

1216767 [2013] RRTA 179 (27 February 2013)

DECISION RECORD

RRT CASE NUMBER:	1216767
DIAC REFERENCE(S):	CLF2012/196484
COUNTRY OF REFERENCE:	Pakistan
TRIBUNAL MEMBER:	Jane Marquard
DATE:	27 February 2013
PLACE OF DECISION:	Sydney
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 and Citizenship for the visa on [date deleted under s.431(2) of the *Migration Act 1958* as this information may identify the applicant] September 2012.
3. The delegate refused to grant the visa [in] October 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. 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

18. 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.

Departmental file

19. After arriving in Australia the applicant was interviewed by officers of the Department. According to the records, he stated that he was born in [year deleted: s.431(2)] in [Village 1, Town 2], Kurram Agency, Kohat in Pakistan. He attended school in [Town 2], and then a number of universities, including [University 3 in] Peshawar in [year deleted: s.431(2)]. In 2011 he worked for [employer deleted: s.431(2)].
20. He stated that he is married with [children] (family details deleted: s.431(2)). His father works in [occupation deleted: s.431(2)] and lives with his mother in [Village 1]. He also has [siblings deleted: s.431(2)].

21. He provided a copy of his birth certificate showing that he was born in [year deleted: s.431(2)] in [Town 2], Kurram Agency. A copy of his marriage certificate indicates that he was married in [year deleted: s.431(2)] in [Town 2]. Academic records show he completed secondary school and a [qualification deleted: s.431(2)] in Peshawar, as well as a [qualification deleted: s.431(2)] in Kohat. He also completed a [qualification deleted: s.431(2)] at [University 3] in Peshawar. A domicile certificate indicates that he belongs to the Bangash tribe. A copy of his passport was also provided.
22. When asked why he left Pakistan he said [in] 2012 he was ten minutes away from a bomb blast in [Town 2] and he lost a friend in the explosion. He also told of their village getting attacked by the Taliban and how difficult it was getting a job because of road closures. He said close friends were kidnapped.
23. In a statutory declaration date [in] September 2012 he confirmed that he is a Shi'a Pashtun and was born in [Town 2].
24. He stated that he left the country because in 2007 the Taliban wanted access to their area to attack NATO in Afghanistan. The Shi'a elders and communities refused to comply with their request. They did not want counterattacks leading to war in the region. The Taliban were furious and started attacking Shi'as in the region accusing them of siding with NATO. In one incident, the Taliban attacked the Shi'a Imambargah mosque killing almost 50 Shi'as. They have burnt cars, beheaded Shi'as and demanded ransom money.
25. The applicant said that in June 2010 he and two friends were about to exit the gate of [University 3 in] Peshawar when they noticed a Pashtun on his mobile phone calling to another 3 to 4 nearby Pashtuns. They heard him say "they were coming out" When they heard those words and saw the Pashtuns get out of 3 separate cars, they rushed back through the university gate. The Pashtuns had short rifles and their faces were covered with masks. This university was comprised of 90% Sunni and 10% Shi'a, most of whom were from [Town 2]. Other Sunni students often questioned them about being Shi'a and not giving access to the Taliban. They thought that the Pashtuns wanted to kidnap them and had informers amongst the students.
26. In October 2010 the Taliban attacked his village. He and his family were awoken by machine gun shots, mortar attacks, grenade attacks and explosions. The local militia (border security guards hired by the government) counter attacked for an hour and the family hid underground.
27. [In] February 2012 he went to Peshawar to follow up on his application for a tourist visa to Malaysia. On the way back he took a small bus from Peshawar to [Town 2]. There were about 8 or 9 Shi'as in the bus. When they arrived in Kohat, the bus was chased by 5 Talebs in a small [car deleted: s.431(2)]. They had weapons and their faces were covered. When the bus arrived at the [location deleted: s.431(2)] between [locations deleted: s.431(2)], they approached the [gate] and sought protection from [officers]. He left Pakistan shortly thereafter.
28. After he left he heard about a suicide bomb [in] September 2012 in [Town 2], [details deleted: s.431(2)]. His [wife] and sister were shopping nearby but escaped without injury.

29. He claims to fear being killed by the Taliban. Taliban accuse Shi'as of infidel. Since 2007 a Taliban leader made an order to kill all Shia's. Taliban were ordered to check identification, and if someone has a Shi'a name to kill that person. The Pakistani authorities cannot provide protection. The Taliban kill all over Pakistan so he could not relocate.
30. In October 2012 a delegate of the Department refused the application for a protection visa. The delegate found that he faced a real chance of persecution for reasons of religion and that no effective state protection exists in Kurram Agency. However, he found that relocation to Islamabad is a safe and reasonable option for the applicant. He took into account the applicant's education and the fact that a large financial services industry exists in Islamabad.

Tribunal file

31. [In] February 2013 the applicant provided written submissions through his adviser. It was submitted that he fears persecution for reasons of his religion, imputed political opinion (opposition to Taliban), membership of the tribe, and membership of particular social groups of Shi'a Muslims from [Town 2]. A number of news articles and other documents were provided in support of his submissions. In response to the delegate's decision, it was submitted that nowhere in Pakistan is safe for Shi'as, with members of the Turi and Bangash tribes being particularly vulnerable to targeted killings and kidnappings. Even if the applicant relocated to Islamabad, Rawalpindi, Peshawar, Karachi or Lahore, it was submitted, he would be unable to hide his identity because of his name, accent and identification card. When applying for a job, he would be forced to present documents which would expose his identity.
32. It was further submitted that the applicant knows families who relocated and have been targeted. The applicant in a statement submitted as part of the submission, listed a number of people from [Town 2] who have been kidnapped or attacked while in other locations within Pakistan.
33. Country information was provided in support of the proposition that there is Taliban activity in Islamabad and Rawalpindi.
34. It was also submitted that kinship links and networks of patronage and friendship are crucial to survival in Pakistan. It was argued that the applicant will be more exposed to violence without these networks and also will have difficulty finding employment, shelter and access to services.
35. The applicant appeared before the Tribunal [in] February 2012 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Pashto and English languages. The applicant was represented in relation to the review by his registered migration agent, [name and agency deleted: s.431(2)].
36. The applicant confirmed that he was born in the village of [Village 1, Town 2], Kurram Agency in the Federally Administered Tribal Agency in [year deleted: s.431(2)]. He said that both his parents came from that area. They had about two acres of land, where they grew [crops deleted: s.431(2)]. He said it was a small farming village in [Village 1] and [name deleted: s.431(2)] are two adjoining villages. His father worked in [City

3] for some time, as there was very little work in the village. Now he has returned to the village and is not working at the moment. He was deported with other Shi'as from [City 3] because he was a Shi'a. His mother looked after the home. He has [siblings deleted: s.431(2)]. They all live in [Town 2]. He said because of the conflict in [Town 2] one of his brothers moved to [country deleted: s.431(2)], but has now returned. He said that they do not have extended family anywhere else in the country.

37. He was married in [year deleted: s.431(2)] and has [children and ages deleted: s.431(2)]. His wife does not work, she is looking after the children. She lives in the village, moving between his parents' house and her parents' house. His father and her parents support them. When he was living there, they lived with his parents. He was asked whether he is responsible for supporting any other family members and he said that his father supported them while he was in [City 3]. He was asked whether his children attend school. He answered that they attend a small primary village school, but cannot go in the city because of fear of bombs and kidnappings.
38. The applicant attended primary school in his village then another school in another village. After completing secondary school he studied for a [qualification deleted: s.431(2)] in [Town 2]. After that he completed a [qualification deleted: s.431(2)] at [University 3 in Town 2]. He said that he had a scholarship from the government and his father supported him while in [City 3]. He was asked how he supported his family while studying – he said that when his children were little they did not go to school but now his father pays for the school fees.
39. He said he was part of the Bangash tribe. Since 2007 life is difficult for the Bangash tribe in [Town 2]. He said that the Taliban have attacked the Bangash in their region since then, and the Bangash could not take sick patients to Peshawar. The Bangash could not apply for jobs, they would not be given to them. The Taliban have also killed professionals such as doctors.
40. He said that there is not a lot of difference between the Bangash and Turi, the only difference is the name. He said that the culture and religion is different for them than for the Sunnis. They have different religious festivals, ways of praying and religious principles.
41. He was asked whether the Bangash or Turi people are regarded as different to other Shi'a people in Pakistan. He answered that they are seen as different because the Taliban has targeted them as the Bangash and Turi refused to assist the Taliban in using their lands to attack NATO.
42. He described his family as a devoted, religious family. They attend mosque regularly.
43. He was asked what he did when he finished his university course. He said that he completed two months internship in a bank in [Town 2]. He only applied in [Town 2] but did not get any jobs. His father did not want him to apply more widely than [Town 2] as it was dangerous.
44. He was asked why he left to come to Australia. He answered that he came to Australia because it is peaceful and there are no bombings or kidnappings. He said that there were three incidents when he was attacked and escaped.

45. The first incident was when he was studying at the university. As he was coming out of the university gate, there were Sunnis waiting. He felt that the Sunnis at [University 3] had told the Taliban about the applicant and his friends, who were minority Shi'as at the university. I asked if he had ever had any trouble before with the Sunni students and he answered that whenever he and his fellow Shi'a students were in the classroom the Sunnis told them to convert and discriminated against them. There were four people waiting outside the gates, one was close, they were wearing masks. As the applicant and his fellow students came out the first man went on his mobile and said "come and get them" The applicant was immediately afraid and quickly returned into the university as he feared being kidnapped. There were police in the university. The intruders wore masks and rifles so could not come into the grounds. This happened in June 2010. After this he continued going to the university, he and the other Shi'a students went in groups and if they sensed danger they did not go. He believes that the men waiting for them that day were Taliban. There were many incidents of students being kidnapped, and sometimes the students' bodies were never returned by the Taliban, and sometimes they were. A number of students were kidnapped from his university. He was asked why he thought they were particularly targeted, and he answered that it was because he was a Shi'a from [Town 2]. The Turi and Bangash did not allow Sunnis to attack NATO from their lands. The Taliban identified him as a Turi or Bangash, and they think all Shi'as are kafir.
46. He was asked about the second incident. He said it was [in] February 2012 after his father told him to apply to go to Australia. When applying for a visa in Peshawar, he was returning by car through [location deleted: s.431(2)]. In his car, there were eight or nine Bangash or Turi Shi'a from [Town 2]. The Taliban spotted them. There were five of them in another vehicle, with masks and beards, and they had rifles. The applicant's car went very fast and they drove to [a location] for protection. They stayed for an hour with [those at the location], then they left. Ten minutes after they arrived in [Town 2], a bomb blast took place in [Town 2]. The applicant and his fellow passengers were a short distance from the bomb blast in which [casualties deleted: s.431(2)].
47. He said that in 2010 he was sleeping at home. The Taliban attacked their village at 11pm. The attack lasted for an hour. The border officials fired back. The Shi'a in the village had to take their women and children to an underground safe area. The applicant took his family there. The Taliban were attacking with heavy machinery and weapons.
48. He was asked what he fears about returning to Pakistan. He answered that if he returns the Taliban would easily kidnap and kill him. The situation in [Town 2] is very bad and he could not work there or anywhere else, as he would be identified as a Shi'a from [Town 2], by his identification papers, and the scars on his back. People from his area going to the Imam Hossein Tomb, were checked for scars and identification, and were shot. He was asked why he would be targeted by the Taliban, why they would be interested in him. He said that anyone who returns to Pakistan from [City 3] or Australia, as soon as the Taliban hear of him as a Shi'a he will be attacked, also his name is a common Shi'a name. Recently the leader of Lakshar-e-Jhangvi has said that no Shi'a in any place can escape them. They are easily targeted in Imam Hossein celebrations or other Shi'a festivals, and the government does not provide any protection as the government and Taliban are one. Recently there was an attack and Lakshar-e-Jhangvi took responsibility, and the government knew who they were and where they live, but does not take any action against them.

49. He was asked how his family – his parents, brother and siblings are able to live and work there safely without being attacked by the Taliban. He answered that [in] 2012 his wife and sister were in [Town 2] when a bomb blast occurred. His wife and sister were shopping and going to the doctor, they saw the bomb blast but thankfully nothing happened. His family cannot travel to Peshawar for fear of their lives. His mother is sick but they cannot take her to Peshawar.
50. He was asked why he did not move to another part of Pakistan and this way avoid these Taliban in his region. He said that it is not safe anywhere in Pakistan. In Islamabad the Taliban are living as a community. If identified he will be killed in other cities. He said that Shi'as from [Town 2] cannot live in Islamabad or Peshawar as they are dangerous. He said that in addition, Islamabad is very expensive and they do not have the financial resources to move there. No major city is safe and they do not have the money to move.
51. I said to him that it appeared he had very good qualifications in [subject deleted: s.431(2)] so may be able to find work elsewhere. I said he had good language capabilities so this should assist him in other cities. He responded that if he applied for jobs he would not get a job because he is Shi'a. He said even if he did get a job, he would be identified by the way he prays at work. Even the real estate agents would not let them rent a place once they see they are Shi'a, even in a hotel. I asked if he could not combat these problems by moving to an area where there are large Shi'a populations. He answered that there are Shi'a populations in the cities but they face kidnappings and killings. In the news, doctors are killed, students, lawyers and other professionals, the majority of them are Shi'a.
52. He said that they could not celebrate the Imam Hossein celebrations or pray if they moved elsewhere. He acknowledges that there are Shi'a people elsewhere in Pakistan but Shi'as from [Town 2] are particularly targeted. The Taliban know that their local language is Pashto, and all the Taliban know that they should target them. He said that they would be identified as Shi'a from [Town 2] if he lived in other cities because of their language. In Islamabad people speak Punjabi which they do not understand. They can be identified from their cards which clearly mentions they are Bangash from [Town 2]. His family is uneducated and cannot speak Urdu or any other language and if they went to the shops or hospital they would be identified at once.
53. I asked him about relocating to other places where there were significant Shi'a populations and fewer anti-Shi'a attacks, such as Hyderabad, rural Sindh, Lahore, Multan, southern Punjab or Karachi, Rawalpindi or Islamabad. He said that the situation in Karachi is very bad, with many people dying on a daily basis. In Lahore ten days ago a Shi'a doctor and his children were killed in targeted killings. In Islamabad and Rawalpindi, there was a bomb blast, during a religious celebration and 23 people died. The Taliban and Lakshar-e-Jhangvi have declared that Shi'as will be killed wherever they are as they are kafirs and non-Muslims.
54. I asked about other people he had heard about that had relocated and then faced harm. He said he has provided new documents about attacks on people who had moved to Islamabad and then had to move back because of attacks.
55. When asked if there was anything further to say, he said Shi'as cannot move to other parts of Pakistan. The country is in a very bad state, hundreds of Shi'as die, and he

wants to live in a peaceful country. He would follow all the rules and laws of Australia. He thanks the government for providing for him until now.

56. The representative referred to their written submissions. In regards to the country information, he submitted that the situation for Shi'a people is deteriorating in Pakistan. On pages 28/9 of their submission, they refer to continuing attacks on Shi'as in Islamabad particularly when observing religious festivals. He noted that the delegate found that the applicant had a well-founded fear of persecution. The country sources indicate that there is danger throughout Pakistan. In relation to reasonableness, he referred to page 4 of their submission where an academic states that they need kinship support networks or family in order to re-establish in other cities. The representative noted that the applicant is well-educated and articulate, but because he is Shi'a he would be identified as Shi'a and would have no kinship links and would have difficulty finding employment. He has a large family which makes relocation more difficult. He referred to the applicant's comments about difficulties in finding financial resources to relocate. In any case, it was submitted, Shi'as from Bangash or Turi are at particular risk anywhere in Pakistan. The representative referred to the applicant's statement in which he referred to his fear of relocation and listed numerous people who had come under attack when they attempted to relocate. The people from [Town 2] speak a different language, have a different accent, their identification card, certificates and other documents identify them as coming from [Town 2]. Although there are significant populations of Shi'a people in certain cities, this does not make it safe.

Country information

UNHCR Guidelines

57. In May 2012 the UNHCR issued new guidelines in relation to Pakistan, relevant extracts of which are set out below (UN High Commissioner for Refugees, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan*, 14 May 2012, HCR/EG/PAK/12/02, available at: <http://www.unhcr.org/refworld/docid/4fb0ec662.html> - accessed 18 September 2012):

These Guidelines are issued against a backdrop of ongoing freedom of religion and belief issues, as well as sectarian and religiously-motivated violence in the Islamic Republic of Pakistan (Pakistan).

They contain information on the particular profiles of religious minorities for which international protection needs may arise in the current context in Pakistan. UNHCR's recommendations, as set out in detail in these Guidelines, may be summarized as follows.

All asylum claims based on the refugee criteria contained in the 1951 Convention relating to the Status of Refugees² (1951 Convention) and/or its 1967 Protocol need to be considered on their own merits according to fair and efficient status determination procedures and up-to-date and relevant country of origin information.

UNHCR considers that asylum claims made by members of religious minorities require particularly careful examination of possible risks. UNHCR considers that members of religious minorities with the profiles described below may, depending on the individual circumstances of the case, be in need of international refugee protection. These risk profiles, while not necessarily exhaustive, include members of the ..Shi'a communities..

In the context of Pakistan, an internal flight or relocation alternative (IFA/IRA) will generally not be available in Federally Administered Tribal Areas, Khyber Pakhtunkhwa, as well as Balochistan province, which are currently affected by sustained security and military counter-insurgency operations and retaliatory militant attacks. Given the sustained religiously-motivated sectarian violence and the wide geographic reach of some armed militant groups, an IFA/IRA will generally not be available to individuals at risk of being targeted by such groups....

Approximately 95 percent of the population professes to be Muslim – of this 75 percent are Sunni and 20 percent are Shia....

Pakistan today consists of four provinces (i.e. Sindh, Punjab, Balochistan and Khyber Pakhtunkhwa, formerly known as the North-West Frontier Province), the Federally Administered Tribal Areas (FATA), as well as the capital territory, Islamabad...

Furthermore, sectarian violence, including militant attacks targeting religious processions and places of worship, continues to claim civilian lives. Counter-insurgency campaigns by military/security forces, retaliatory attacks by radical Sunni Islamist and militant sub-nationalist groups have reportedly led to the killing and displacement of civilians and destruction of property. It is reported that the population in Kurram Agency remains besieged as a result of regular attacks by militants on the road connecting the region to the rest of the country.

The largest Muslim minority in Pakistan, Shias, are the target of violent attacks by Sunni fundamentalist groups throughout the country. Sectarian violence between Sunni (Deobandi) and Shia Muslims is long-standing in Pakistan, dating from the mid-1980s. Until the mid-1990s, the majority of the sectarian-motivated attacks took place in Punjab, but violence has since spread to the rest of the country. Although both Sunni and Shia militant groups have engaged in acts of violence against each other over the years, according to analysts the majority of recent violent attacks were committed by Sunni militants inspired by al-Qaeda's ideology.

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 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. Tensions and clashes between Shia and Sunni tribes in Kurram Agency kept the main road linking the region to the rest of the country blocked throughout 2010 and 2011 (with the exception of a brief reopening in February 2011), thereby impeding access to provisions as well as healthcare services. Incidents of violence against the Shia minority continued in 2011 in Pakistan's Kurram tribal agency, despite an alleged peace deal between the Taliban and Shia tribes in the area brokered by Pakistani security forces in February 2011.... 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.

Shia's in Pakistan

58. The U.S. Department of State published the International Religious Freedom Report on 13 September 2011, which detailed sectarian violence throughout Pakistan:

Sectarian violence continued in different parts of the country during the reporting period, with attacks on the Shia minority, particularly in Dera Ismail Khan, Quetta, Hangu, Kohat, Tank, DG Khan, Gilgit, and Kurram and Orakzai Agencies. Throughout the reporting period, attacks, threats, and violence by religious extremists occurred across the country, especially in Khyber Pakhtunkhwa. Attacks on houses of worship, religious gatherings, and religious leaders linked to sectarian, religious extremist, and terrorist groups resulted in hundreds of deaths during the reporting period. Sectarian violence between Sunni and Shia extremists continued during the reporting period, and several religious minority individuals and communities were the targets of religious violence across the country.¹

59. According to the Wall Street Journal:

Pakistan is in the midst of a low-grade war against its minority Shi'a population. Scarcely a month goes by without word of a new atrocity: a car bomb outside a Shi'a mosque in Queta during Ramadan, a suicide bombing of a Shi'a procession in Lahore, Shi'a doctors mysteriously shot in Karachi (Wall Street Journal, "*The plight of Pakistan's Shi'a*", Wall Street Journal, 13 September 2011).

60. 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".² The Report states that the government of Pakistan engages in and tolerates "systematic, ongoing and egregious violations of freedom of religion or belief".
61. 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".³

[Town 2]

62. [Information deleted: s.431(2)]

¹ U.S. Department of State 2011, *Pakistan: 2010 International Religious Freedom Report*, 13 September, p. 24 <http://www.state.gov/documents/organization/171759.pdf> - Accessed 11 April 2012.

² 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>> Accessed 2 April 2012

³ 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

63. [Information deleted: s.431(2)].⁴
64. The UK Home Office Report 2012 reported that Taliban groups control large swathes of FATA which “continues to deserve its reputation as the most dangerous place on earth.” It reports that constituents of the Taliban pose a significant threat throughout FATA, with them regularly confronting and defeating Pakistani forces (UK Border Agency, *Pakistan country of origin information report*, June 2012).
65. [Information deleted: s.431(2)]:
[Information deleted: s.431(2)].⁵
66. [Information deleted: s.431(2)]:
[Information deleted: s.431(2)].⁶
67. [Information deleted: s.431(2)]:
[Information deleted: s.431(2)].⁷

Anti-Shi’a fighting in Kurram/[Town 2]

68. [Information deleted: s.431(2)]⁸:
[Information deleted: s.431(2)]⁹
69. [Information deleted: s.431(2)]¹⁰:
[Information deleted: s.431(2)]¹¹
70. In February 2011, Zia ur Rehman¹² as per his blog *All Roads Lead to Kurram*, reports that although the jirga of tribal elders has agreed to end the conflict, it is a tentative peace given that the Shia community and some Sunni tribes find it difficult and risky to move out of Kurram Agency given the presence of Taliban militants in the area:

Although Sunni and Shia warring tribes of Kurram Agency have agreed to end their four-year long conflict through a government-backed jirga of tribal elders, it is yet to be seen how long the deal holds ground and helps maintain normalcy in the area.

⁴ [Information deleted: s.431(2)]

⁵ [Information deleted: s.431(2)]

⁶ [Information deleted: s.431(2)]

⁷ [Information deleted: s.431(2)]

⁸ [Information deleted: s.431(2)]

⁹ [Information deleted: s.431(2)]

¹⁰ [Information deleted: s.431(2)]

¹¹ [Information deleted: s.431(2)]

¹² Zia Ur Rehman is a journalist and social researcher associated with Central Asia Online and Weekly Hum Shehri and his writes up also appears in The News, Jamestown Foundation, New York Times, The Friday Times, Himal South Asian and Counter Current. He has also worked with Sustainable Development Policy Institute (SDPI) and Labour Education Foundation (LEF). He belongs from Swat Valley, Khyber Pakhtoonkhwa but lives in Karachi.

Kurram, one of Pakistan's seven tribal agencies, borders Khost, Paktia and Nangarhar in Afghanistan and Khyber, Orakzai and North Waziristan agencies in Pakistan. Unlike in other tribal agencies of Fata, sectarian tensions are the main drivers of militancy in Kurram Agency.

During the last four years, the roads in Kurram Agency, especially Thal-Parachinar Road connecting Kurram with Peshawar, had remained closed and people had been trapped in their areas. The Shi'a community as a whole and some Sunni tribes like Mangal in Upper Kurram find it extremely difficult and risky to move out of Kurram Agency. They were not able to travel on the Thal-Parachinar road as it was controlled by Taliban militants. Shi'as were compelled to use only one road which runs through the Afghan cities of Khost, Gardez, Kabul and Jalalabad.¹³

71. [Information deleted: s.431(2)]:

[Information deleted: s.431(2)].¹⁴

72. [Information deleted: s.431(2)].¹⁵ [Information deleted: s.431(2)]¹⁶

Tehrik-e-Taliban Pakistan

73. The term Taliban most often refers to the Sunni extremists who governed Afghanistan under Mullah Mohammad Omar until 2001. Led by Mullah Omar the Afghan Taliban re-established itself in Pakistan, especially in Baluchistan and continues operations along the Pakistani/Afghan border and into Afghanistan. This group enjoys support and co-operation from the locally based Sunni militants in Pakistan but are distinct from the Pakistani Taliban.

74. The name "Taliban" in Pakistan refers to a number of militant groups which operate in various parts of the country. These include Tehrik-e-Taliban (TTP), Muqami Tehrik-e-Taliban (MTT) and Punjabi Taliban. There are also smaller militant groups operating in FATA and Kyber Pakhtunkhwa.

75. Formed in December 2007, *Tehrik-e-Taliban Pakistan* (TTP) is a self-styled umbrella organisation for a number of militant Pashtun groups in Khyber-Pakhtunkhwa (KPK) and the Federally Administered Tribal Areas (FATA). The TTP's first leader, Baitullah Mehsud, was killed in a US drone strike in 2009.¹⁷ In mid-2010 it was reported that the current TTP leader, Hakimullah Mehsud, directly commanded 5,000-10,000 militants, and the total TTP force comprised up to 35,000 armed militants.¹⁸ Hakimullah Mehsud has been described as "violently sectarian" and the "scourge of the Shias in Kurram".¹⁹

¹³ Zia Ur Rehman, *All Roads Lead to Kurram*, 2011, Afpakwatch, 27 February 2011, <http://afpakwatch.wordpress.com/2011/02/27/all-roads-lead-to-kurram/>

¹⁴ [Information deleted: s.431(2)]

¹⁵ [Information deleted: s.431(2)]

¹⁶ [Information deleted: s.431(2)]

¹⁷ Freedom House 2010, *Freedom in the World – Pakistan*, 1 June, 2010

¹⁸ Kronstadt, K.A. 2010, *Pakistan: Key Current Issues and Developments*, Congressional Research Service Report for Congress, 1 June, p.26

¹⁹ International Crisis Group 2009, *Pakistan: Countering Militancy in FATA*, Asia Report N°178, 21 October, p.6

76. The TTP's primary target is the Pakistan Army.²⁰ However, its radical anti-Shi'a theology has meant that it also targets Shi'a Muslims, particularly in the 'middle agencies' of the FATA. A 2010 report into the TTP by the Danish Institute for International Studies (DIIS) states that many of the current leaders of the TTP have "LeJ backgrounds" and therefore Shi'as are "targeted with al-Qaida-inspired vigour".²¹
77. In 2009, the ICG argued that while the TTP "supposedly coordinates" its members, it lacks real unity.²² This claim was reinforced in 2011 by reports of internal conflict; in August 2011, *Terrorism Monitor* reported that the TTP appeared to be "slowly disintegrating as various commanders try to pull it in different directions." The author of the article cites as evidence the announcement by the TTP Commander in Kurram Agency, Fazal Saeed Haqqani that his group had seceded from the TTP. Fazal Saeed formed a new group, vowing to no longer allow the TTP to operate in Kurram.²³ Despite criticising TTP policy of targeting Pakistani civilians, Fazal Saeed's new group *Tehrik-e Taliban Islami* (TTI) claimed responsibility for a suicide bombing of a market located in front of a Shi'a mosque in Parachinar, the administrative capital of Kurram, in February 2012, resulting in the deaths of at least 26 civilians.²⁴
78. According to a *Eurasianet* article, the TTP is splintering and quotes former security chief for the Federally Administered Tribal Areas (FATA), Brigadier Mahmoud Shah, who states that "Tehrik-e Taliban Pakistan is now very weak, and now there are small groups emerging that were part of it in the past" In North Waziristan a new alliance of former TTP splinter groups has reportedly formed, calling itself the *Itihad-e Mujahedin Khurasan*²⁵
79. Reports indicate that TTP cells are able to communicate with affiliates across Pakistan, though it is not clear whether a formal network for communication exists or whether the communication depends on the capabilities of the individual cells/local network. In September 2008, Pakistan officials stated that the TTP in TAPA and KKP "has good weaponry and a better communication system (than ours)."²⁶ However, the nature of the communication system is not described. In an August 2009 article in the *Pakistani Spectator*, written by a retired Brigadier in the Pakistan Army, the author claims that the TTP tends not to use mobile phones, relying instead on human couriers where possible. The author claims, however, that the courier network is extensive:

²⁰ Qazi, S.H. 2011, *An Extended Profile of the Pakistani Taliban*, ISPU Policy brief No.44, August, p.6

²¹ 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, pp.22, 27 <http://www.diis.dk/graphics/Publications/Reports2010/RP2010-12-Tehrik-e-Taliban_web.pdf> Accessed 19 November 2011

²² International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report N°164, 13 March, p.12

²³ Jamal, A. 2011, 'Haqqani Network Growing Stronger at the Expense of the Tehrik-e-Taliban', *Terrorism Monitor*, Jamestown Foundation, Volume IX, Issue 31, 4 August, p.5 <http://www.jamestown.org/uploads/media/TM_009_Issue31_02.pdf> Accessed 30 August 2011

²⁴ '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 'Blast at Pakistan town kills 26' 2012, *BBC News*, 17 February <<http://www.bbc.co.uk/news/world-asia-17077358>> Accessed 8 March 2012; Grubbs, J.T. 2012, 'The Looming Storm in Pakistan's Kurram Agency', *Terrorism Monitor*, Jamestown Foundation, Vol.X, Issue 5, 9 March, p.6 <http://www.jamestown.org/uploads/media/TM_010_Issue05_02.pdf> Accessed 19 March 2012

²⁵ 'Why are Pakistan's militant group's splintering?' 2011, *Eurasianet*, 1 October <<http://www.eurasianet.org/node/64251>> Accessed 19 October 2011

²⁶ Khan, I. 2008, 'Battle to be won or lost in Bajaur', *Dawn*, 21 September <<http://archives.dawn.com/2008/09/21/top4.htm>> - Accessed 8 December 2011

Now terrorists have formed a human communication network in the mountains which spread through FATA and even beyond in the cities of Quetta, Peshawar and even up to Karachi. Messages are conveyed by word of mouth or by hand-written letters.²⁷

80. A November 2011 report by *CBS News* suggests that the TTP may now be even more reliant on human couriers. In response to the killing of Osama Bin Ladin the Quetta Shura, the coordinating council of the TTP, “has reportedly abandoned much of its reliance on cell phones, instead dispatching people to deliver messages”.²⁸ ‘Local officials’ are attributed as the source of this information. Although the report seems to deal mostly with TTP communication near the Afghan/Pakistan border, it nevertheless supports the earlier reports cited above which suggest that the TTP tends to avoid using communication systems able to be traced by the US and Pakistan governments. An article in the October 2011 edition of the *Terrorism Monitor*, published by the Jamestown Foundation, states that militants in Punjab work with the TTP, and that they:

...shuttle between the FATA and the rest of Pakistan, providing logistical support to FATA and Afghanistan-based militants to conduct terrorist operations deep inside Pakistan.²⁹

81. According to the South Asian Terrorism Portal, ‘hit lists’ were found during police raids on TTP locations in Karachi in 2011. In April a list of “prominent political party leaders and traders in Karachi” was found, and in June 2011 a list “containing the names of senior leaders of political parties and police officers” was found.³⁰ Though it is not clear whether such lists are shared across the TTP network, a 2009 report on a Chinese news website indicates that hit lists are sometimes made public. The report states that in 2009 in the KPP the TTP published a hit list of: “45 political leaders, ministers, members of parliament, elected councillors and prominent personalities”.³¹ In a 2008 report posted on Global Hujra, a Pakhtun news forum, a TTP spokesperson stated with regard to people on a TTP hit list: “We will hit them wherever we find them.”³² No information was found suggesting that local political activists are listed on TTP hit lists.

Relocation – general information

82. Pakistan’s Shi’a Muslim population is unevenly distributed across the country. In some provinces and regions, Shi’a Muslims constitute a very small proportion of the local population. However, Shi’a Muslims predominate in some districts and constitute large

²⁷ Zaman, J. 2009, ‘How the Taliban Communicate with Each Other’, *The Pakistan Spectator*, 5 August <http://www.pkhope.com/how-taliban-communicate-with-each-other/> - Accessed 8 December 2011.

²⁸ Bokhari, F. 2011, ‘Bin Laden kill spooks Taliban off cell phones’, *CBS News*, 14 November http://www.cbsnews.com/8301-503543_162-57324041-503543/bin-laden-kill-spooks-taliban-off-cell-phones/ - Accessed 8 December 2011.

²⁹ Rehman, Z. U. 2011, ‘Growing Urban Islamist Militancy in Punjab Province Poses New Challenge for Pakistani Authorities’, *Terrorism Monitor*, Vol. 9, Issue 39, October, pp.5-8 http://www.jamestown.org/uploads/media/TM_009_Issue39_02.pdf - Accessed 12 December 2011.

³⁰ ‘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; see also: 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.

³¹ ‘Taliban issue hit-list of politicians in NW Pakistan’ 2009, *China View*, 25 January http://news.xinhuanet.com/english/2009-01/25/content_10718761.htm - Accessed 8 December 2011.

³² Yousafzai, 2008, ‘Wali, Hoti, ministers on hit list: TTP’, Global Hujra website, 10 June <http://www.khyberwatch.com/forums/showthread.php?5043-Wali-Hoti-ministers-on-hit-list-TTP> - Accessed 12 December 2011.

pluralities in others. The International Crisis Group (ICG) states that “[l]arge Shia communities are found in Karachi, Southern Punjab and the Northern Areas”.³³ The Jamestown Foundation’s *Terrorism Monitor* estimated in 2010 that Shi’a Muslims constitute approximately 30 per cent of Karachi’s population.³⁴ A 2007 paper for the Observer Research Foundation estimated that Shi’a Muslims constitute 40 per cent of the population of the city of Multan, in southern Punjab.³⁵ According to the Pakistan Institute of Legislative Development and Transparency (PILDAT), Gilgit-Baltistan³⁶ is the only administrative region that has a Shi’a majority; 75 per cent of the population is estimated to follow a form of Shia Islam, including *Athna Ashari*, *Ismaili*, and *Noorbakshi*.³⁷

83. There appear to be few legal obstacles in Pakistan preventing citizens relocating to other regions in Pakistan. Article 15 of the Pakistan Constitution states: “Every citizen shall have the right to remain in and, subject to any reasonable restrictions imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.”³⁸ The internal movement of Pakistan citizens seeking employment, safety, or for other reasons is considerable, causing the population of its major cities to swell in population.
84. The US Department of State does suggest that the right to freedom of movement is restricted in practice, however the only examples cited in its most recent human rights report are restrictions placed on some people to travel abroad.³⁹
85. In its most recent annual report, the Human Rights Commission of Pakistan (HRCP) reported that in 2010, the free movement of citizens was restricted in several regions. Most of these regions have been associated with large scale conflicts in recent years, namely the Federally Administered Tribal Areas (FATA), parts of Khyber Pakhtunkhwa (Swat), and Balochistan. State authorities also employed ‘Maintenance of Public Order’ (MPO) to restrict the movement of the people “that it considered a threat to public safety at certain places during times such as the Shia mourning month of Muharram.”⁴⁰
86. The HRCP Annual Report also suggests that “some areas of Karachi” are also subject to restrictions, however these are restrictions imposed by non-state actors, largely “criminal gangs organised along ethnic lines” In particular, non-Pashtuns were being prevented from

³³ International Crisis Group 2005, *State of Sectarianism in Pakistan*, Asia Report N°95, 18 April, p.4, footnote 20

³⁴ 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, p.5

<<http://www.unhcr.org/refworld/country,,,PAK,,4c72280112,0.html>> Accessed 11 October 2010

³⁵ Bahadur, K. 2007, *Islamisation in Pakistan: A Case Study of Punjab*, Observer Research Foundation, Issue Brief 12, October, p.4

<http://www.observerindia.com/cms/export/orfonline/modules/issuebrief/attachments/islam_1192513614556.pdf> Accessed 6 July 2011

³⁶ Formerly known as the Northern Areas

³⁷ Feyyaz, M. 2011, *Sectarian Conflict in Gilgit-Baltistan*, PILDAT, May, p.12 <http://www.PILDAT.org/Publications/publication/Conflict_Management/GB-SectarianConflit-BackgroundPaperEng-May2011.pdf> Accessed 15 March 2012

³⁸ Human Rights Commission of Pakistan 2005, *The State of Human Rights in 2005*, HRCP website, p.1 http://www.hrcp-web.org/images/publication/annual_report/pdf_2005/3-1.pdf – Accessed 14 May 2007 –

³⁹ US Department of State 2011, *Country Reports on Human Rights Practices 2010 – Pakistan*, 8 April, Section 2.d

⁴⁰ Human Rights Commission of Pakistan 2011, *Annual Report 2010*, April, pp.115-116 <http://www.hrcp-web.org/Publications/AR2010.pdf> – Accessed 27 April 2011

entering Pashtun-dominated areas and non-Balochi were prevented residence in Lyari areas of the city.⁴¹

87. In February 2012, the Asian Human Rights Commission reported that while “[h]undreds of Shias have been murdered by militants in Quetta in the past few months”, such violence is not unique to Quetta, and “Shias are not safe in any major town in Pakistan”. The report further noted that Shia “places of worship, religious processions, and civilian and religious leadership has come under relentless attacks while the State’s machinery has either refused or failed to protect Shias and other religious minorities in Pakistan”. In January 2012, 32 attacks led to the deaths of an estimated 58 Shi’ite Muslims in Pakistan, and left 67 injured.⁴²
88. 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) were 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.
89. 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.
90. The UNHCR Eligibility Guidelines for International Protection for Pakistan indicates that:

Given the wide geographic reach of some armed militant groups, a viable IFA/IRA will generally not be available to individuals at risk of being targeted by such groups. The operational capacity of certain militant groups, such as the Lashkar-e-Jhangvi and Sipah-e-Sahaba Pakistan, extends far beyond FATA or the Khyber Pakhtunkhwa province as evidenced by high-profile attacks, such as suicide bombings, countrywide, particularly in urban centres.³⁰⁹ Furthermore, some non-State agents of persecution, such as local powerbrokers, organized criminal elements, as well as armed militant groups, reportedly have links to or are closely associated with influential actors in the local and central administration, law enforcement and/or judiciary.³¹⁰ As a result, they often operate with impunity and their reach may extend beyond the area(s) under their immediate control.
91. Kohat has a large Shi’ite Pashtun minority, especially in the towns of Chikarkot Bala, Sherkot, Kachai and Usterzai Payan.⁴³

⁴¹ Human Rights Commission of Pakistan 2011, *Annual Report 2010*, April, p.115 <http://www.hrcp-web.org/Publications/AR2010.pdf> – Accessed 27 April 2011

⁴² Asian Human Rights Commission 2012, ‘Pakistan: Brutal sectarian violence against Shias continues unabated’, ReliefWeb, 8 February <http://reliefweb.int/node/475417> – Accessed 9 February 2012

⁴³ ‘Kohat’ 2010, WordPress.com, 30 April <http://meetcornor.wordpress.com/2010/04/page/2/> – Accessed 11 January 2011

92. Relief Web, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) information service, reported in February 2010 that Shi'a 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 Shi'a IDPs from Kurram and Orakzai has increased their own risk of being harmed by extremists.⁴⁴
93. 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.⁴⁵

Relocation - Karachi

94. Karachi is home to an ethnic Pashtun population estimated to be between four⁴⁶ and seven million.⁴⁷ Shi'a Muslims reportedly constitute 30 per cent of the city's population.⁴⁸
95. In September 2011 a report for the Centre for Strategic and International Studies, titled: *Pakistan – Violence Versus Stability: A National Net Assessment* notes that the minority Shi'a community is the most vulnerable in Karachi. It states that the Shi'as are numerically dwarfed by Sunni counterparts. It reports that Shi'ite religious processions are especially vulnerable⁴⁹
96. *Human Rights Watch World Report 2012* reports that Karachi experienced exceptionally high levels of violence perpetrated by armed groups in 2011:

Karachi experienced an exceptionally high level of violence during the year, with some 800 persons killed. The killings were perpetrated by armed groups patronized by all political parties with a presence in the city. The Muttaheda Qaumi Movement (MQM), Karachi's largest political party, with heavily armed cadres and a well-documented history of human rights abuse and political violence, was widely viewed as the major perpetrator of targeted killings. The Awami National Party (ANP) and PPP-backed Aman (Peace) Committee killed MQM activists. Despite an October 6 Pakistan Supreme Court ruling calling for an end to the violence, authorities took no meaningful measures to hold perpetrators.⁵⁰

⁴⁴ '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

⁴⁵ '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

⁴⁶ 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

⁴⁷ Obaid-Chinoy, S. 2009, 'Pakistan: Karachi's Invisible Enemy City potent refuge for Taliban fighters', *PBS*, 17 July <http://www.pbs.org/frontlineworld/rough/2009/07/karachis_invisi.html> Accessed 29 April 2010

⁴⁸ 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, p.5 <<http://www.unhcr.org/refworld/country,,,PAK,,4c72280112,0.html>> Accessed 11 October 2010

⁴⁹ Anthony Cordesman, Varun Vira, *Pakistan – Violence Versus Stability: A National Net Assessment*, 2011, Centre for Strategic and International Studies, September 2011, http://csis.org/files/publication/110907_Cordesman_Pakistan_Web.pdf - accessed 16 May 2012

⁵⁰ *World Report 2012: Events of 2011*, 2012, Human Rights Watch, <http://www.hrw.org/world-report-2012>

97. SSP, LeJ, LeT and JeM all have a presence in the city⁵¹, as does the TTP⁵² and Jundullah.⁵³ 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”.⁵⁴
98. The ICG reports that due to threats against the Shi’a Imam Bara mosque, the former president of the mosque turned it “into a fortress, with armed guards on the rooftop during Friday prayers”.⁵⁵ *The Express Tribune* reported in March 2012 that Shi’a neighbourhoods in the city are “visibly barricaded and fortified”.⁵⁶
99. A bomb blast occurred near a gathering of Shiites in the commercial district, killing at least three people in November 2012 (ABC News, *Suicide bombing mars Pakistan summit start*, 22 November 2012).
100. The pro-Shi’a media outlet *The Shia Post* reports regularly on attacks on Shi’as in Karachi. The following reports detail claimed killings of Shi’as in Karachi in June and July 2012:
- On 30 July a Shi’a tailor was shot and killed in his shop by unnamed assailants.⁵⁷
 - On 18 July a Shi’a was shot and killed in Nazimabad, Karachi, allegedly by members of SSP.⁵⁸
 - On 16 July a teenaged Shi’a who had been missing since the previous evening was found dead after being allegedly abducted by members of SSP and LeJ.⁵⁹
 - On 8 July a Shi’a Pakistani intelligence officer was killed in the Sharifabad area of Karachi by unidentified assailants.⁶⁰
 - On 7 July a Shi’a youth was killed in Karachi by “nasbi [anti-Shi’a] terrorists”.⁶¹

⁵¹ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report N°164, 13 March, p.10

⁵² ‘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

⁵³ 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

⁵⁴ 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

⁵⁵ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report N°164, 13 March, p.10

⁵⁶ 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

⁵⁷ ‘Muzzammil Hussain embraces martyrdom in Karachi’ 2012, *The Shia Post*, 30 July
<<http://en.shiapost.com/?p=5026>> Accessed 3 August 2012

⁵⁸ ‘Shiite Genocide Continuous: Yawar Mehdi Martyred by Firing of Wahhabi Terrorists in Karachi’ 2012, *The Shia Post*, 18 July <<http://en.shiapost.com/?p=4698>> Accessed 3 August 2012

⁵⁹ ‘16-years-old missing teenager ‘Syed Abaturab Haider’ found dead in Karachi’ 2012, *The Shia Post*, 14 July
<<http://en.shiapost.com/?p=4546>> Accessed 3 August 2012

⁶⁰ ‘Gunmen kill Pakistani Shia intelligence officer ‘Syed Qamar Reza’ in Karachi’ 2012, *The Shia Post*, 8 July
<<http://en.shiapost.com/?p=4289>> Accessed 3 August 2012

⁶¹ ‘A Shia Muslim martyred in Karachi in a targeted attack’ 2012, *The Shia Post*, 7 July
<<http://en.shiapost.com/?p=4278>> Accessed 3 August 2012

- On 18 June 2012 a senior Shi'a cleric was killed in Karachi. The report claimed that the killers were from SSP and LeJ.⁶²
101. In an indication of the extent of the ongoing targeted killings in Karachi, on 19 July 2012 *The News* reported that 13 people had been killed the previous day in political and sectarian violence. The dead included a former Sunni *Tehreek* activist, a current Sunni *Tehreek* activist, a Shi'a garment trader, a customs official, a *Muttahida Qaumi* Movement (MQM) activist, a police constable, a People's *Aman* Committee (PAC) supporter, and a motorcyclist who was killed in a bomb attack on a paramilitary Rangers vehicle.⁶³
 102. Shi'a professionals⁶⁴ have reportedly been targeted in Karachi since the 1990s, when around 100 were killed in a campaign of assassinations, allegedly carried out by the SSP and LeJ.⁶⁵ An article in the Jamestown Foundation's *Terrorism Monitor* claimed that, in 2010, assassinations of Shi'a professionals at times exceeded killings of political party members, and also claimed that "the involvement of sectarian anti-Shi'a organisations ... cannot be ruled out...".⁶⁶ In October 2011, the Human Rights Commission of Pakistan reported that four lawyers had been killed in Karachi in the previous week, including one who was killed "apparently for pursuing cases of Shias".⁶⁷ Shi'a professionals continue to be victims of target killings in Karachi; three Shi'a lawyers were murdered near the Karachi city court in January 2012⁶⁸, and a Shi'a doctor was assassinated, also in January 2012. A Shi'a news service claimed that the doctor was killed by members of LeJ.⁶⁹
 103. In September 2011 Amnesty International issued a statement claiming that the Pakistan government and security forces "have abdicated their responsibility to defend" Shi'as throughout the country. The statement also noted that LeJ was "operating openly in the Punjab and Karachi". The report criticised the authorities' "[c]ontinued failure to address sectarian violence".⁷⁰
 104. The PIPS *Pakistan Security Report* also notes that, while police may arrest members of sectarian groups for alleged killings, very few are ever put on trial, due to "lack of evidence and poor investigation". The report also claims that authorities are failing to

⁶² 'Shia prayer leader gunned down by Wahabi terrorists in Karachi' 2012, *The Shia Post*, 18 June <<http://en.shiapost.com/?p=3724>> Accessed 3 August 2012

⁶³ Perwaiz, S. 2012, '13 more dead as target killings continue', *The News*, 19 July <<http://www.thenews.com.pk/Todays-News-4-121415-13-more-dead-as-target-killings-continue>> Accessed 3 August 2012

⁶⁴ Generally speaking, middle class, tertiary-educated Shi'as: for example, doctors, lawyers, and academics. Teachers in Pakistan are not necessarily tertiary-educated professionals.

⁶⁵ Abbas, H. 2010, *Shiism and Sectarian Conflict in Pakistan: Identity Politics, Iranian Influence, and Tit-for-Tat Violence*, Combating Terrorism Centre at West Point, Occasional Paper Series, 22 September, p.39

⁶⁶ 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

⁶⁷ Human Rights Commission of Pakistan 2011, 'Karachi: Unholy Alliances for Mayhem', Human Rights Commission of Pakistan website, 8 October, p. 4 <http://www.hrcp-Web/Unholy_alliances_for_mayhem.pdf> Accessed 27 October 2011

⁶⁸ 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>> Accessed 2 April 2012

⁶⁹ Jafaria News 2012, *Another Shia Doctor & Trustee of Imambargah Embraces Martyrdom by the Target Killing of SSP in Karachi*, 29 January <<http://jafrianeews.com/2012/01/29/another-shia-doctor-embraces-martyrdom-by-the-target-killing-of-ssp-in-karachi/>> Accessed 14 March 2012

⁷⁰ Amnesty International 2011, 'Pakistan: Failure to protect Shi'a Muslims leaves many at risk', 21 September <<http://www.amnesty.ca/media2010.php?DocID=942>> Accessed 30 May 2012 <

address “drivers of violence in a systematic and comprehensive manner”, and that political appointees in the ranks of the Karachi security forces hinder appropriate action being taken against those responsible for political and sectarian violence. Members of sectarian organisations have reportedly infiltrated government departments and security agencies, and the authorities “have yet to work out a mechanism for screening security personnel for links to religious extremists”.⁷¹ In March 2012, the CRSS claimed that “[l]aw enforcement agencies not only miserably failed to bring down the crime rates but are facing issues in getting prosecute these criminals in the courts due to backwardness of their investigation and interrogation techniques”.⁷²

Relocation-Hyderabad/Rural Sindh

105. The Pakistan province of Sindh is home to a large Shi'ite minority. Outside of Karachi, reported sectarian attacks on Shi'ites are relatively few.
106. In the first six months of 2011, the South Asian Terrorism Portal (SATP) catalogued only one fatal attack on Shi'ites by Sunni militants in Sindh (excluding Karachi); in February, the Vice President of Shia Ulema Council, Sindh, Allama Altaf Hussain Al-Hussaini, died after being shot near the Hyderabad-Kotri Bridge in the city of Hyderabad.⁷³
107. There were, however, at least two other sectarian incidents in Sindh in the first six months of 2011:
 - In January 2011, a Shi'ite, Syed Asim Zaidi, was killed in Hyderabad. According to the Ahlul Bayt News Agency, the victim was killed by “Nasabi-Wahabi terrorists” Asim Zaidi was reportedly a local official in the Muttahida Qaumi Movement (MQM).⁷⁴ Nasabi-Wahabi is a common reference to Sipah-e-Sahaba Pakistan (SSP).
 - In June 2011, the SSP reportedly attacked the house of a local member of the Shia Ulema Council Pakistan Sindh, Syed Ghulam Shah in the Sindh town of Kotri. No one was killed. The report also states that the SSP have written anti-Shi'a graffiti on Shia houses in the town.⁷⁵
108. *Dawn* reported in July 2011 that a person detained by members of the community after the incident described above was handed over to Jamshoro police, however the police failed to register the crime in a first incident report (FIR), and therefore investigate the incident. Consequently, members of the Shi'a Ulema Council, the Majlis Wahdat Muslimeen, the Imamia Students Organisation, and the Asgharia Students Organisation staged a protest on 1 July 2011, demanding that the Sindh government take action against the police, as well as ban all ‘sectarian meetings’ in the province.⁷⁶

⁷¹ Pakistan Institute for Peace Studies 2012, *Pakistan Security Report 2011*, January, pp. 26-29

⁷² Mohammad, N. 2012, ‘Karachi: The State of Crimes’, Centre for Research & Security Studies, March, p. 22

⁷³ South Asian Terrorism Portal 2011, ‘Sectarian Violence in Sindh – 2011’, SATP website <http://www.satp.org/satporgtp/countries/pakistan/sindh/datasheet/Sectarianviolencesindh2011.htm> – Accessed 6 July 2011

⁷⁴ ‘Two shia Men Martyred by the Terrorists in Sindh’ 2011, Ahlul Bayt News Agency, 8 January <http://www.abna.ir/data.asp?lang=3&Id=220237> – Accessed 26 May 2011

⁷⁵ ‘The Armed Wahabi terrorists attacked on Shia Houses at Kotri’ 2011, Shiiteneews.com, 29 June http://www.shiiteneews.com/index.php?option=com_content&view=article&id=3158:the-armed-wahabi-terrorists-attacked-on-shia-houses-at-kotri-&catid=57:pakistan&Itemid=37 – Accessed 7 July 2011 –

⁷⁶ ‘Nadra accused of discrimination’ 2011, *Dawn*, 2 July <http://www.dawn.com/2011/07/02/nadra-accused-of-discrimination.html> – Accessed 11 July 2011

In 2010, SATP only recorded two sectarian incidents in Sindh (excluding Karachi) in which Shi'ites (or the security forces protecting them) were killed or harmed. In August 2010, a woman and a boy were killed and eight others were reportedly injured in what was described as a 'clash' between sectarian groups in Hirabad, Sindh. In December 2010, security forces shot dead a "suspected militant" as he tried to enter an Ashura procession while carrying bag in the Shikarpur District of Sindh. Upon detection, the suspect detonated a grenade, injuring four persons.⁷⁷

Relocation - Multan/Southern Punjab

109. Data from the 1998 census indicated that Multan had a population of 3,116,851.⁷⁸ A 2007 source estimated that Shi'a Muslims constitute 40 per cent of the population of the city of Multan.⁷⁹ However, sources indicate that Multan and Southern Punjab are also home to Sunni radical groups, most notably SSP and LeJ.⁸⁰ In January 2012, at least 18 people were killed at a Shi'a Chhelum festival in Khanpur, near Multan. LeJ is suspected to have carried out the attack.⁸¹ At a rally in Multan in February 2012, the leader of the anti-Ahmadi organisation *Khatme Nabuwat* openly shared a stage with the head of LeJ, Malik Ishaq.⁸²
110. A 2007 paper, *Islamisation in Pakistan: A Case Study of Punjab*, states that organised and violent groups targeting Shi'a Muslims began in southern Punjab, particularly in Jhang and Multan. Furthermore, the anti-Shi'a Ahle Hadith group, *Lashkar-e-Toiba* (LeT) has a strong presence in Multan:
111. After Jhang, the SSP concentrated on Multan which also has a large Shi'a population (40 %) and has been known as the city which has the largest number of shrines, mazars (mausoleums) and mosques in the world. The Deobandi madrassas have also proliferated in Punjab. The Wafaqul Madaris, the Deobandi madrassa Union is located in Multan. The Jamiatal Mujahideen Alami, which was suspected to have made an attempt on the life of General Musharraf in 2004, has links with a Deobandi madrassa. Madrassas of the other religious parties have also made their appearance in the southern part of Punjab... Three districts of Punjab, Lahore, Gujranwala and Multan are known to be the strongholds of the LeT.⁸³

⁷⁷ South Asian Terrorism Portal 2010, 'Sectarian Violence in Sindh – 2010', SATP website <http://www.satp.org/satporgtp/countries/pakistan/sindh/datasheet/sectarianviolencesindh2010.htm> – Accessed 6 July 2011

⁷⁸ Population Census Organization 1998, *Multan District at Glance*, Government of Pakistan <<http://www.census.gov.pk/PUNJAB/MULTAN.htm>> Accessed 19 March 2012

⁷⁹ Bahadur, K. 2007, *Islamisation in Pakistan: A Case Study of Punjab*, Observer Research Foundation, Issue Brief 12, October, p.4 <http://www.observerindia.com/cms/export/orfonline/modules/issuebrief/attachments/islam_1192513614556.pdf> Accessed 6 July 2011

⁸⁰ International Crisis Group 2005, *State of Sectarianism in Pakistan*, Asia Report N°95, 18 April, p.14; Rehman, Z.U. 2011, 'Militancy grows in South Punjab', AfPak Watch, source: *Central Asia Online*, 11 June <<https://afpakwatch.wordpress.com/2011/06/11/militancy-grows-in-south-punjab/>> Accessed 19 March 2012

⁸¹ '18 killed in blast at Khanpur Shia procession' 2012, *Pakistan Today*, 16 January <<http://www.pakistantoday.com.pk/2012/01/16/news/national/18-killed-in-blast-at-khanpur-shia-procession/>> Accessed 13 March 2012; 'Pakistan blast: Shias killed in Khanpur procession' 2012, *BBC News*, 15 January <<http://www.bbc.co.uk/news/world-asia-16567052>> Accessed 13 March 2012

⁸² 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

⁸³ Bahadur, K. 2007, *Islamisation in Pakistan: A Case Study of Punjab*, Observer Research Foundation, Issue Brief 12, October, pp.4-5

Relocation - Lahore

112. According to the Find.Pk website, the city is home to over one million ethnic Pashtuns, constituting approximately 15 per cent of the population.⁸⁴
113. Sources do indicate that the city's wider Shi'a community is increasingly targeted for harm by Sunni extremist groups. A suicide/grenade attack on a Shi'a procession in September 2010 killed 43 people and injured another 230. LeJ claimed responsibility for the attacks.⁸⁵
114. Lahore was subject to 44 terrorist attacks in 2010, a four hundred per cent increase compared to 11 in 2009. However, the number of deaths caused by such attacks actually fell in 2010. Pak Institute For Peace Studies states that this decrease was due to the fact that there were fewer suicide attacks in crowded public spaces in 2010.⁸⁶

Relocation – Islamabad/Rawalpindi

115. In November 2012, a suicide bomber killed 23 people and wounded 62 people at a Shi'ite procession, ripping holes in the walls of the mosque in Rawalpindi (ABC News, *Suicide bombing mars Pakistan summit start*", 22 November 2012).
116. In May 2011, *IRIN News* reported the case of Aly Khan, a Hazara who moved his family to Islamabad in the belief that the city will provide relative security for his family:

“It was a decision between choosing our lives or our homeland,” he said.
“Balochistan is our home, but we have been forced to leave the place where our elders have lived because of our sects. The Shia-Sunni conflict was exploited by Gen Zia ul Haq and later by the Taliban. The Wahabi elements have created so much terror. To save our lives, we left our home town,” he said according to a report by IRIN, the UN information unit.⁸⁷
117. 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 passing⁸⁸, 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

<http://www.observerindia.com/cms/export/orfonline/modules/issuebrief/attachments/islam_1192513614556.pdf> Accessed 6 July 2011

⁸⁴ Find.Pk website n.d., *Lahore* <<http://www.findpk.com/cities/html/lahore.html>> Accessed 12 September 2011

⁸⁵ South Asian Terrorism Portal 2011, *Punjab Assessment – 2011*

<<http://www.satp.org/satporgtp/countries/pakistan/punjab/index.html>> Accessed 6 July 2011

⁸⁶ Pak Institute For Peace Studies 2011, *Pakistan Security Report 2010*, PIPS website, January, p.2, p.12

<www.san-pips.com/download.php?f=74.pdf> Accessed 12 July 2011

⁸⁷ ‘Forced out of town by ethnic violence’ 2011, *IRIN News*, 27 May

⁸⁸ ‘Kurram peace’ 2011, *Dawn*, 17 December <<http://www.dawn.com/2011/12/17/kurram-peace.html>> Accessed 19 March 2012

pay them the ransom money. Poor people kidnapped for ransom are killed as they cannot pay the money”.⁸⁹

118. [Information deleted: s.431(2)].⁹⁰ [Information deleted: s.431(2)].⁹¹
119. 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”.⁹² In December 2009, a suicide bomber detonated his device when confronted by police in the Shakrial area of Rawalpindi, killing two. He was reportedly attempting to enter a Shi’a “gathering” commemorating Ashura.⁹³ No other reports of attacks on Shi’a targets in recent years in the twin cities were located.

Kinship/tribal connections

120. Lieven in his book *Pakistan: A Hard Country* (2011), said this about family/tribal connections:

In a violent society in which none of the institutions of state can be relied on to act in accordance with their formal rules, close relations with kinsfolk are essential for help against rivals, against the predatory and violent police, in the courts, in politics, and in the extraction of political patronage – all areas of activity which overlap and depend on each other.

FINDINGS AND REASONS

121. I am satisfied based on the numerous documents provided that the applicant is a citizen of Pakistan and is outside his country of nationality. I am also satisfied based on these documents and his language, that he is a Pashtun and from the Bangash tribe, and that he was living in [Town 2] prior to coming to Australia. I accept also on his oral evidence and his name which is a common Shi’a name, that he is a Shi’a.
122. The applicant claims to fear persecution for reasons of his religion (Shi’a), ethnicity (Pashtun Bangash), imputed political opinion(anti-Taliban) and membership of particular social groups (Shi’as from [Town 2]) were he to return to Pakistan in the reasonably foreseeable future. He also claims that he could not relocate in Pakistan as the harm he fears is generalised across the country.
123. I am satisfied that there is a real chance of this applicant being seriously harmed if he were to return to the Kurram Agency in the reasonably foreseeable future, for reasons of his Shi’a religion and Bangash ethnicity. My reasons are set out below.
124. Country sources indicate that Shi’a Muslims from the Bangash and Turi tribes are specifically targeted by the Taliban and Lakshar-e-Jhangvi in the Kurram Agency. There are killings, kidnapping and extortion which threaten all Shi’ite people in Kurram Agency. According to the UNHCR Eligibility Guidelines 2012, incidents of violence against the Shi’a

⁸⁹ 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

⁹⁰ [Information deleted: s.431(2)]

⁹¹ [Information deleted: s.431(2)]

⁹² Human Rights Commission Pakistan 2011, *State of Human Rights in 2010*, April, p.125

⁹³ ‘Bomber targets Shia Muslims gathering in Rawalpindi’ 2009, *Press TV*, 24 December <<http://edition.prsstv.ir/detail/114589.html>> Accessed 8 June 2012

minority continued in 2011 despite an alleged peace deal between the Taliban and Shi'a tribes. The UNHCR consider that members of the Shi'a community in this region, depending on individual circumstances may be in need of international protection. I am satisfied that there is a real chance, one that is not remote or speculative, that the applicant will suffer serious harm (assault, killing, kidnapping, extortion etc.) were he to return to Kurram Agency in the reasonably foreseeable future. I am satisfied that the harm he would suffer would be for the essential and significant reason of his religion (Shi'a) as well as Bangash ethnicity. Reports set out above indicate that the Taliban and other militia groups target Shi'a people because of their religion, and that they also specifically target Shi'a people from the Turi and Bangash tribes in this region.

125. I accept the applicant's account of the incidents of violence and threats which have occurred in his recent past. I accept that in 2010 his village was attacked by the Taliban and he had to hide with his family in an underground shelter. I accept that in the same year he encountered armed Taliban men waiting for him and other Shi'a students at the gate of his university and that he had to retreat back into the university for protection. I accept also that he suspected that Sunni students had told the Taliban about the Shi'a students, who were in the minority. I accept also that in 2012 he was in a van with other Shia's returning from Peshawar when their van was chased by a Taliban vehicle and they had to take refuge in [a] [location deleted: s.431(2)]. On the same day a bomb exploded in [Town 2] in close proximity to the applicant and his friends. I accept that [in] 2012 another bomb exploded in [Town 2], and this time his wife and sister were very near the site of the bomb, although they remained unharmed. I accept that the applicant and his family have lived in fear, and cannot travel to take their sick mother for treatment in Peshawar, or to use the schools or employment opportunities in the urban areas, due to fear of attack by the Taliban on Shia's there or on the roads. The applicant's account of these experiences has been consistent and credible, containing the kind of detail commensurate with telling the truth. Furthermore, the account is consistent with independent country information about the situation in [Town 2]. I accept that these incidents assist in indicating that there is a real chance of serious harm in the reasonably foreseeable future.
126. I am satisfied that the persecution would be systematic and discriminatory in that it would be motivated by the applicant's religion and ethnicity, and would be non-random and systematic.
127. It is also apparent that state protection is unavailable to the Shi'a minority in Kurram Agency (see UNHCR Eligibility Guidelines 2012 and other country information quoted earlier).
128. I turn now to the question of relocation. The focus of the Convention definition is not upon the protection that the country of nationality might be able to provide in some particular region, but upon a more general notion of protection by that country: *Randhawa v MILGEA* (1994) 52 FCR 437 per Black CJ at 440-1. 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. The Convention is concerned with persecution in the defined sense, and not with living conditions in a broader sense:

SZATV v MIAC (2007) 233 CLR 18 and *SZFDV v MIAC* (2007) 233 CLR 51, per Gummow, Hayne & Crennan JJ, Callinan J agreeing.

129. I questioned the applicant extensively about whether he could move to another Pakistani region where there is a large Shi'a population. I have also considered country sources as to whether there is an appreciable risk of the feared persecution in other areas.
130. I was persuaded by the applicant's comments that it is not safe anywhere for his family in Pakistan as they are Shia's from [Town 2]. The UNHCR Eligibility Guidelines for Pakistan 2012 quoted earlier in this decision, state that Shi'as are the target of violent attacks by Sunni fundamentalist groups throughout the country. The Guidelines state that until the 1990s the majority of the sectarian motivated attacks between Sunni and Shi'a took place in Punjab, but violence has since spread to the rest of the country. The Guidelines also state that although both Sunni and Shi'a militant groups have engaged in acts of violence against each other, according to analysts the majority of recent violent attacks were committed by Sunni militants inspired by al-Qaeda ideology. The Guidelines state that relocation is generally not available for those targeted by the militia groups, given the wide geographic reach of some groups, and links with influential actors in the local and central administration, law enforcement and judiciary.
131. The country information in general paints a picture of numerous anti-Shi'a attacks across many regions of Pakistan with many reports referring to widespread attacks across the country. Country sources indicate that Shias from Kurram, have sought refuge in the Kohat and Hangu districts of Khyber-Pakhtunkhwa, areas which have a significant Shi'ite Pashtun population. However these areas have not proved safe, with targeted mass killings of Shi'as taking place. Sources also indicate that Shi'ite Pashtuns in Peshawar and Dera Ismail Khan have recently come under attack from Deobandi extremist groups such as Laskar-e-Jhangvi. Karachi is home to the largest Pashtun community in Pakistan, with estimates of between 4 to 7 million Pashtuns. There is a substantial Shi'ite population there. The sources indicate that it is also home to Deobandi extremist groups violently opposed to Shi'a Islam and the Taliban are well established there. A number of bomb attacks on Ashura parades have taken place and there has been a campaign of targeted assassinations of Shi'ite professionals. In other parts of Hyderabad/rural Sindh, there have been a few isolated attacks on Shia's. In Multan and Southern Punjab, sources indicate the presence of anti-Shi'a groups and a number of Shi'a killings have been reported. Similarly, in Lahore, there have been a number of attacks targeting Shi'as although not as many as in some urban centres. Rawalpindi/Islamabad is an area which appears relatively safe for Shi'ites, however there have been a number of terrorist attacks in recent years and Shi'a processions have been targeted, and there is also evidence of Taliban networks there. I have also taken into account reports of kidnappings of [Town 2] residents from the Turi and Bangash tribes who have relocated to Islamabad/Rawalpindi (*Dawn*, 16 December 2011). A journalist from [Town 2] living in Islamabad is quoted in the article as saying that insecurity haunts the residents of [Town 2] in and outside Kurram Agency. I also accept the applicant's submission that many Sunni residents of [Town 2] relocate to Islamabad such that they can easily identify Shi'a people from [Town 2].
132. The Asian Human Rights Commission has reported in 2012 that Shia's are not safe in any major town in Pakistan. It is significant that the UNHCR Eligibility Guidelines state that law enforcement authorities are unable or unwilling to protect Shi'as, and Sunni militant groups reportedly operate with impunity, including in areas where state authority is well-established, such as Punjab province and Karachi. The Wall Street Journal said that Pakistan is in the midst of a "low grade war against its minority Shi'a population". The United States

Department of State International Religious Freedom Report on 13 September 2011 stated that attacks, threats and violence by religious extremists occurred across the country, and attacks on houses of worship, religious gatherings and leaders resulted in hundreds of deaths. It states that Pakistan is a country of concern and religious freedom there is exceedingly poor, with perpetrators of attacks on minorities rarely being brought to justice. These sources refer to the problem as a national and not a regional one.

133. I have also given some weight in coming to these conclusions to the information provided by the applicant about kidnappings or murders of [Town 2] Shi'as in other cities. While these incidents took place primarily in Peshawar or Karachi, they do indicate a pattern of attacks on Shi'as from [Town 2] while in cities other than [Town 2].
134. I accept that there are a number of factors which would easily identify the applicant as a Shi'a from Kurram Agency. These include his language, his well-known Shi'a Bangash surname, his accent, his identification card which shows his place of origin and other documents, his physical features, scars on his back from the practice of Zaneer Zadi, and the fact that he practises his religion and culture openly. I accept his submission that his family are uneducated and only speak Pashto, such that they would be identified at once in a new city as Shia's from [Town 2].
135. It can be expected that where there are cities with large Shi'a populations, that there are many Shi'a who fall into this category. Notwithstanding this, I am satisfied that it would not be safe or reasonable for the applicant to relocate within Pakistan. The applicant is a Shi'a Pashtun and there are only expected to be around 250 000 of them in the country. The identifying factors set out above would clearly identify him as originating from Kurram, were he to be stopped at a Taliban checkpoint, or were he to come across extremist anti-Shi'a groups in any other forum. He is a committed Shi'a who actively participates in major festivals such as Ashura, again this means that he may be noticed and it is more likely he will be subject to a targeted attack. There have been many attacks on religious festivals and at mosques (for example on 24 November 2012 an Ashura procession in Rawalpindi was attacked (Reuters, 24 November 2012). Furthermore, country sources suggest that the anti-Shi'a groups have 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. This makes their situation more precarious, no matter where they are located within the country.
136. In this context and taking into account all this country information, I am satisfied that the applicant could not safely relocate to another region in Pakistan.
137. I am also satisfied that it would not be reasonable for him to relocate to another region due to other factors. In coming to this conclusion, I have taken into account the fact that the applicant has a wife and [children] and that it would be very difficult moving them without any extended family support. The question as to whether it would be reasonable for him to relocate to another region must take into account his particular circumstances, including the fact that he has an extensive family to care for and provide for. While the applicant has qualifications in commerce he has had little work experience, he speaks Pashto and (only limited Urdu), which would limit his opportunities in many of the cities. Furthermore, he would need to establish a business or find work in an area where he had no contacts, family or tribal connection. Being a minority as a Shi'a and Pashtun would mean that it would be difficult to set himself up financially and for the family to settle and survive in a new region. I accept also that Islamabad as an example is an expensive city and the applicant does not

have the financial resources to relocate. I accept that real estate agents may also discriminate against Shi'as and it may be difficult to locate housing.

138. There is no information before me to suggest that the applicant could reside in a safe third country.
139. I am satisfied that the applicant has a well-founded fear of persecution were he to return to Pakistan in the reasonably foreseeable future.

CONCLUSIONS

140. 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).

DECISION

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