhtunkhwa government statistics, in 2009 16 Shia were

⁵⁷ 'Kohat' 2010, WordPress.com, 30 April <http://meetcornor.wordpress.com/2010/04/page/2/> – Accessed 11 January 2011 –

⁵⁸ 'PAKISTAN: Shia IDPs fearful of being targeted' 2010, Relief Web, 11 February <http://www.reliefweb.int/rw/rwb.nsf/db900SID/AMMF-82KMC8?OpenDocument> – Accessed 12 January 2011

⁵⁹ 'Life in Kurram and Orakzai Agencies of FATA' 2010, Geo Tau Aisay website, 31 May <http://www.geotauaisay.com/2010/05/life-in-kurram-and-orakzai-agencies-of-fata/> – Accessed 11 January 2011

⁶⁰ 'Program For Culture & Conflict Studies – Tribe: Bangash' 2010, Naval Postgraduate School, 8 April, p.3 <http://www.nps.edu/programs/ccs/Docs/Pakistan/Tribes/Bangash.pdf> – Accessed 12 January 2011 –

⁶¹ 'Kohat and Hangu; Inter-Cluster Mission to Kohat & Hangu 28th January – 30th January' 2010, One Response website, 5 February, pp.7-8

<http://oneresponse.info/Countries/Pakistan/Coordination/publicdocuments/FINAL-Inter%20cluster%20assessment%20Kohat%20Hangu%2028th%20Jan%202010.pdf> – Accessed 12 January 2011

killed and 19 injured in Hangu in targeted attacks.⁶² In 2010 there have been a number of further targeted attacks, including:

79. In December 2010 suicide bombing of the Al-Zahra Hospital in the Shia region of Pas Kalay, Hangu. Estimates of fatalities resulting from the blast range between 10 and 17. The hospital is owned and operated by a Shia NGO, the Al-Zahra Trust. According to reports, the blast also destroyed a number of houses in the vicinity.^{63 64}
80. In mid-December 2010 rockets were reportedly fired on a Shi'ite Ashura parade in Hangu, killing 9 people.⁶⁵ In March 2010, 12 Shia IDPs in Hangu returning to Parachinar in Kurram on a bus were killed by a bomber.⁶⁶ For a comprehensive list of terrorism related incidents in Khyber-Pakhtunkhwa in 2010 see the South Asia Terrorism Portal Timeline for that year.⁶⁷
81. Both Kohat and Hangu were two of the worst affected regions by the 2010 flooding. This flooding is believed to have caused further displacement of both Sunni and Shia IDPs, some of whom have relocated to Pakistan's major cities.⁶⁸

Peshawar

82. Rather than seek shelter in IDP camps in regional KPK, information suggests that a high proportion of Shia IDPs from Kurram moved to the provincial capital Peshawar. The Internal Displacement Monitoring Centre reported that “[a]s of June 2010, 30% of all the IDP households in Peshawar originated in Kurram”.⁶⁹
83. Little specific information was located on the security and livelihood of Turis/Kurram Shia IDPs in Peshawar. In January 2012, a Turi cardiologist, Dr. Syed Jamal, was kidnapped from his home in Peshawar and killed two months later.⁷⁰ However, it is not clear whether Dr Jamal was kidnapped due to his tribal background, or as part of a long-running campaign of targeted attacks on Shia Muslim doctors across Pakistan

⁶² 'Internal Security Situation; Presentation to the Prime Minister of Islamic Republic of Pakistan' 2010, Government Of Khyber Pakhtunkhwa Provincial Disaster Management Authority website, 4 March, p.16 http://www.pdma.gov.pk/PaRRSA/documents/Internal_Security_Situation.pdf – Accessed 12 January 2011

⁶³ 'Suicide attack on Al- Zahra Hospital Hangu Pass Kalay' 2010, FATA Research Center <http://www.frc.com.pk/Suicide%20attack%C2%A0on%20Al-%20Zahra%20Hospital%C2%A0Hangu%20Pass%C2%A0Kalay.htm> – Accessed 11 January 2011

⁶⁴ 'Terror Watch-Khyber Pakhtunkhwa (Pakistan)' 2011, Calcutta Tube, 9 January <http://calcuttatube.com/terror-watch-khyber-pakhtunkhwa-pakistan/137845/> – Accessed 11 January 2011

⁶⁵ Dempsey, E. 2010, 'Rockets Fired in Hangu, 9 People Killed', Digital Journal, 17 December <http://www.digitaljournal.com/article/301509> – Accessed 12 January 2011

⁶⁶ 'Khyber Pakhtunkhwa Timeline' 2010, South Asia Terrorism Portal <http://www.satp.org/satporgtp/countries/pakistan/nwfp/timeline/index.html> – Accessed 12 January 2011

⁶⁷ 'Khyber Pakhtunkhwa Timeline' 2010, South Asia Terrorism Portal <http://www.satp.org/satporgtp/countries/pakistan/nwfp/timeline/index.html> – Accessed 12 January 2011

⁶⁸ Internal Displacement Monitoring Centre 2010, *Pakistan: Flooding worsens situation for people displaced by conflict in north-west*, 6 September [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/719B7634A7238264C12577960032832C/\\$file/Pakistan+-+September+2010.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/719B7634A7238264C12577960032832C/$file/Pakistan+-+September+2010.pdf) – Accessed 23 November 2010

⁶⁹ Internal Displacement Monitoring Centre 2010, *Pakistan: Flooding worsens situation for people displaced by conflict in north-west*, 6 September, p.31 <[http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/719B7634A7238264C12577960032832C/\\$file/Pakistan+-+September+2010.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/719B7634A7238264C12577960032832C/$file/Pakistan+-+September+2010.pdf)> Accessed 23 November 2010

⁷⁰ Turi, S.H. 2012, *Kidnapped and forgotten sons of Parachinar*, Pakistan Blogzine <<http://pakistanblogzine.wordpress.com/2012/02/25/kidnapped-and-forgotten-sons-of-parachinar-by-sibth-ul-hassan-turi/>> Accessed 21 March 2012

84. In 2011, there were at least three attacks on Shia Muslim leaders or gatherings in the city, including the killing of a community leader in February in the Peshawar district of Yakatoot, and a grenade attack on an Ashura procession in December that killed a girl and injured 25 others.⁷¹ In 2008, a fifteen year old suicide bomber blew himself up in the Mirza Qasim Ali Imambargah in Peshawar, killing 10 and injuring at least 24 others. In 2007, an attack near the same Shia mosque killed several people, “including the head of the municipal police”.⁷²
85. In more general terms, security in Peshawar is poor. In the first three months of 2012, there were 32 incidents of terrorism in the city, most of which resulted in fatalities.⁷³ Recent targets in Peshawar include federal and provincial government buildings⁷⁴, foreign consulates^{75 76}, provincial politicians (particularly members of the Awami National Party), police officers⁷⁷, Sufi shrines⁷⁸, schools⁷⁹, and gatherings of rival religious organisations.⁸⁰ Some attacks have no specific target and appear designed to create mass panic, such as the October 2009 market-bombing that killed over 50 people.⁸¹
86. In March 2010 the Internal Displacement Monitoring Centre reported that 40,000 IDPs who had fled FATA agencies to villages on the outskirts of Peshawar abandoned their camps after insurgents forced out of the Central FATA “began patrolling Peshawar”.⁸²
87. In December 2010 Turi and Bangash Shi’ite IDPs were reportedly informed by police in Peshawar that they would not be permitted to participate in the city’s Ashura processions commemorating the month of Muharram.⁸³ The Ashura procession is one of the important rituals for Shi’ite males, however in the past the processions have resulted in violence between Shi’ites and Sunnis across Pakistan and Muharram is a month of heightened tensions

⁷¹ South Asian Terrorism Portal 2011, *Terrorism-related Incidents in Peshawar – 2011* <http://www.satp.org/satporgtp/countries/pakistan/nwfp/datasheet/peshawar_incident2010.htm> Accessed 13 July 2011 ; ‘Peshawar grenade attack on Shia parade kills toddler’ 2010, *Dawn*, source: *AFP*, 16 December <<http://www.dawn.com/2010/12/16/low-intensity-explosion-at-yadgar-chowk-peshawar.html>> Accessed 11 January 2011

⁷² Felix, Q. 2008, ‘Peshawar: a 15-year-old boy blows himself up in a Shiite mosque’, *AsiaNews*, 18 January <<http://www.asianews.it/news-en/Peshawar:-a-15-year-old-boy-blows-himself-up-in-a-Shiite-mosque-11288.html>> Accessed 8 June 2012

⁷³ South Asian Terrorism Portal 2012, *Terrorism-related Incidents in Peshawar – 2012*, 25 March <http://www.satp.org/satporgtp/countries/pakistan/nwfp/datasheet/peshawar_incident.htm> Accessed 30 March 2012

⁷⁴ US Department of State 2010, *Country Reports on Terrorism – Pakistan*, 5 August

⁷⁵ ‘Blasts near US Consulate in Pakistan kill 3’ 2010, Google News, source: *Associated Press*, 6 April

⁷⁶ ‘TTP claims responsibility for Peshawar blasts’ 2010, *Dawn*, 5 April <<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/metropolitan/03-blast-in-saddar-area-of-peshawar-ss-03>> Accessed 6 April 2010

⁷⁷ Tavernise, S. 2010, ‘Bomber Strikes Near Pakistan Rally; Police Officer Seen as Target’, *The New York Times*, 19 April <<http://www.nytimes.com/2010/04/20/world/asia/20pstan.html>> Accessed 20 April 2010

⁷⁸ US Department of State 2010, *International Religious Freedom Report – Pakistan*, 17 November

⁷⁹ South Asia Terrorism Portal 2011, *Major incidents of Terrorism-related violence in Pakistan*, 26 February <<http://www.satp.org/satporgtp/countries/pakistan/database/majorincidents.htm>> Accessed 9 March 2011

⁸⁰ Human Rights Commission Pakistan 2011, *State of Human Rights in 2010*, April, p.153

⁸¹ UK Home Office 2010, *Country Of Origin Information Report – Pakistan*, 18 January, section 8.17

⁸² Internal Displacement Monitoring Centre 2010, *Pakistan: Flooding worsens situation for people displaced by conflict in north-west*, 6 September <[http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/719B7634A7238264C12577960032832C/\\$file/Pakistan+-+September+2010.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/719B7634A7238264C12577960032832C/$file/Pakistan+-+September+2010.pdf)> – Accessed 23 November 2010

⁸³ ‘Shia Turi Bangash tribes vows to observe Ayam-e-Aza of Muharram’ 2010, Shia News website, 9 December <<http://babulilmilibrary.com/news/shia-turi-bangash-tribes-vows-to-observe-ayam-e-aza-of-muharram>> – Accessed 11 January 2011

between the two communities. As Shi'ite Turi and Bangash have proven formidable opponents of both Afghan and Pakistan Deobandi militants, it is highly likely that the police fear that their presence in Peshawar Ashura parades heightened the risk of militant attacks on these processions. At least one attack on Ashura processions in Peshawar in December 2010 was reported in the media; *Dawn* reported that a grenade attack a procession on 16 December killed a 2 year old child and injured 26 others.⁸⁴

Dera Ismail Khan

88. The city of Dera Ismail Khan (DIK) in southern Khyber-Pakhtunkhwa has sizeable Shia Pashtun minority population and the city has also attracted a number of Shia IDPs from FATA agencies. The city has, however, witnessed a number of attacks of Shi'ite Pashtuns, perhaps as a consequence of its location close to South Waziristan, considered to be home to the largest concentration of TTP affiliated groups.
89. Major attacks on Pashtun Shi'ites in DIK include:

*In February 2009 an explosion at a procession marking the death of Shia religious leader Imam Hussain killed 15 people and injured dozens. Later that same month approximately 25 people were killed and over 150 injured by a bomb at the funeral of a local Shia leader who had been killed by militants the previous day.*⁸⁵

*In 2009 a total of 55 Shia were killed and 196 were injured in attacks in DIK.*⁸⁶ *According to Relief Web, the Shia of DIK are seen by TTP affiliated organisations such as Laskar-e-Jhangvi (LeJ) and Jaish-e-Mohammad (JEM) as allies of the Americans.*⁸⁷ *It is also likely that these attacks are due to their violent opposition to Shia Islam.*

Rawalpindi/Islamabad

90. The twin cities of Rawalpindi and Islamabad form a conurbation across the Potwar plateau in northern Punjab. While Islamabad is the political capital of Pakistan, Rawalpindi has long been the headquarters of the Pakistan armed forces and is therefore considered to be politically important in its own right.
91. The Rawalpindi/Islamabad conurbation is home to a Pashtun community, however no recent statistics of the city's Shi'ite Pashtun population have been located; the Population Census Organization's most recent publically available statistics date from 1998 and do not include a breakdown of each ethnic group's religion.⁸⁸ According to the City of Islamabad website,

⁸⁴ 'Peshawar grenade attack on Shia parade kills toddler' 2010, *Dawn*, source: *AFP*, 16 December <http://www.dawn.com/2010/12/16/low-intensity-explosion-at-yadgar-chowk-peshawar.html> – Accessed 11 January 2011

⁸⁵ Minority Rights Group International 2010, *State of the World's Minorities and Indigenous Peoples – Pakistan*, UNHCR Refworld, 1 July <http://www.unhcr.org/refworld/docid/4c33310cc.html> – Accessed 12 January 2011

⁸⁶ 'Internal Security Situation; Presentation to the Prime Minister of Islamic Republic of Pakistan' 2010, Government Of Khyber Pakhtunkhwa Provincial Disaster Management Authority website, 4 March, p.16 http://www.pdma.gov.pk/PARRSA/documents/Internal_Security_Situation.pdf – Accessed 12 January 2011

⁸⁷ 'PAKISTAN: Shia IDPs fearful of being targeted' 2010, Relief Web, 11 February <http://www.reliefweb.int/rw/rwb.nsf/db900SID/AMMF-82KMC8?OpenDocument> – Accessed 12 January 2011

⁸⁸ Population Census Organization website <http://www.census.gov.pk/PUNJAB/RAWALPINDI.htm> & <http://www.census.gov.pk/ibd.htm>

Pashtuns constitute 10.51 percent of that city's 1.2 million residents.⁸⁹ No official statistics have located concerning the size or makeup of Rawalpindi's Pashtun community; however Pashto is recorded as the mother tongue of only 1.15 percent of the population of Punjab as a whole.⁹⁰ Given its proximity to Khyber-Pakhtunkhwa, and recent conflicts there, it is highly likely that the Pashtun population of the city is considerably higher than the provincial average.

92. No sources have been located that describe targeted killings of Shi'ites in Islamabad and Rawalpindi in recent years. However, as the seat of national government and army GHQ respectively, the two cities have witnessed a large number of terrorist attacks and assassinations in recent years, most recently the assassination of the Governor of Punjab, Salman Taseer, on 4 January 2011. Taseer was murdered by his body guard due to the minister's vocal opposition to Pakistan's blasphemy law, which has been used by Sunnis to target Shi'ites, Ahmadis and Christians.⁹¹
93. The most recent attack on a religious site in the two cities was the 4 December 2009 attack on a Sunni mosque in Rawalpindi. According to *BBC News*, 35 people were killed in the attack.⁹² The Human Rights Commission of Pakistan reported in *State of Human Rights in 2010* that "terrorists targeted religious processions and mosques of the Shia sect in Rawalpindi, Sargodha and Lahore".⁹³
94. Many of the recent assassinations, attempted assassinations and bombings in both Rawalpindi and Islamabad have been linked to so-called *jihadist* groups by non-government organisations and the media. The March 2009 International Crisis Group report *Pakistan: The militant Jihadi challenge* claims that Islamic militants have established a strong presence in both Islamabad and Rawalpindi. The report quotes an analyst who claims that Rawalpindi has become the hub of several sectarian groups and a major transit point for militants. The report also claims that the November 2007 attacks in Rawalpindi were retaliation for the military's attack on the Lal Masjid (Red Mosque) in July 2007.⁹⁴
95. The Jaish-e-Mohammed and Harkatul Mujahidin have reportedly set up bases and transit camps in Rawalpindi for militants travelling from southern Punjab to NWFP. Said a Rawalpindi resident: "*Most of the time ... Islamabad gets attention without a reference to the city of Rawalpindi. How can people ignore the influence of what is happening in Rawalpindi? The fact that Rawalpindi has turned into a hub of various sectarian groups needs to be analysed. If you walk around the city after Friday prayers, you will see their strength. They have established their presence in Rawalpindi. Their impact on Islamabad's security is key.*"⁹⁵

⁸⁹ 'Islamabad Demographics' 2009, City of Islamabad website

<http://www.visitislamabad.net/islamabad/files/file-detail.asp?var=demographics> – Accessed 12 January 2011

⁹⁰ 'POPULATION BY MOTHER TONGUE' (undated), Population Census Organization website

<http://www.census.gov.pk/MotherTongue.htm> – Accessed 13 January 2011

⁹¹ 'Punjab Governor Salman Taseer assassinated in Islamabad' 2011, *BBC News*, 4 January

<http://www.bbc.co.uk/news/world-south-asia-12111831> – Accessed 13 January 2011

⁹² 'Pakistan mosque attack 'kills 35'' 2009, *BBC News*, 4 December

http://news.bbc.co.uk/2/hi/south_asia/8394694.stm – Accessed 13 January 2011

⁹³ Human Rights Commission Pakistan 2011, *State of Human Rights in 2010*, April, p.125

⁹⁴ International Crisis Group 2009, 'Pakistan: The militant Jihadi challenge', Asia Report N°164, 13 March

⁹⁵ International Crisis Group 2009, 'Pakistan: The militant Jihadi challenge', Asia Report N°164, 13 March, ICG website

http://www.crisisgroup.org/library/documents/asia/south_asia/164_pakistan_the_militant_jihadi_challenge.pdf

96. Two reports published by *Dawn* in December 2011 indicate that members of the Turi community in the Islamabad-Rawalpindi conurbation are targets of a kidnapping campaign. While a *Dawn* editorial mentions the kidnapping campaign in passing⁹⁶, a second *Dawn* report provides greater detail, stating that “several other residents of Parachinar, particularly members of the Turi tribe, have been kidnapped from Rawalpindi-Islamabad. Many of them were taken away from their houses in Rawalpindi” A number of case details are provided in the report and it concludes by quoting Mohammad Akbar, who argues that Turis are targeted due to a perception that they are wealthy and have the capacity to pay a ransom; “[t]hey (local militants) know about the financial positions of Turi tribe and kidnap those who can pay them the ransom money. Poor people kidnapped for ransom are killed as they cannot pay the money”.⁹⁷

Karachi

97. The devastating flooding of Pakistan in July 2010 caused a significant number of FATA IDPs in Khyber-Pakhtunkhwa to be displaced once again. The Norway based Internal Displacement Monitoring Centre (IDMC) reports that while some of these IDPs reluctantly returned to FATA agencies, an unspecified number have moved to Karachi.⁹⁸ Karachi’s attraction to Pashtun IDPs is such that it now constitutes the largest urban community of Pashtuns in South Asia; conservative estimates currently put the Pashtun population of Karachi at over four million.⁹⁹ Some estimates place the Pashtun population of the city at over seven million.¹⁰⁰
98. No statistics have been located indicating what percentage of the Karachi Pashtun population is Shi’ite; however it is likely that it reflects the overall Pashtun population, approximately 1 percent.¹⁰¹ The Jamestown Foundation’s *Terrorism Monitor* reported in July 2010 that Shi’ites of various ethnic backgrounds constituted approximately 30 percent of Karachi’s Muslim population.¹⁰²
99. No reports have been located that state that Shi’ite Pashtun tribes and sub-clans such as the Turi and Bangash have been specifically targeted for harm in Karachi. There are, however, numerous examples of both Shi’ites groups and individuals being targeted for harm for both ethnic and sectarian reasons.

⁹⁶ ‘Kurram peace’ 2011, *Dawn*, 17 December <<http://www.dawn.com/2011/12/17/kurram-peace.html>> Accessed 19 March 2012

⁹⁷ Khattak, I. 2011, ‘Kurram residents face insecurity in Islamabad’, *Dawn*, 16 December <<http://www.dawn.com/2011/12/16/kurram-residents-face-insecurity-in-islamabad.html>> Accessed 19 March 2012

⁹⁸ Internal Displacement Monitoring Centre 2010, *Pakistan: Flooding worsens situation for people displaced by conflict in north-west*, 6 September, p.10 [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/719B7634A7238264C12577960032832C/\\$file/Pakistan+-September+2010.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/719B7634A7238264C12577960032832C/$file/Pakistan+-September+2010.pdf) – Accessed 23 November 2010

⁹⁹ Ahmed, K. 2010, ‘The Pakhtun in Karachi’, *The Express Tribune*, 28 August <http://tribune.com.pk/story/43827/the-pakhtun-in-karachi/> – Accessed 29 October 2010

¹⁰⁰ Obaid-Chinoy, S. 2009, ‘Pakistan: Karachi’s Invisible Enemy City potent refuge for Taliban fighters’, *PBS* (USA), 17 July http://www.pbs.org/frontlineworld/rough/2009/07/karachis_invisi.html – Accessed 29 April 2010

¹⁰¹ Schetter, C. 2003, ‘Ethnicity and the Political Reconstruction in Afghanistan’, Arbeitsgemeinschaft Afghanistan website, 21 May, p.2 <http://www.ag-afghanistan.de/arg/arp/schetter.pdf> – Accessed 5 January 2011

¹⁰² Shah, T.A. 2010 ‘Karachi Emerges as Pakistan’s New Tinderbox of Violence and Extremism’, *Jamestown Foundation Terrorism Monitor*, Volume VIII, Issue 26, 1 July, pp.5-6

100. Recent examples of mass attacks on Shi'ites in the city include the 27 December 2009 roadside bomb attack on an Ashura procession that injured at least 26 persons. The attack was attributed to Lashkar-e-Jhangvi. Two days later a suicide bomber attacked a second Shi'a religious procession in the city, killing 25 and injuring more than 50.¹⁰³
101. Equally significant has been a campaign of targeted assassinations of Shi'ite professionals in the city; Jamestown Foundation's *Terrorism Monitor* states that in the first six months of 2010, most targeted killings in Karachi were of Shia professionals.¹⁰⁴ According to *IRIN News*, these are part of a wider campaign of such killings across Pakistan; including the murder of at least 85 Shi'ite doctors.¹⁰⁵ Other Shia technocrats have also been targeted according to respected author Ahmed Rashid, writing in *The National Interest*; "politicians, doctors, architects, bureaucrats and judges—have been singled out for assassination in all major cities".¹⁰⁶
102. In Karachi at least 26 Shi'ite doctors have been assassinated according to a 2010 report on violence in the city.¹⁰⁷ The authors of *The Open City: Social Networks And Violence In Karachi* argue that these assassinations are part of "a systematic campaign to target educated professionals within the Shia community – presumably in the expectation that this would lower the community's morale and encourage its members to seek emigration."¹⁰⁸
103. These targeted killings of Shi'ites are likely to be linked to the large number of TTP affiliated Deobandi extremists from FATA and Swat who have reportedly found refuge in the city.¹⁰⁹ The International Crisis Group (ICG) reports that since 2007 three violently anti-Shia organisations, Sipah-e-Sahaba Pakistan (SSP) Lashkar-e-Jhangvi (LJ), and Lashkar-e-Tayyaba (LeT) have all openly held public meetings in Karachi. Another, Jaish-e-Mohammed, runs a large madrasa in the Karachi suburb of Ehsanabad. It was at this madrasa that Daniel Pearl's kidnappers were arrested. The ICG reports that due to threats against Shia Imam Bara made by Sunni Imams in nearby mosques, the former president of the mosque turned it "into a fortress, with armed guards on the rooftop during Friday prayers".¹¹⁰
104. Also included in the calculus of risk to Pashtun Shi'ites relocating to Karachi is the fact that the city is now considered the primary place of hiding for senior members of the Afghanistan Taliban, who the Shi'ite Turi and Bangash have fought in Kurram. The US Congressional Research Service even states that there is a genuine possibility that the Afghan Taliban leader Mullah Omar is hiding in the city, with the support of Pakistan's Inter-Services Intelligence

¹⁰³ US Department of State 2010, *International Religious Freedom Report – Pakistan*, 17 November –

¹⁰⁴ Shah, T.A. 2010 'Karachi Emerges as Pakistan's New Tinderbox of Violence and Extremism', *Jamestown Foundation Terrorism Monitor*, Volume VIII, Issue 26, 1 July, pp.5-6

¹⁰⁵ 'Sectarianism infects hospital wards' 2010, UNHCR Refworld, source: *IRIN News*, 24 October <http://www.unhcr.org/refworld/docid/4cc673001e.html> – Accessed 11 January 2011

¹⁰⁶ Rashid, A. 2010, 'The Anarchic Republic of Pakistan', *The National Interest*, 24 August <http://nationalinterest.org/article/anarchic-republic-pakistan-3917?page=show> – Accessed 7 January 2011 –

¹⁰⁷ Budhani, A.A. et al 2010, *The Open City: Social Networks And Violence In Karachi*, Crisis States Research Centre, Working Paper no. 70, March, p.4 <http://www.crisisstates.com/download/wp/wpSeries2/WP70.2.pdf> – Accessed 7 January 2011

¹⁰⁸ Budhani, A.A. et al 2010, *The Open City: Social Networks And Violence In Karachi*, Crisis States Research Centre, Working Paper no. 70, March, p.7 <http://www.crisisstates.com/download/wp/wpSeries2/WP70.2.pdf> – Accessed 7 January 2011

¹⁰⁹ 'Taliban arrest spotlights militant nexus in Karachi' 2010, *Dawn*, 18 February <http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/16-taliban-arrest-spotlights-militant-nexus-in-karachi-hs-07> – Accessed 11 January 2011

¹¹⁰ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report N°164, 13 March, p.15

(ISI) agency. The Service states that the megacity's sprawl and large Pashtun suburbs "provide ideal hideouts for both Afghan and Pakistani Taliban fighters. Such militants are said to have established 'mafia-like' criminal syndicates in Karachi to raise millions of dollars to sustain their insurgencies through kidnapping, bank robberies, and extortion."¹¹¹ A November 2010 report in *Foreign Policy* states that the so-called Quetta Shura, the ruling council of the Afghanistan Taliban, has actually been based in Karachi for over three years with the cooperation of the ISI.¹¹²

105. A 2009 article published by *Bloomberg* states that while Karachi is home to working women, entrepreneurs in million-dollar homes, shopping malls, cafes and "jeans-clad teenagers", districts of the city such as Sohrab Goth and Baldia Town openly display signs stating "Welcome welcome Taliban" and "Long live Taliban." Fateh Muhammad Burfat, head of criminology at Karachi University, is quoted by *Bloomberg* arguing that "Karachi has more bombs, dynamite and Kalashnikovs than any other city in Pakistan." Urban planner and author of 'Understanding Karachi', Arif Hasan states that "[t]he unmapped slums are perfect hiding places for Taliban seeking respite from the fighting...In a city as large as Karachi, anyone can hide."¹¹³
106. SSP, LeJ, LeT and JeM all have a presence in the city¹¹⁴, as does the TTP¹¹⁵ and Jundullah.¹¹⁶ Fateh Muhammad Burfat, head of criminology at Karachi University, is quoted by *Bloomberg* as stating "Karachi has more bombs, dynamite and Kalashnikovs than any other city in Pakistan".¹¹⁷
107. The ICG reports that due to threats against the Shia Imam Bara mosque, the former president of the mosque turned it "into a fortress, with armed guards on the rooftop during Friday prayers".¹¹⁸ *The Express Tribune* reported in March 2012 that Shia neighbourhoods in the city are "visibly barricaded and fortified".¹¹⁹

¹¹¹ Kronstadt, K.A. 2010, 'Pakistan: Key Current Issues and Developments', Congressional Research Service Report for Congress, 1 June, p. 16

¹¹² Chishti, A.K. 2010, 'The Karachi Project', *Foreign Policy*, 3 November
http://www.foreignpolicy.com/articles/2010/11/03/is_pakistan_finally_cracking_down_on_al_qaeda – Accessed 11 January 2011

¹¹³ Mangi, N.A. & Sharif, F. 2009, 'Taliban Hole Up in Karachi as Pakistan Weeds Out Swat Valley', *Bloomberg*, 19 June
http://www.bloomberg.com/apps/news?pid=conewsstory&tkr=UL:US&sid=aFdI.CMmw_Sw – Accessed 10 July 2009

¹¹⁴ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report N°164, 13 March, p.10

¹¹⁵ '4 Taliban arrested in Karachi 2011', *Daily Times*, 10 March
<http://www.dailytimes.com.pk/default.asp?page=2011\03\10\story_10-3-2011_pg7_3> Accessed 10 March 2011

¹¹⁶ Siddique, Q. 2010, *Tehrik-e-Taliban Pakistan: An attempt to deconstruct the umbrella organization and the reasons for its growth in Pakistan's North-west*, Danish Institute for International Studies, DIIS Report 2010:12, p.53 <http://www.diis.dk/graphics/Publications/Reports2010/RP2010-12-Tehrik-e-Taliban_web.pdf> Accessed 19 November 2011

¹¹⁷ Mangi, N.A. & Sharif, F. 2009, 'Taliban Hole Up in Karachi as Pakistan Weeds Out Swat Valley', *Bloomberg*, 19 June
<http://www.bloomberg.com/apps/news?pid=conewsstory&tkr=UL:US&sid=aFdI.CMmw_Sw> Accessed 10 July 2009

¹¹⁸ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report N°164, 13 March, p.10

¹¹⁹ Hoodbhoy, P. 2012, 'Run for your life', *The Express Tribune*, 4 March
<<http://tribune.com.pk/story/345377/run-for-your-life/>> Accessed 6 March 2012

Quetta

108. Quetta, the capital of Baluchistan, is home to both a large Pashtun population and a large Shi'ite community. Over the past decade Quetta has become one of the most dangerous cities in South Asia for Shi'ites and subsequently it does not constitute a safe-haven for Pashtun Shi'ites.
109. The largest Shi'ite community in Quetta is the Hazara community. As a consequence of their demographic dominance of the Shi'ite community in the city, attacks and assassinations directed at Shi'ites in the city have been resulted in a high proportion of Hazaran victims.¹²⁰
121 122 123

State Protection

110. It is widely accepted that there is little effective state protection in Kurram Agency. Federal Administered tribal Areas (FATA) in Pakistan do not have democratic local governments, local courts or indeed police. Rather, each FATA agency has a federally appointed political agent, who acts as both Governor and chief magistrate. Policing is conducted by paramilitary groups, including the Frontier Constabulary (FC), levies (tribal militia) and khassadars (tribal police). The Frontier Constabulary, an armed police force, only operates in confined regions along the borders. According to the International Crisis Group (ICG) the khassadars are often lawless and reckless, with little training and oversight.¹²⁴ It is reported that the militants they are fighting are better trained and more sophisticated and disciplined than the khassadars and have access to better arms.¹²⁵

Tehrik-e-Taliban Pakistan (TTP)

111. The TTP is the largest Taliban organisation in the FATA, with reported figures on the number of groups organised under the TTP banner ranging from 13 to 40.¹²⁶
112. The TTP is located primarily within the FATA, and parts of the Swat Valley of KPK. In addition to its presence in these areas, reports indicate that the TTP is capable of reaching

¹²⁰ Department of Foreign Affairs & Trade 2010, *The Hazara Community*, 20 May –

¹²¹ Akbar, M.S. 2009, 'Hazara tribesmen under attack in Quetta', *Daily Times*, 6 February
http://www.dailytimes.com.pk/default.asp?page=2009\02\06\story_6-2-2009_pg7_15 – Accessed 29 March 2010

¹²² Department of Foreign Affairs & Trade 2010, *Conditions for Asylum Caseloads: Hazaras in Quetta*, 30 July

¹²³ Hughes, M. 2010, 'Suicide attack death toll reaches 73 in Quetta Pakistan', *The Examiner*, 4 September
<http://www.examiner.com/afghanistan-headlines-in-national/suicide-attack-death-toll-reaches-73-quetta-pakistan-video> – Accessed 8 October 2010

¹²⁴ International Crisis Group 2009, *Pakistan: Countering Militancy in FATA*, Asia Report N°178, 21 October, p.7

¹²⁵ Planning & Development Department, FATA Secretariat 2009, "Cost of Conflict in FATA" FATA Secretariat website, April, pp15&16. <Http://fata.gov.pk/files/costconflict.pdf>

¹²⁶ For 13 see: Bajoria, J 2011, 'Pakistan's New Generation of Terrorists', *Council on Foreign Relations*, 9 December <<http://www.cfr.org/pakistan/pakistans-new-generation-terrorists/p15422#>> Accessed 17 May 2012; for 40 groups, which may include groups allied but not under the TTP banner, see: Qazi, S H 2011, 'Rebels of the frontier: origins, organisation, and recruitment of the Pakistani Taliban', *Small Wars and Insurgencies*, Vol. 22 no.4, 574-602 pp.581, 597 no.29, and: Roggio, B 2012, 'Al Qaeda brokers new anti-US Taliban alliance in Pakistan and Afghanistan', *The Long War Journal*, 3 January <http://www.longwarjournal.org/archives/2012/01/al_qaeda_brokers_new.php> Accessed 17 May 2012.

targets in Islamabad,¹²⁷ Rawalpindi,¹²⁸ Faisalabad,¹²⁹ Lahore,¹³⁰ Multan,¹³¹ Karachi,¹³² and Quetta.¹³³ It should be noted, however, that in the case of Karachi it is not always possible to distinguish between TTP and its ally TTP-Punjab, otherwise known as the Punjabi Taliban.

113. As a consequence of its strict adherence to the Wahabbi/Deobandi Sunni philosophy and interpretation of Sharia various TTP commanders have been implicated in violent attacks on religious minorities, specifically Shia Muslims in FATA and KPK. Many TTP commanders have historic connections with violently anti-Shia organisations such Sipah-e-Sahaba Pakistan (SSP) Lashkar-e-Jhangvi (LeJ), and Lashkar-e-Tayyaba (LeT) and reported TTP attacks on Shia could be viewed as a continuation of that animosity¹³⁴
114. Furthermore, TTP activities against Shia should be read as part of a broader strategic agenda. The most concerted anti-Shia attacks attributed to the TTP have occurred in the Kurram Agency in FATA. The Kurram Agency is a strategically significant region that borders Afghanistan giving ready access to Kabul. It also offers an important counter-insurgency base for activities against Pakistan Army operations in North and South Waziristan. Shia and Sunni tribes in the Kurram have had a long-standing conflict over land and resources. The strategic significance of Kurram has made it an important region for the Afghan Taliban/Haqqani Network and as such TTP activities against Shia tribes in Kurram can be seen as not only consistent with anti-Shia ideology but also vital to the strategic priorities of the TTP and its allies the Afghan Taliban/Haqqani Network¹³⁵.

¹²⁷ Anjum, S. 2011, 'Five TTP terrorists arrested near Islamabad', *The International News*, 9 December <<http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=81370&Cat=2>> Accessed 13 December 2011 ; 'TTP Militant arrested in Islamabad' 2011, *Dawn*, 15 August <<http://www.dawn.com/2011/08/15/ttp-militant-arrested-in-islamabad.html>> Accessed 13 December 2011.

¹²⁸ Singh, R 2009, 'Pakistani Taliban, TTP, Claim Rawalpindi Mosque Attacks', Rani's Report website, 5 December <<http://ranisingh.blogspot.com.au/2009/12/pakistani-taliban-ttp-claim-rawal-pindi.html>> Accessed 17 May 2012 'Key TTP commander killed: reports' 2010, *The Express Tribune*, 30 October <<http://tribune.com.pk/story/70055/key-ttp-commander-killed/>> Accessed 17 May 2012.

¹²⁹ 'Faisalabad suicide attack: Four militants of TTP-allied group arrested' 2011, *The Express Tribune*, 24 March <<http://tribune.com.pk/story/136856/faisalabad-suicide-attack-four-militants-of-ttp-allied-group-arrested/>> Accessed 13 December 2011; Akhtar, S. 2011, 'Car Bomb kills 23 in Faisalabad', *The International News*, 9 March <<http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=4471&Cat=13&dt=3/8/2011>> Accessed 13 December 2011.

¹³⁰ 'TTP Claims Responsibility of Lahore Blast' 2011, *The International News*, 25 January <<http://www.thenews.com.pk/NewsDetail.aspx?ID=10063&title=TTP-claims-responsibility-of-Lhr-blast>> Accessed 13 December 2011, see also: Rehman, Z. U. 2011, 'Growing Urban Islamist Militancy in Punjab Province Poses New Challenge for Pakistani Authorities', *Terrorism Monitor*, Vol. 9, Issue 39, October, p.6 <http://www.jamestown.org/uploads/media/TM_009_Issue39_02.pdf> Accessed 12 December 2011

¹³¹ '3 TTP Commanders among 17 Terrorists arrested in Punjab' 2011, *The Express Tribune*, 16 November <<http://tribune.com.pk/story/292773/3-ttp-commanders-among-17-terrorist-arrested-in-punjab/>> Accessed 13 December 2011.

¹³² A majority of the notices in the following relate to TTP activity in Karachi: 'TTP activity in Sindh Province 2011' 2011, South Asian Terrorism Portal

<<http://www.satp.org/satporgtp/countries/pakistan/sindh/timeline/index.html>> Accessed 12 December 2011
Mir, A. 2011, 'TTP has a long list for Karachi', *The International News*, 21 September <<http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=68680&Cat=6>> Accessed 13 December 2011.

¹³³ 'Afghan Taliban turns Quetta into safe haven: report' 2011, IBN Live website, source: *Press Trust of India*, 17 October <<http://ibnlive.in.com/news/afghan-taliban-turns-quetta-into-a-safe-haven-report/193870-56.html>> Accessed 13 December 2011.

¹³⁴ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report N°164, 13 March, p.i

¹³⁵ See for example: ¹³⁵ Khan, M.I. 2010, 'The Pakistani tribe that is taking on the Taliban', *BBC News*, 7 October <<http://www.bbc.co.uk/news/world-south-asia-11486528>> – Accessed 14 October 2010 –; 'Siraj Haqqani sheltering in Kurram, near area of US helicopter strikes' 2010, *The Long War Journal*, , 22 October <http://www.longwarjournal.org/archives/2010/10/siraj_haqqani_shelte.php> – Accessed 11 November 2010 –;

Haqqani Network

115. The Haqqani network has been described as “one of Afghanistan’s most experienced and sophisticated insurgent organisations”. Based in the North Waziristan Agency (NWA) in Pakistan’s FATA, the Haqqani network is led by Siraj Haqqani, the son of network founder Jalaluddin Haqqani. According to one source the Haqqani network “is a coalition of militants that train terrorists, provide logistics, and organise operations against US, NATO, and Afghan forces in Afghanistan.”¹³⁶ The Haqqanis are reported to have links with foreign fighters and groups, as well as native Pakistani insurgent groups including the TTP, Sipah-e-Sahaba (SSP), Lashkar-e-Taiba (LeT) and Lashkar-e-Jhangvi (LeJ). The Haqqani network is officially part of the Quetta *Shura* Taliban organisation, but it maintains its own command and operational structure.
116. Like the Quetta *Shura* Taliban, the Haqqani network is reportedly protected by “elements within the Pakistan security establishment”, who view the Haqqani network as a “proxy force” representing Pakistani interests.¹³⁷ Despite denials from Pakistani officials that the ISI makes use of the Haqqani network in such a manner, a 2010 article cites a reported intelligence intercept from 2008 in which Pakistan’s Army Chief referred to Jalaluddin Haqqani as a “strategic asset”.¹³⁸

Shia Muslim Professionals

117. A campaign of targeted assassinations of Shia Muslim professionals in Pakistan in recent years is well-documented. In 2010 in Karachi, targeted killings of Shia professionals periodically exceeded killings of political party members. Jamestown Foundation’s *Terrorism Monitor* reported that “the involvement of sectarian anti-Shi`a organizations who are closely allied with the Taliban cannot be ruled out, as most of the killings during the last four to five months have targeted Shi`a professionals”.¹³⁹
118. Writing in *The National Interest* in 2010, Ahmed Rashid stated that “[p]rominent Shia technocrats – politicians, doctors, architects, bureaucrats and judges – have been singled out for assassination in all major cities”.¹⁴⁰ According to Claude Rakisits, “Shia doctors, lawyers and other professionals are gunned down by hit squads who want to cleanse Pakistan of its highly educated Shia minority”.¹⁴¹ In August 2012, a Shia judge, his driver and police

‘Kurram Agency and the U.S. and Pakistan’s Divergent Interests’ 2010, Stratfor Global Intelligence, 2 November

http://www.stratfor.com/analysis/20101101_kurram_agency_and_us_and_pakistans_divergent_interests – Accessed 11 January 2010 – See also Country Advice, 2012 *Shia Muslims in Pakistan*, Issues Paper, June.

¹³⁶ Wadhams, C and Cookman, C 2009, ‘Faces of Pakistan’s Militant Leaders’, *Centre for American Progress*, 22 July <<http://www.americanprogress.org/issues/2009/07/talibanleaders.html>> Accessed 21 May 2012

¹³⁷ Dressler, J. 2010, *The Haqqani Network: From Pakistan to Afghanistan*, Institute for the Study of War, October, p. 2 <http://www.understandingwar.org/sites/default/files/Haqqani_Network_0.pdf> Accessed 20 June 2012

¹³⁸ Kronstadt, K.A. 2010, ‘Pakistan: Key Current Issues and Developments’, Congressional Research Service Report for Congress, 1 June, p.36

¹³⁹ Shah, T.A. 2010 ‘Karachi Emerges as Pakistan’s New Tinderbox of Violence and Extremism’, Jamestown Foundation, *Terrorism Monitor*, Volume VIII, Issue 26, 1 July, pp.5-6

¹⁴⁰ Rashid, A. 2010, ‘The Anarchic Republic of Pakistan’, *The National Interest*, 24 August <<http://nationalinterest.org/article/anarchic-republic-pakistan-3917?page=show>> Accessed 7 January 2011

¹⁴¹ Rakisits, C. 2009, *Urban Conflict in Pakistan*, Geopolitical Assessment.com, 30 January, p.5 <http://www.geopoliticalassessments.com/Urban_conflict_in_Pakistan.pdf> Accessed 19 May 2011

bodyguard were shot dead by unidentified gunmen riding on a motorbike in Quetta.¹⁴²

According to a 2010 report *The Open City: Social Networks and Violence in Karachi*, by that year, at least 26 Shia Muslim doctors had been assassinated in Karachi alone. The authors of the report argue that these assassinations are part of “a systematic campaign to target educated professionals within the Shia community – presumably in the expectation that this would lower the community’s morale and encourage its members to seek emigration.”¹⁴³

119. A similar campaign occurred in the late 1990s when “around one hundred Shia professionals in Karachi were gunned down as part of a targeted killing campaign carried out by SSP and LEJ”. According to Hassan Abbas, a major consequence of this was that “many Shia professionals began moving to the United Kingdom, United States, and Canada.”¹⁴⁴
120. In early 2012, reports were published indicating that Shia doctors continue to be targeted for kidnapping and assassination. On 27 January 2012, a Dr. Mohsin Jafar was assassinated in the Karachi suburb of F.B. Area. Jafaria News, a Shi’ite News Service, claimed that he was killed by two members of Lashkar-e-Jhangvi.¹⁴⁵ In Peshawar, Shia cardiologist Dr. Syed Jamal was kidnapped from his home and later killed.¹⁴⁶
121. There is also evidence that other Shia professionals continue to be targeted. In January 2012, three lawyers were assassinated in Karachi.¹⁴⁷ An April 2012 report in *The Express Tribune* quoted a Hazara protestor in Lahore who claims that Hazara professionals are specifically targeted in Quetta.¹⁴⁸

FINDINGS AND REASONS

122. The applicant claims to be a national of Pakistan and has provided a number of identity documents in support of his claim. The Tribunal accepts he is a national of Pakistan and finds that Pakistan is the applicant’s country of nationality.
123. The Tribunal is satisfied that on the evidence before the Tribunal, the applicant does not have the legal right to enter and reside in any other country, therefore, the Tribunal finds that he is not excluded from Australia’s protection obligations under s36(3).

¹⁴² Human Rights Watch 2012, *Shia Killings Escalate; Government and Security Forces Fail to Protect Muslim Minority*, 5 September <<http://www.hrw.org/news/2012/09/05/pakistan-shia-killings-es%20calate>> Accessed 7 September 2012

¹⁴³ Budhani, et al 2010, *The Open City: Social Networks And Violence In Karachi*, Crisis States Research Centre, Working Paper No.70, March, p.6 <<http://www.crisisstates.com/download/wp/wpSeries2/WP70.2.pdf>> Accessed 7 January 2011

¹⁴⁴ Abbas, H. 2010, *Shiism and Sectarian Conflict in Pakistan: Identity Politics, Iranian Influence, and Tit-for-Tat Violence*, Combating Terrorism Center at West Point, Occasional Paper Series, 22 September, p.39

¹⁴⁵ Jafaria News 2012, *Another Shia Doctor & Trustee of Imambargah Embraces Martyrdom by the Target Killing of SSP in Karachi*, 29 January <<http://jafarianews.com/2012/01/29/another-shia-doctor-embraces-martyrdom-by-the-target-killing-of-ssp-in-karachi/>> Accessed 14 March 2012

¹⁴⁶ Turi, S.H. 2012, *Kidnapped and forgotten sons of Parachinar*, Pakistan Blogzine <<http://pakistanblogzine.wordpress.com/2012/02/25/kidnapped-and-forgotten-sons-of-parachinar-by-sibth-ul-hassan-turi/>> Accessed 21 March 2012

¹⁴⁷ ‘Gunmen kill three lawyers in Karachi’ 2012, *Dawn*, 26 January <<http://www.dawn.com/2012/01/25/gunmen-kill-three-lawyers-in-karachi.html>> Accessed 21 March 2012

¹⁴⁸ Shaukat, A. 2012, ‘Sectarian violence: Lahore protests against Quetta killings’, *The Express Tribune*, 17 April <<http://tribune.com.pk/story/366039/sectarian-violence-lahore-protests-against-quetta-killings/>> Accessed 23 April 2012

124. The applicant claims to be at risk of persecution in Pakistan on the basis of his Shi'a Muslim religion and Bangesh ethnicity and his real and imputed political opinion (anti-Taliban). The Tribunal considers that the applicant's identity as a Shia and Bangesh to be closely linked.
125. The Tribunal received submissions on the claims, particularly the ongoing violence that is occurring in FATA, and how Shi'a Muslims are at significant risk of harm from the Taliban and Taliban sympathising Sunnis as well as addressing the issue of relocation.
126. The applicant claimed that he was a Shia Muslim and a member of the Bangesh tribe. He gives his address at [Village 1], Upper Kurram Agency Independent sources indicate that the Bangesh tribe in Pakistan comprises both Sunni and Shi'a Muslims and dominate Hangu and Kurram valley and that Shi'a members of the Bangesh tribe live in locations alongside Turi Shi'as in Upper Kurram Agency.
127. Based on the evidence before it, the Tribunal accepts that the applicant is a Shi'a Muslim from the Bangesh tribe from the [Village 1], Upper Kurram Agency in Pakistan. The Tribunal further accepts the applicant's evidence as to his experiences in Kurram Agency considering it to be consistent with country information from independent sources before the Tribunal that indicate that the sectarian conflict in Pakistan splits along tribal, religious and political lines. The Tribunal notes that much of the country information concerns members of the Turi and Bangesh tribes from Kurram Agency who are engaged in conflict with the Taliban and other Sunni extremists.¹⁴⁹
128. The information provided by the applicant and supported by country information, describes a situation in Parachinar and the Kurram Agency in general that is fraught with difficulty, danger and sporadic incidents of violence. The country information is overwhelming regarding the present dangers in Kurram Agency. Sources referred to above indicate that the sectarian conflict in Kurram Agency is ongoing and claimed more than 1,500 lives, injured thousands more and caused massive dislocation of residents. The devastating effects of this conflict on the Shi'a residents of Parachinar have been widely reported. Attempts by the Pakistani authorities to normalise relations between Sunni's and Shia's, between feuding tribal entities, to crack down on Taliban related attacks, and to bring about some form of temporary ceasefire, have so far failed. Agreements to stop fighting have been disrupted by elements seeking to continue the fight in this part of Pakistan, and destroy what little trust exists.
129. The Tribunal agrees with the delegate's decision in relation to the concerns about the Kurram Agency, and accepts that the applicant's claims are genuine. The Tribunal finds that there is a real chance that the applicant will face serious harm from Sunni extremist organisations, such as the Haqqani Network or Tehrik-e-Taliban (TTP), who are seeking to harm Shia individuals from the Kurram Agency, due the extremist organisations' interest in destabilising the FATA region generally, and interest in establishing a base of operations in the Kurram Agency and the passes into Afghanistan, should he return to his home now or in the foreseeable future.

Protection

¹⁴⁹ http://www.longwarjournal.org/archives/2010/10/siraj_haqqani_shelte.php – Accessed 11 November 2010

130. The persecution feared by the applicant is from non-state agents being the Haqqani Network or Tehrik-e-Taleban (TTP) or the Taliban or other Sunni extremist organisations. The harm feared by the applicant is being killed.
131. The Tribunal is satisfied that as the motivation for such militant Sunni extremist groups to target Shia Muslims because of their religion and imputed political opinion.
132. The Tribunal finds that if the applicant were to return to Pakistan there is a real chance that he would face harm, amounting to serious harm for the purpose of s91R(1)(b) of the Act. The Tribunal finds that the harm the applicant fears involves systemic and discriminatory conduct, as required by s91(1)(c), in that it is deliberate or intentional and involves selective harassment as evidenced by the country information above indicating that the group of which he is a member are routinely targeted by armed insurgent forces in Pakistan, for a Convention reason.
133. The Tribunal finds that the applicant's religion is the essential and significant reason for the persecution feared by him as required by paragraph 91R(1)(a) of the Act.

Availability of State Protection

134. The applicant claims that state protection against the threatened harm is not available to him in Pakistan. The country information cited above shows that the authorities have little control over the Kurram Agency, that the police force do not have any real presence and that there is no state protection available in this part of Pakistan for individuals who have a background such as the applicant's. Country information also suggests although there are occasional arrests of terrorists by the Pakistani authorities, those authorities have themselves been infiltrated by extremist Sunni organisations, are generally corrupt and ineffectual, and offer little or no protection to members of religious minority groups such as Shias.
135. The Tribunal has had consideration of the advice provided in the United Nations High Commissioner for Refugees May 2012 UNHCR *Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan* The advice is direct in that there are significant concerns with the protection the government is able to offer minority groups in Pakistan at present. The UNHCR describes certain groups as acting with impunity in respect to their targeting certain groups, and Shias from Parachinar are one such group who face particular targeting by the Taliban with little prospect of protection from the authorities.
136. The Tribunal finds based on this evidence that the State of Pakistan at present fails to provide the level of protection that its citizens are entitled to expect according to international standards. The Tribunal concludes that the applicant's unwillingness to seek protection from those authorities is therefore justified: *MIMIA v Respondents s152/2003* (2004) 222 CLR 1.

Relocation

137. Having determined that the applicant does have a genuine fear to return to his home region, the Tribunal is required to consider whether the applicant could reasonably relocate to a separate part of Pakistan. Depending upon the circumstances of the particular case, it may be reasonable for a person to relocate in the country of nationality or former habitual residence to a region where, objectively, there is no appreciable risk of the occurrence of the feared persecution. Thus, a person will be excluded from refugee status if under all the

circumstances it would be reasonable, in the sense of ‘practicable’, to expect him or her to seek refuge in another part of the same country. What is ‘reasonable’ in this sense must depend upon the particular circumstances of the applicant and the impact upon that person of relocation within his or her country. However, whether relocation is reasonable is not to be judged by considering whether the quality of life in the place of relocation meets the basic norms of civil, political and socio-economic rights.

138. The issue of whether it would be reasonable to expect an applicant to relocate within Pakistan only arises if the circumstances indicate that there is a region where, objectively, there is no appreciable risk of the occurrence of the feared persecution, that is, where the feared persecution is localised rather than nation-wide.
139. It was submitted on behalf of the applicant that relocation is not reasonable in his particular circumstances as there is nowhere in Pakistan that is safe for a Shi’a Muslim of the Bangesh tribe from [Village 1] because of the depth of enmity towards Shi’as from extremist Sunni organisations. These organisations have strong networks throughout Pakistan and in many cases have infiltrated the police and other authorities providing protection. The applicant indicates that he regularly attends mosque and religious festivals. He has no family or social networks in any other area of Pakistan and has limited employment experience. The applicant claims that he will be readily identifiable as a Shi’a through his accent and dialect as being from the Kurram Agency and his identity documents identify him as being from the Kurram Agency and display his name as being from the Bangesh tribe. He will be identified as a Shi’a from the way he greets people, the way he prays, holds his arms and practices flagellation. He risks being identified by appearance and dress while participating in ceremonies and processions. He states it is difficult to find Pashtun Shi’a places of worship outside Kurram Agency and would have to share a Shi’a mosque with Hazara people where he would be clearly identified as not being a Hazara. The Tribunal accepts the applicant’s claims that he would be easily identified as from Kurram Agency and as a Shi’a Muslim.
140. The Tribunal does not consider that the applicant can reasonably relocate to the Provinces directly linked to FATA, including the nearby areas of Hangu, Peshawar, or the northern region of Baluchistan and Khyber Pakhtunkhwa Province, as all are significantly populated by pro-Taliban Sunni populations, internally displaced people who have moved out of Kurram Agency, and extremists who belong to a number of Deobandi organisations such as Lashkar-e-Jhangvi or Sipah-e-Sahaba, and the Tehrik-e-Taliban.
141. The Tribunal has therefore considered the country information regarding areas of Pakistan outside of these Provinces and Districts and formed the view that the harm feared by the applicant in [Village 1] exists in other parts of Pakistan. The country information reviewed by the Tribunal regarding various cities describes places that are affected by sectarian violence on an ongoing basis. In fact, country information indicates that sectarian politics and violence throughout Pakistan is increasing and becoming more violent. There are some circumstances where organisations are willing to demonstrate their disapproval of the violence, but the nature of the terror organisations are such that they are able to randomly attack individuals or locations without limitation.
142. The Tribunal has considered the delegate’s finding that the applicant could relocate to Islamabad-Rawalpindi and the submissions put forward to it as well as relevant country information.

143. The delegate referred to the applicant living safely in Islamabad for about six months while studying at College. The delegate did not find the applicant's evidence about the attempted kidnapping credible. The delegate found that the applicant came to no harm in the time he lived in Islamabad but did note that this is not a test for future harm. The Tribunal finds it feasible that there was an attempt to kidnap the applicant and that the Sunni guard warned the applicant in advance.
144. Islamabad is the capital city of Pakistan and a number of significant institutions are located in the city, including the Parliament and Department buildings. Rawalpindi is the headquarters of the Pakistani armed forces. It has been the site of a number of violent activities, including assassinations of prominent individuals, and general violent outbursts. The object of the violence is to create a general level of instability in which insurgent groups can seek to further their sectarian aims. Country information is that Islamic militants have established a strong presence in Islamabad and Rawalpindi. That the applicant would seek to relocate to this city would place him at risk of being harmed by forces that seek to use extortion to further their anti-Government objectives.
145. In the applicant's case, he is recognisably from the Bangesh tribe from Kurram Agency, and as a Shi'a Muslim. Country information indicates that Shi'a Muslims are recognised as enemies of not only the Taliban, but also other militia groups in Pakistan because of their Shi'a religion. Country information indicates that Shi'a Muslims are targeted for harm in Islamabad- Rawalpindi. Taking into account all of these factors, including a recent report from the ICG cited above which indicates increasingly violent sectarian politics in Pakistan, the Tribunal is not satisfied that the applicant would be able to safely avoid the harm he fears in Kurram Agency by relocating elsewhere in Pakistan. Therefore, the Tribunal finds that there is no-where in Pakistan where, in the reasonably foreseeable future, there is no appreciable risk of the persecution feared.
146. For these reasons, the Tribunal finds that the risk he faces is real and substantial, so that a well-founded fear of persecution is established.
147. The Tribunal finds that the applicant has a well-founded fear of persecution in Pakistan for a Convention reason now and in the reasonable foreseeable future and that he satisfies the definition of refugee.
148. Because the Tribunal has found that the applicant has a well-founded fear of persecution based on his religion, it is not necessary to consider his other claims.

CONCLUSIONS

149. The Tribunal is satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore the applicant satisfies the criterion set out in s.36(2)(a).
150. Having concluded the applicant meets the refugee criterion set out in s36(2)(a), the Tribunal is not required to consider the alternative criterion in s36(2)(aa).

DECISION

151. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act.