

**1219047 [2013] RRTA 122 (7 February 2013)**

**DECISION RECORD**

<b>RRT CASE NUMBER:</b>	1219047
<b>DIAC REFERENCE(S):</b>	CLF2012/197177
<b>COUNTRY OF REFERENCE:</b>	Pakistan
<b>TRIBUNAL MEMBER:</b>	Gabrielle Cullen
<b>DATE:</b>	7 February 2013
<b>PLACE OF DECISION:</b>	Sydney
<b>DECISION:</b>	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 (the Department) 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] November 2012, and the applicant applied to the Tribunal for review of that decision.

### RELEVANT LAW

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

#### Refugee criterion

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

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

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

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

### **Complementary protection criterion**

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

### **CLAIMS AND EVIDENCE**

19. The Tribunal has before it the Department's file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.

### **Primary Application**

20. Information provided by the applicant in oral and written submissions to the Department indicates that the applicant was born in [year deleted: s.431(2)] in [Pakistan] and lived there until his departure for Australia on approximately [May] 2012
21. He claims to be of Pakistani citizenship and to not be a citizen of any other country. In this regard he has submitted a number of documents attesting to his identity and citizenship, including a Pakistani National ID card in his name.
22. He claims to be of Hazara ethnicity and of the Shia religion.
23. As to his family, he is married and has [children], [age deleted: s.431(2)]. His family currently resides in Quetta, Pakistan.
24. As to his education, he claims to have attended school until [academic year deleted: s.431(2)] in Quetta.

25. As to his employment, he claims to have been self employed as a three wheel rickshaw driver from [year deleted: s.431(2)] to 2012.
26. He claims to have not been involved in any political group, to have never been involved in any armed fighting or to have been involved with the police, security or intelligence organisation in Pakistan.
27. Department records indicate that the applicant arrived in Australia from Indonesia by boat [in] 2012.
28. The applicant's claims attached to his application in a statement are repeated below

The following is only a summary of my claims for protection. It is not an exhaustive statement of the reason or reasons why I cannot return to my country of origin. I will provide further information in relation to my present claims during my interview with the POE officer.

I am a Pakistan citizen.

I am a Hazara and a Shia Muslim.

I was born in [Baluchistan Province], Pakistan

**The country to which I fear returning**

I fear returning to Pakistan.

**Why I left Pakistan?**

**Background**

I was born in a place called [Village 1] which is located down [Road 2] road in Quetta Pakistan. My residence in [Village 1] is very close to [Village 1] Shia mosque.

Until recent times (approximately until approximately 2004) Hazaras and Shias lived peacefully in Quetta Pakistan along with many other sects.

As the years passed by, radical Sunni Islamic groups (Laskari Jangevi, Sepahi Sahaba, BLA) emerged.

Members of these radical Islamic groups did not accept the Shia religion and those who were followers of Shia Islam. They began specifically targeting all Shia Muslims for reason of religion.

As all Hazaras are Shias and could easily be identified due to our facial features Hazaras like myself have always been specifically targeted and in many cases killed

**Incident that occurred in 2004**

Sometime in 2004 my brother ([name]) and I joined a Shia religious procession on Ashura day. The procession which commenced close to our residence headed towards Mezan Chowk and Liaquat Bazaar which are Pashtun areas.

My brother was ahead of me in the procession with his Hazara Shia friends and I was a fair distance away from my brother.

As we reached Liaquat bazaar there was an explosion. I soon realised that a bomb exploded ahead of me a fair distance away.

Hazaras and Shias in the procession began running in different directions and it was a chaotic situation.

I too fled the area immediately. I went to a nearby [building] seeking refuge as I was terrified and afraid that there might be more explosions. I hid behind the building though I could not get inside the building as it was a holiday due to Ashura day. I was concerned about my brother but was helpless as I did not see him anywhere nearby.

After approximately an hour while I was in hiding, I met a Hazara Shia man ([name]) who I knew and he told me that my brother was injured in the attack and that he was taken to [hospital].

After a while in hiding I went to the [hospital] and saw that my brother had an injury to his [body].

I narrowly escaped death on this occasion. Laskari Jangevi claimed responsibility for carrying out this attack on Shia Muslims.

Incident that occurred in 2010

Sometime in 2010, [a relative] was injured as a bomb exploded close to Meza Chowk as he participated in a Shia religious procession on Qutz day. One of my neighbours by the name of [name] was killed on this particular day as he was in the procession.

On that particular day fortunately [I did not go].

Laskari Jangevi once again claimed responsibility for carrying out this attack on Shia Muslims.

Incident that occurred in 2011

Sometime in 2011 on the day of Eid I went to the Eidga for Eid prayers down Alamdar road (*Edga is a sacred Shia place of worship for those who wish to pray on Eid*)

As the prayers came to an end that day I began walking outside towards the road when a suicide bomber who drove car meters away from where I was blew himself up killing several Hazaras and Shias that day.

I fortunately escaped on that particular day. My father who was [some distance away] when the suicide bomber blew himself up also narrowly escaped death that day.

As the months passed by since this incident the situation has only got worse as the radical Sunni Islamic groups have stepped up their attacks specifically targeting Hazaras and Shia Muslims like myself for reason of race and religion.

As a taxi driver travelling inside and outside of Quetta particularly, was becoming increasingly difficult and risky as the radical Sunni Islamic groups are everywhere and are carrying out target killings on a daily basis. It was not possible to drive my taxi anymore.

It is for these reasons (i.e. due to the worsening situation and also as it was not possible to drive my taxi anymore in order to survive) that I decided to flee Pakistan sometime in May 2012.

**Who I think may harm/mistreat me in that country and why?**

I believe if I return to Pakistan I fear I would be seriously harmed and possibly killed by the radical Sunni Islamic groups who are continuing to kill Hazaras and Shias like myself for reason of race and religion as they consider us to be infidels.

**Why I think the authorities of that country cannot or will not protect me if I were to go back to that country?**

The Pakistan government are turning a blind eye to what is happening in Quetta and other areas. They do not take action when the radical Sunni Islamic groups carry out attacks against Shia Muslims. Therefore I do not believe that Pakistan would protect me if I am returned,

**Why I think relocation to another area in my country is not a safe option?**

It is clear that all Hazaras living in Quetta, Pakistan which is a Hazara settlement area are not safe. As Hazaras are unable to live safely in a majority Hazara area in Pakistan therefore I believe it is not possible for Hazaras and Shias to live anywhere in Pakistan at the present time as attacks are also carried out by radical Sunni Islamic groups outside of Quetta at the present time.

The whole of Pakistan is unsafe at the present time as radical Sunni Islamic groups who are well connected are everywhere across the whole of Pakistan.

**Other reasons I cannot return to my home country — Complementary protection**

I fear if I am returned to Pakistan I am at risk of being killed by the radical Sunni Islamic groups of my race and religion.

29. [In] June 2012 the Department conducted the applicant's entry interview The applicant was consistent as to his personal details outlined above. He indicated he left Pakistan as he is a Hazara Shia and referred to the 2004 Ashura Day bombing where his brother was injured and when [a relative] was injured by a suicide bomber in 2009 during another Shia festival
30. [In] September 2012 the applicant was interviewed by the Department. The Tribunal has listened to the tape of that interview and where relevant the evidence from that interview appears in this decision.

**Application for Review**

*Pre-hearing submission*

31. The applicant's agent made written submission pertaining to the applicant's claims [in] January 2013. The agent claimed the applicant feared persecution in Pakistan on the basis of his Hazara race and Shia religion. He noted that the delegate accepted the following:
  - The applicant is a citizen of Pakistan.
  - He does not have effective protection in a third country.
  - He is a Shia and Hazara from Quetta.
  - The country information supports a finding that there is a systematic campaign of targeted attacks against Shia Hazaras in Quetta.

32. The agent rejected the delegate's finding that it would not be unreasonable for the applicant to return to Pakistan and relocate to Karachi, that there is not a real chance he would be targeted by any militant Sunni group on the basis of his Shia religion and Hazara ethnicity in Karachi. The agent also rejected the delegate's finding as not determinative that the applicant has a profile that would render him to be of specific interest to the militant Sunni groups. The agent also rejected that based on the applicant's level of education, that he speaks [a number of languages] fluently and has a demonstrated business acumen it would not be unreasonable for him to relocate to Karachi.
33. The applicant's agent attached information which he claimed indicates the following, including that relocation to Karachi cannot be considered a reasonable option.
- The security situation in Karachi is poor and deteriorating.
  - Widespread political, sectarian and terrorist violence has frequently occurred in Karachi with Shia Muslims the most frequent target.
  - As Hazaras are a much smaller population in Karachi they are at increased risk of violence.
  - The applicant is at risk because of his ethnicity and religion and this is sufficient to attract attention.
34. The agent added that the risks of persecution faced by Hazara Shias in Pakistan is not restricted to acts of physical violence and physical harm but extends to subsistence based threats due to the unofficial discrimination against Hazara Shias throughout Pakistan, including Karachi. He submitted this was particularly so as the applicant has no existing support networks in Karachi.
35. Also attached was information indicating that:
- The security situation in Pakistan is poor and deteriorating.
  - Sectarian violence is prevalent throughout Pakistan with Shias being frequent victims of sectarian attacks.
  - Hazaras have been discriminately targeted in the past in Pakistan by groups such as the Taliban and Lashkar-e-Jangawi.
  - The Taliban are willing to impute a person with hostile views for relatively minor and unintentional expressions of dissent and routinely target those who are perceived to be hostile to their interests.
  - The state authorities in Pakistan are unable and unwilling to protect their citizen from persecution, particularly persecution arising from sectarian violence
  - Sectarian violence has engulfed the entirety of Pakistan.

### *Tribunal Hearing*

36. The applicant appeared before the Tribunal [in] February 2013 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Hazaragi and English languages. The applicant was represented in relation to the review by his registered migration agent.
37. The applicant confirmed his date of birth and family details and that he was born in Quetta.
38. As to his family, he indicated his wife and [children] live with his parents and brothers on [Road 2]. He said his parents and brothers were supporting them and his two brothers [work]. He said [a relative was also] injured in a 2010 attack against Shia and [details deleted: s.431(2)].
39. As to his work, he confirmed he worked as a rickshaw driver in Quetta, but sold his rickshaw to come to Australia. He said that was the only rickshaw he owned
40. He said his family [had a] house in [Road 2] but [further details deleted: s.431(2)].
41. As to why he fears return to Pakistan; he indicated it was because he is Hazara and Shia and they are targeted by Seppah and Lashkar-e-Jangawi. He referred to the recent bombing on 10 January 2013 in Alamdar Road, occurring [a number of] km from his home [details deleted: s.431(2)]. He described in detail what his family had told him about the bombing.
42. He related consistent with his statement and generally consistent with independent country information above the incidents of violence perpetrated against Shias, which affected him and his family in 2004, 2010 and 2011.
43. I asked why it would not be reasonable for him to relocate to another part of Pakistan. He responded that all his family are in Quetta and it would be very difficult for him to move there. He said as a rickshaw driver he would have to go to areas he did not know for the other ethnic groups in Karachi. He said the Hazaras are a much smaller community in Karachi and the situation is worse for them there. I noted the delegate had indicated that the attacks on Hazaras in Karachi were not systematic. He responded the Lashkar-e-Jangawi and Seppah are not restricted to Baluchistan, but are all over Pakistan and are supported by the government. He said Hazaras are targeted more because of how they look.
44. The applicant's agent referred to his written submissions on relocation and indicated that without family and kinship relocation to other parts of Pakistan was not reasonable.

### **Background Information**

45. Quetta, the capital of Baluchistan, is home to both a large Pashtun population and a large Shia community. Over the past decade Quetta has become one of the most dangerous cities in South Asia for Shias.
46. The largest Shia community in Quetta is the Hazara community. As a consequence of their demographic dominance of the Shia community in the city, attacks and assassinations directed at Shias in the city have been resulted in a high proportion of Hazaran victims.<sup>1</sup>

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<sup>1</sup> (RRT, Country Advice: Pakistan - PAK37775, 14 January 2011).

47. Targeted attacks on Hazaras and other settlers have been occurring in Quetta, the capital of Baluchistan province, for a number of years. In 2010, the South Asia Terrorism Portal (SATP) reported “a sharp increase in incidents of targeted killing” and that:

According to a senior official of the provincial Government, there have been two principal kinds of targeted killings – the sectarian and those backed by insurgent or separatist groups. In most reported incidents, the targets were found to have been shot in the head by highly trained shooters. Most of the victims of these targeted killings have been Shias and Punjabis (generally referred to as settlers).<sup>2</sup>

48. The kidnapping of businessmen for ransom by religious extremist groups and criminal gangs has been common in Pakistan.<sup>3</sup> Victims are often members of religious minorities.<sup>4</sup>
49. In 2009, according to a report by the Human Rights Commission of Pakistan (HRCP), there were 592 cases of kidnapping for ransom in Khyber-Pakhtunkhwa (NWFP), 241 in Balochistan, 244 in Punjab, and 163 in Sindh.<sup>5</sup> In 2010, the HRCP reported that there were at least 581 kidnappings for ransom and 16,977 cases of abduction reported throughout Pakistan. In its 2010 annual report, the HRCP stated that not only is kidnapping for ransom “routine in all parts of the country”, “[t]here are indications that the perpetrators are being protected by elements in authority.”<sup>6</sup>
50. Extortion and kidnapping of businessmen for ransom has been common in Quetta. Muhammad Nadeem Khan, a member of Quetta’s Chamber of Commerce and Industries, stated in late 2009 that “the law and order situation is so bad in Quetta that businesses close early evening.” Many businessmen have reportedly left the city, preferring to sell their businesses and property at radically discounted prices rather than stay.<sup>7</sup> Victims of kidnapping/abduction in Quetta were often killed.<sup>8</sup>
51. In relation to the current situation, the UNHCR stated in its May 2012 *Eligibility Guidelines for the Assessing the International protection Needs of Members of Religious Minorities from Pakistan* that:

The largest Muslim minority in Pakistan, Shias, are the target of violent attacks by Sunni fundamentalist groups throughout the country...In the last year, sectarian violence targeting the Shia minority, including through attacks on Shia processions and religious gatherings and sites, reportedly continued. Such attacks were carried out predominantly in the North West of the country - including in Dera Ismail Khan, Hangu, Kohat and Tank districts of Khyber Pakhtunkhwa province and Kurram and Orakzai districts in FATA - as well as in urban centres throughout the country - including Gigit (Northern Areas), Lahore (Punjab province), Karachi (Sindh province) and Quetta (Balochistan province). Sectarian violence has resulted in hundreds of deaths and large scale displacement from Kurram.

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<sup>2</sup> ‘Balochistan Assessment – 2010’ (undated), South Asia Terrorism Portal (SATP) website

<sup>3</sup> UK Foreign and Commonwealth Office 2011, ‘Travel Advice – Pakistan’, 4 January

<sup>4</sup> ‘No one safe in Balochistan: Ansar Burney’ 2011, *The Nation*, 17 January

<sup>5</sup> US Department of State 2011, *Country Reports on Human Rights Practices 2010 – Pakistan*, 8 April, Section 1.C

<sup>6</sup> Human Rights Commission of Pakistan 2011, *Annual Report 2010*, April, p.6, p.53, p.373

<sup>7</sup> ‘On the run: Target killing in Balochistan is rising’ 2009, *The News – Pakistan*, 8 November

<sup>8</sup> US Department of State 2011, *Country Reports on Human Rights Practices 2010 – Pakistan*, 8 April, Section 1.C

52. In March 2012, DFAT reported that sectarian attacks against the Hazara community in Quetta have increased in the past twelve months and that this has occurred in the context of a generally deteriorating security conditions across Balochistan province. Referring to information provided by Hazara leaders, NGOs and government officials, DFAT stated that:

Hazaras in Quetta have been the subject of numerous sectarian attacks, including drive-by shootings, improvised explosive devices, suicide attacks and complex attacks. Sunni sectarian group Lashkar-e-Jhangvi (LeJ) has claimed responsibility for most of these attacks. ...

Hazaran political and community leaders in Quetta said Hazaras continued to face difficult conditions in Quetta. General security conditions in Balochistan have been deteriorating over the last 2-3 years. But in addition, Hazaras faced increasingly targeted sectarian attacks (more than 90 Hazaras were killed in sectarian attacks in Balochistan in the last 12 months) and rising incidents of kidnapping for ransom. Community leaders said the Hazaras felt increasingly under threat and were retreating into the two Hazaran enclaves in Quetta (Mariabad and Hazara Town). Unemployment was high because people had had to abandon their businesses outside these two areas. Parents felt it was no longer safe to send children to school or college outside the communities. The lack of arrests or other action against perpetrators of the attacks has led the Hazara community to believe that government agencies support, either implicitly or tacitly, the actions of the attackers. In comparison, Australia was perceived as a free, fair and safe society.<sup>9</sup>

53. In a report dated 9 May 2012, *Central Asia Online* reported that sectarian killings and violence had risen in Pakistan in 2012 “as the Tehreek-e-Taliban Pakistan (TTP)-backed militant outfits Lashkar-e-Jhangvi (LeJ) and Jundallah have intensified their “jihad” against a rival religious faction, Shias”. Reference was made to statistics compiled by the South Asia Terrorism Portal (SATP) which indicated that “about 164 people were killed in sectarian attacks” in Pakistan in the period between January and April 2012. During the same period in 2011, 86 people had been killed in sectarian attacks<sup>10</sup>
54. The Jamestown Foundation’s *Terrorism Monitor* reported in October 2011 that the campaign of violence against the Hazaras in Quetta has been ongoing since the 1990s and that the targeting and killings have escalated since the 2001 American invasion of Afghanistan and the relocation of the Taliban’s governing shura to Quetta<sup>11</sup>.
55. The Human Rights Commission of Pakistan (HRCP) has reported that over 260 members of the Hazara community in Quetta were killed in targeted killings between 2003 and 2009 and more than 1000 people were injured.<sup>12</sup> Human Rights Watch reported in December 2011 that at least 275 Shias, mostly Hazaras, have been killed in sectarian attacks in Balochistan since 2008.<sup>13</sup> In April 2010, *The Australian* quoted a senior official in Pakistan’s Federal Investigation Agency as stating that in Quetta, “eight to 10 Hazaras are being murdered every week”<sup>14</sup>

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<sup>9</sup> Department of Foreign Affairs and Trade 2012, *DFAT Report No. 1410 – Pakistan: RRT Information Request: PAK40673*, 3 August

<sup>10</sup> Mahmood, J. 2012, ‘TTP-backed militants trigger sectarianism’, *Central Asia Online*, 9 May

<sup>11</sup> Flood, D.H. 2011, ‘Sectarian Violence Escalates in Balochistan as Shia Holy Month Approaches’, Jamestown Foundation, *Terrorism Monitor*, Vol 9, Issue 38, 21 October

<sup>12</sup> UK Home Office 2011, *Country of Origin Information Report – Pakistan*, 17 January, Section 20.06 Accessed 27 April 2011

<sup>13</sup> Human Rights Watch 2011, *Pakistan: Protect Shia Muslims*, 3 December

<sup>14</sup> Hodge, A. 2010, ‘Officials ridicule visa rethink’, *The Australian*, 13 April, FACTIVA

56. Hazaras have a distinct facial appearance that identifies them as Shias. Abdul Khaliq, head of the Hazara Democratic Party (HDP) told *Central Asia Online* in July 2011 that Hazaras constitute an easy target for extremist anti-Shia groups because of “our distinct Mongolian features”.
57. There are numerous reports of targeted attacks on Shias in Quetta during 2012. These include:
- Eighteen people killed and two injured in an ambush on a bus carrying Shia pilgrims in Balochistan on 6 July 2012;<sup>15</sup>
  - A government official and two other men, including a Hazara, killed in a drive-by shooting on 4 July 2012;<sup>16</sup>
  - Thirteen Shia pilgrims killed in a bomb attack on a bus in Quetta on 28 June 2012 and 31 Hazaras reported to have been killed in the Quetta and Mand areas of Balochistan by bomb blasts and target killings during June 2012;<sup>17</sup>
  - Four Hazara students killed and fifty injured in a bombing of a university bus in Quetta on 18 June 2012;<sup>18</sup>
  - Six people, including four Hazaras, killed in a drive-by shooting on a Hazara shop in Quetta on 3 June 2012;<sup>19</sup>
  - Six people killed in a shooting in Hazara Town in Quetta following a rocket and gun attack on 4 May 2012;<sup>20</sup>
  - At least 29 Hazaras killed during April 2012 in Balochistan, on 16 May 2012 and statements from LeJ warning members of the community to leave the country;<sup>21</sup>
  - One person killed in a targeted attack on the Hazara community in on 16 April 2012;<sup>22</sup>
  - Eight or more Hazaras shot dead in two separate attacks in Quetta on 14 April 2012;<sup>23</sup>
  - Six Hazaras killed and three others injured in a targeted shooting at a market in Quetta on 9 April 2012;<sup>24</sup>

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<sup>15</sup> ‘18 Shia pilgrims killed in Pakistan’ 2012, *Press Trust of India*, 7 July, Indian Express

<sup>16</sup> ‘Senior official among three killed near Pakistan’s Quetta’ 2012, *The Express Tribune*, 5 July, BBC Monitoring Service

<sup>17</sup> Asian Human Rights Commission 2012, *Killings of Shiite Muslims under the very nose of the military – the ‘independent judiciary’ turns a blind eye while the government continues its policy of appeasement*, 4 July

<sup>18</sup> Ahmad, M. 2012, ‘Pakistan bombing hints at free rein for radicals in Quetta’, *The Christian Science Monitor*, 19 June

<sup>19</sup> Baloch, B. 2012, ‘Four Hazaras among 6 dead’, *The Nation*, 4 June

<sup>20</sup> Shahid, S. 2012, ‘Six killed in Quetta sectarian attack’, *Dawn*, 7 May

<sup>21</sup> ‘Q&A: Pakistan’s Hazara Shi’i community facing rising sectarian attacks’ 2012, *BBC Monitoring Service*, 16 May

<sup>22</sup> Baloch, S. 2012, ‘Sectarian violence: No let-up for Hazaras as one more killed in Quetta’, *The Express Tribune*, 17 April

<sup>23</sup> Akbar, M.S. 2012, ‘Pakistan’s Worsening Hazara Crisis’, *The Huffington Post*, 16 April

58. The main authorities in Balochistan, the Balochistan Police Force, the Frontier Corps, and the local branch of the Criminal Investigation Department (CID) are reportedly ineffective in investigating or preventing the sectarian violence and have arrested only a small number of militants.<sup>25</sup>
59. *Aljazeera* has quoted one source as claiming that “[t]here are only about 1,100 policemen across Quetta for all purposes including regular policing, providing security for VIPs and other things...[g]iven how stretched authorities are, and with an active separatist insurgency in Balochistan among other issues, I doubt providing security for Hazaras is a top priority for the law enforcement”. *Aljazeera* further noted that according to Amnesty International (AI), the Pakistani government has failed to address the collapse of law and order in Balochistan and that it is “very worrying that groups like Lashkar-e-Jangvi explicitly say they want to target minorities, and the government is yet to take concrete action against them. Some of their members have been detained, but without a proper trial to ensure justice”.<sup>26</sup>
60. In 2009, the International Crisis Group (ICG) reported that some members of the Balochistan police force have been implicated in sectarian attacks on Hazaras and noted that Hazaras have become even more vulnerable as Sunni radical groups have penetrated the province’s police force.<sup>27</sup> As well, Hazara police and security officers are themselves often targets of Sunni extremists. For example, in January 2012 a Hazara Inspector with the Federal Investigation Agency was shot dead;<sup>28</sup> on 16 April 2010, the Hazara Deputy Superintendent of Police was killed;<sup>29</sup> and in 2009, four Hazara policemen were killed.<sup>30</sup>
61. On 10 January 2013, a series of bomb blasts including two explosions on Alamdar Road killed nearly 100 people and wounded another 150 people. The attack was described as one of the worst in the Shiite minority in Pakistan.<sup>31</sup> CNN also reported that a bomb blast in Quetta in December 2012 killed more than 20 Hazaras.
62. The targeted killing of Shias is not confined to Quetta or Balochistan. For example, two people were killed and 18 others injured in a bomb attack on a bus carrying Shia passengers in Karachi on 17 August 2012;<sup>32</sup> and more than 17 people were killed and 25 wounded after a bomb attack on a Shia religious procession in Khanpur, Punjab province on 15 January 2012;<sup>33</sup>
63. DFAT stated in its 2012 report that many Hazaras have fled Quetta following a LeJ deadline for all Hazaras to leave and that, whilst there is a sizeable Hazara community in Karachi,

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<sup>24</sup> Baloch, S. 2012, ‘Sectarian attacks: Three Hazaras slain in Quetta attacks’, *The Express Tribune*, 13 April; Department of Foreign Affairs and Trade 2012, *Pakistan: Security and Militancy report – Week Ending 11 April 2012*, 12 April

<sup>25</sup> ‘On the run: Target killing in Balochistan is rising’ 2009, *The News – Pakistan*, 8 November

<sup>26</sup> ‘Pakistan’s minority Hazaras live in fear’ 2011, *Aljazeera*, 6 October

<sup>27</sup> International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report no.164, 13 March, pp.16-17

<sup>28</sup> ‘Balochistan violence: Hazara Democratic Party stages protest’ 2012, *The Express Tribune*, 26 January

<sup>29</sup> Mohammadi, I. 2010, *Reasons for the Target Killing of Hazaras in Balochistan, Pakistan*, Hazara.net, 22 August, p.2

<sup>30</sup> ‘Riots erupt in Quetta after the killing of Hazara Democratic Party leader’ 2009, *The Nation*, 26 January

<sup>31</sup> Khan, S, ‘Pakistani province in mourning after blast kills scores’, *CNN.com*, 29 January 2013

<sup>32</sup> Rafique, D. 2012, ‘Deadly bomb rocks Shias bus in Karachi; two killed, 18 injured’, *Daily Times*, 18 August

<sup>33</sup> Walsh, D. 2012, ‘Bomb Targets Shiite Muslims at Service in Pakistan’, *The New York Times*, 15 January

sectarian attacks on the Shia population in Karachi are relatively common, particularly during times of Shia festivals.<sup>34</sup>

64. The Pakistan Institute for Peace Studies (PIPS) Security Report notes that there were 36 sectarian attacks in Karachi in 2011, resulting in 58 deaths.<sup>35</sup> Karachi's Shia neighbourhoods have been described as "visibly barricaded and fortified".<sup>36</sup>
65. There is reportedly a Hazara community in the Punjab city of Multan. No specific information about the welfare of this community has been located. However, extremist groups such as LeJ are based in Southern Punjab<sup>37</sup> and LeJ is considered to be responsible for an attack on a Shia festival near Multan in January 2012 in which eighteen people were killed.<sup>38</sup>
66. Other reports indicate that organised groups are targeting Shias in southern Punjab, particularly in Jhang and Multan and that the anti-Shia group, *Lashkar-e-Toiba* (LeT), has a strong presence in Multan. According to a 2007 paper:

After Jhang, the SSP concentrated on Multan which also has a large Shia 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. ... Three districts of Punjab, Lahore, Gujranwala and Multan are known to be the strongholds of the LeT.<sup>39</sup>

67. Lahore, which also has a small Hazara community, has experienced large scale sectarian attacks, including against Shia targets. In September 2010, an LeJ suicide and grenade attack on a Shia procession killed forty-three people and injured another two hundred and thirty.<sup>40</sup>
68. The AHRC noted in July 2012 that:

Balochistan province, the Gilgit and Baltistan and Kurram agency of northern area .... has become a killing ground for the Shiite sect that consists of 24 percent of the Muslim population in Pakistan. ....

In Karachi alone, which is not considered a military zone, not a month passes without target killings of Shiite and the militant organisations overtly take collections from the streets to fund their operations.<sup>41</sup>

69. On the adequacy of state protection in Pakistan more generally, the UNHCR states that:

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<sup>34</sup> Ali, R. 2011, 'Hazaras not safe even in Karachi', Hazara News Pakistan, source: *The News*, 7 October

<sup>35</sup> Department of Foreign Affairs and Trade 2012, *DFAT Report No. 1410 – Pakistan: RRT Information Request: PAK40673*, 3 August

<sup>36</sup> Hoodbhoy, P. 2012, 'Run for your life', *The Express Tribune*, 4 March

<sup>37</sup> 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

<sup>38</sup> '18 killed in blast at Khanpur Shia procession' 2012, *Pakistan Today*, 16 January 'Pakistan blast: Shias killed in Khanpur procession' 2012, *BBC News*, 15 January

<sup>39</sup> Bahadur, K. 2007, *Islamisation in Pakistan: A Case Study of Punjab*, Observer Research Foundation, Issue Brief 12, October, pp.4-5

<sup>40</sup> South Asian Terrorism Portal 2011, *Punjab Assessment – 2011*

<sup>41</sup> Asian Human Rights Commission 2012, *Killings of Shiite Muslims under the very nose of the military -- the 'independent judiciary' turns a blind eye while the government continues its policy of appeasement*, 4 July.

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 immunity, 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 in areas where Taliban affiliated groups are active, such as the North-West of Pakistan and in urban centres may, depending on the individual circumstances of the case, be in need of individual protection on account of their religion and or (imputed) political opinion.<sup>42</sup>

70. In relation to relocation, the UNHCR notes that Shias are the target of violent attacks by Sunni fundamentalist groups across the country and that relocation will not generally be available to individuals at risk of being targeted by armed militant groups because of their wide geographic reach and activity.<sup>43</sup>

### **Information on attacks referred to in the Applicant's Statement**

71. In 2004, on 2 March, suicide gunmen/bombers attacked a procession celebrating the Shia festival of Ashura. Thirty-eight Hazaras died and responsibility for the attack was subsequently attributed to Lashkar-e-Jhangvi.<sup>44</sup> Information indicates the following.

The target of this year's Muharram violence was the Ashura procession in Quetta, provincial capital of Baluchistan. On 2 March, as the main Ashura procession passed through the city's Liaquat Bazaar, three gunmen opened fire indiscriminately on the crowd. In the ensuing chaos, with people fleeing and the police firing back, dozens were killed. When some in the crowd tried to turn on the attackers, two of them exploded devices attached to their waists, killing themselves and those around them. Some reports added that they detonated hand grenades. A third assailant was captured.

The violence did not stop there. Enraged Shias set fire to cars and shops. The offices of a national TV channel were gutted, as were two cinemas and a bank. Fire crews could not get through the riot-rife streets to put out the fires. By the time police and paramilitaries finally got the situation under control, some 300 properties had been damaged or destroyed. An indefinite curfew was imposed on the city.<sup>45</sup>

72. On 3 September 2010, a suicide bombing took place at Mezan Chowk (Mizan Chowk, Meezan Chowk),<sup>46</sup> a "commercial hub" located in the city of Quetta.<sup>47</sup> The target of the

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<sup>42</sup> UNHCR, *Eligibility guidelines for assessing the international protection needs of members of religious minorities from Pakistan*, 14 May 2012

<sup>43</sup> Ibid,

<sup>44</sup> Idris, I. 2004, 'Carnage in Quetta', *Al-Ahram*, no.681, 11-17 March

<http://weekly.ahram.org.eg/2004/681/in2.htm> – Accessed 30 March 2010 –; Akbar, M.S. 2009, 'Hazara tribesmen under attack in Quetta', *Daily Times*, 6 February

[http://www.dailytimes.com.pk/default.asp?page=2009\02\06\story\\_6-2-2009\\_pg7\\_15](http://www.dailytimes.com.pk/default.asp?page=2009\02\06\story_6-2-2009_pg7_15) – Accessed 29 March 2010 –; International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report no.164, 13 March, pp.16-17 –

<sup>45</sup> Idris, I. 2004, 'Carnage in Quetta', *Al-Ahram*, no.681, 11-17 March

<http://weekly.ahram.org.eg/2004/681/in2.htm> – Accessed 30 March 2010

<sup>46</sup> 'Quetta rally suicide bomb kills dozens' 2010, *BBC News*, 3 September <http://www.bbc.co.uk/news/world-south-asia-11177686> – Accessed 10 October 2011 – <Attachment>; Zafar, M. 2010, '55 killed in Quetta rally attack', *Daily Times*, 4 September

attack was a Shi'a Muslim rally<sup>48</sup> that had been organised to mark al-Quds Day<sup>49</sup> and express solidarity with the Palestinians.<sup>50</sup> The rally had been organised by the Shi'a Imamia Students' Organisation.<sup>51</sup>

73. It was reported that the bombing took place at Mezan Chowk near Baldia Plaza.<sup>52</sup> No reports were located indicating the specific time when this suicide bombing occurred, although it was reported that the rally had commenced soon after Friday prayers.<sup>53</sup> One report indicates that a crowd of 450 people took part in the rally,<sup>54</sup> while other reports indicate that "hundreds" of people had participated.<sup>55</sup> The reported number of persons killed in the attack ranged from "at

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[http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory\\_4-9-2010\\_pg1\\_1](http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory_4-9-2010_pg1_1) – Accessed 10 October 2011 –; Baloch, B. 2010, 'Bloodbath as bomber rips through Quetta rally', *The Nation*, 4 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/04-Sep-2010/Bloodbath-as-bomber-rips-through-Quetta-rally> – Accessed 10 October 2011 –.

<sup>47</sup> 'Pakistani agency reports details of Quds rally blast' 2010, *BBC Monitoring Service*, source: *Associated Press of Pakistan*, 3 September –

<sup>48</sup> 'Quetta rally suicide bomb kills dozens' 2010, *BBC News*, 3 September <http://www.bbc.co.uk/news/world-south-asia-11177686> – Accessed 10 October 2011 –; Baloch, B. 2010, 'Bloodbath as bomber rips through Quetta rally', *The Nation*, 4 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/04-Sep-2010/Bloodbath-as-bomber-rips-through-Quetta-rally> – Accessed 10 October 2011 –; Reporters Without Borders 2010, 'Journalists killed and injured in Quetta bombing, reporter kidnapped in Islamabad', UNHCR Refworld website, 6 September <http://www.unhcr.org/refworld/docid/4c8df29814.html> – Accessed 10 October 2011 –.

<sup>49</sup> Zafar, M. 2010, 'Suicide attack on Shia rally kills 60 in Quetta' 2010, *The Nation*, 3 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Regional/Karachi/03-Sep-2010/28-killed-in-Quetta-suicide-blast> – Accessed 10 October 2011 –; '55 killed in Quetta rally attack', *Daily Times*, 4 September [http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory\\_4-9-2010\\_pg1\\_1](http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory_4-9-2010_pg1_1) – Accessed 10 October 2011 –; Committee to Protect Journalists 2010, 'Journalist, media worker dead in Quetta attack', UNHCR Refworld website, 7 September <http://www.unhcr.org/refworld/docid/4cb6c80029.html> – Accessed 10 October 2011 –.

<sup>50</sup> Baloch, B. 2010, 'Bloodbath as bomber rips through Quetta rally', *The Nation*, 4 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/04-Sep-2010/Bloodbath-as-bomber-rips-through-Quetta-rally> – Accessed 10 October 2011 –; Reporters Without Borders 2010, 'Journalists killed and injured in Quetta bombing, reporter kidnapped in Islamabad', UNHCR Refworld website, 6 September <http://www.unhcr.org/refworld/docid/4c8df29814.html> – Accessed 10 October 2011 – <Attachment>; Committee to Protect Journalists 2010, 'Journalist, media worker dead in Quetta attack', UNHCR Refworld website, 7 September <http://www.unhcr.org/refworld/docid/4cb6c80029.html> – Accessed 10 October 2011 –.

<sup>51</sup> 'Suicide attack on Shia rally kills 60 in Quetta' 2010, *The Nation*, 3 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Regional/Karachi/03-Sep-2010/28-killed-in-Quetta-suicide-blast> – Accessed 10 October 2011 – <Attachment>; 'Quetta rally suicide bomb kills dozens' 2010, *BBC News*, 3 September <http://www.bbc.co.uk/news/world-south-asia-11177686> – Accessed 10 October 2011 – <Attachment>; Zafar, M. 2010, '55 killed in Quetta rally attack', *Daily Times*, 4 September [http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory\\_4-9-2010\\_pg1\\_1](http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory_4-9-2010_pg1_1) – Accessed 10 October 2011 –.

<sup>52</sup> 'Pakistani agency reports details of Quds rally blast' 2010, *BBC Monitoring Service*, source: *Associated Press of Pakistan*, 3 September –

<sup>53</sup> Zafar, M. 2010, '55 killed in Quetta rally attack', *Daily Times*, 4 September [http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory\\_4-9-2010\\_pg1\\_1](http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory_4-9-2010_pg1_1) – Accessed 10 October 2011 –.

<sup>54</sup> 'Pakistan: Quetta bombing death toll rise to 59, around 200 injured' 2010, *BBC Monitoring Service*, source: *Geo TV*, 4 September –

<sup>55</sup> Zafar, M. 2010, '55 killed in Quetta rally attack', *Daily Times*, 4 September [http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory\\_4-9-2010\\_pg1\\_1](http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory_4-9-2010_pg1_1) – Accessed 10 October 2011 – < ; Baloch, B. 2010, 'Bloodbath as bomber rips through Quetta rally', *The Nation*, 4 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/04-Sep-2010/Bloodbath-as-bomber-rips-through-Quetta-rally> – Accessed 10 October 2011 –.

least 42”<sup>56</sup> to “over 70”.<sup>57</sup> While a substantial number of people were killed and wounded in the initial blast,<sup>58</sup> further casualties were sustained in violence that was perpetrated in the immediate aftermath of the bombing.<sup>59</sup> The majority of the persons killed were reportedly Hazaras.<sup>60</sup> The militant groups Lashkar-e-Jhangvi<sup>61</sup> and the Pakistani Taliban<sup>62</sup> both claimed responsibility for the attack.

74. On 31 August 2011, at least 13 people, mostly Hazaras, were killed and 25 people were injured after a car bomb was detonated outside a mosque during an Eid service. LeJ claimed responsibility for the attack.<sup>63</sup>

## FINDINGS AND REASONS

75. On the basis of the applicant’s consistent evidence as to his place of birth and as to why he fled with his family from that place, the Tribunal accepts that the applicant was born in Quetta, Pakistan and lived there in [Road 2], until his departure from Pakistan in 2012. The Tribunal accepts on the basis of his consistent evidence that he is a citizen of Pakistan. I have also taken into consideration that the applicant has produced a copy of his Pakistani identity card which includes his photo.
76. The Tribunal finds that the applicant is a citizen of Pakistan and that his claims should be assessed against that country.

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<sup>56</sup> ‘UN chief deplors deadly attacks against Pakistan’s Shiite Muslims’ 2010, UNHCR Refworld website, source: *United Nations News Service*, 3 September <http://www.unhcr.org/refworld/docid/4c84aca21a.html> – Accessed 10 October 2011 –.

<sup>57</sup> US Department of State 2011, *International Religious Freedom Report for 2010 (July-December) – Pakistan*, 13 September, Section 2–.

<sup>58</sup> Baloch, B. 2010, ‘Bloodbath as bomber rips through Quetta rally’, *The Nation*, 4 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/04-Sep-2010/Bloodbath-as-bomber-rips-through-Quetta-rally> – Accessed 10 October 2011 –.

<sup>59</sup> ‘Suicide attack on Shia rally kills 60 in Quetta’ 2010, *The Nation*, 3 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Regional/Karachi/03-Sep-2010/28-killed-in-Quetta-suicide-blast> – Accessed 10 October 2011 –; Baloch, B. 2010, ‘Bloodbath as bomber rips through Quetta rally’, *The Nation*, 4 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/04-Sep-2010/Bloodbath-as-bomber-rips-through-Quetta-rally> – Accessed 10 October 2011 –; Reporters Without Borders 2010, ‘Journalists killed and injured in Quetta bombing, reporter kidnapped in Islamabad’, UNHCR Refworld website, 6 September <http://www.unhcr.org/refworld/docid/4c8df29814.html> – Accessed 10 October 2011

<sup>60</sup> ‘45 martyrs of Quetta suicide-blast laid to rest’ 2010, *The Nation*, 4 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/04-Sep-2010/45-martyrs-of-Quetta-suicideblast-laid-to-rest> – Accessed 10 October 2011 –.

<sup>61</sup> Zafar, M. 2010, ‘55 killed in Quetta rally attack’, *Daily Times*, 4 September [http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory\\_4-9-2010\\_pg1\\_1](http://www.dailytimes.com.pk/default.asp?page=2010%5C09%5C04%5Cstory_4-9-2010_pg1_1) – Accessed 10 October 2011 –; Baloch, B. 2010, ‘Bloodbath as bomber rips through Quetta rally’, *The Nation*, 4 September <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/04-Sep-2010/Bloodbath-as-bomber-rips-through-Quetta-rally> – Accessed 10 October 2011 –; Reporters Without Borders 2010, ‘Journalists killed and injured in Quetta bombing, reporter kidnapped in Islamabad’, UNHCR Refworld website, 6 September <http://www.unhcr.org/refworld/docid/4c8df29814.html> – Accessed 10 October 2011 –.

<sup>62</sup> ‘Quetta rally suicide bomb kills dozens’ 2010, *BBC News*, 3 September <http://www.bbc.co.uk/news/world-south-asia-11177686> – Accessed 10 October 2011 –; Mehsud, S. 2010, ‘CORRECTED – WRAPUP 11 – Bomb kills 54 in Pakistan, Taliban threatens U.S.’, *Reuters*, 4 September <http://www.reuters.com/article/2010/09/04/pakistan-idUSSGE68207V20100904> – Accessed 10 October 2011 –; US Department of State 2011, *International Religious Freedom Report for 2010 (July-December) – Pakistan*, 13 September, Section 2–.

<sup>63</sup> DIAC Country Information Service 2011, *Sectarian attack on Hazaras*, (sourced from DFAT advice of 23 September 2011), 23 September CISNET Pakistan CX273119.

77. The Tribunal finds that the applicant does not have a right to enter and reside in any other country in terms of s.36(3) – (5) of the *Migration Act*, other than Pakistan, as there is no evidence to suggest he has such a connection to any other country.
78. The applicant claims he fears return to Pakistan because he is of Hazara ethnicity and because he is of the Shia (Islam) religion. As to his claim of fearing persecution because of his ethnicity and religion, I accept that the applicant is Hazara and Shia. As to his ethnicity and religion he has been consistent at all stages of the process. He further has been interviewed in Hazaragi at all stages of the process. As Hazaragi is a language of the Hazaras, this adds to my finding, as does information that there is a large Hazara community in Quetta.
79. As to his claims which led him to leave Pakistan in 2012, he has provided a generally consistent account internally and with independent information as to the difficulties he and his family have faced as Shia Hazaras living in Quetta, particularly with regard to the difficulties he and his family faced in the 2004, 2010 and 2011.
80. Country information above confirms that there is ongoing sectarian conflict in Quetta and that Shia, including the Hazara community, is specifically affected by these sectarian killings by armed Sunni groups. Given that the country information indicates that the Sunni extremist groups are targeting Shia, and particularly Hazaras in Quetta and throughout Baluchistan and given the frequency of these attacks against Shias, I cannot exclude as remote the possibility that the applicant could be seriously harmed if he returns to Quetta and Baluchistan in the reasonable foreseeable future because of his Shia religion and Hazara ethnicity.
81. The Tribunal therefore finds that there is a real chance that the applicant will suffer serious harm at the hands of Sunni extremist groups were he to return to live in Quetta or Baluchistan in the reasonably foreseeable future. The Tribunal finds he will be targeted because he is a Hazara and Shia and he will suffer persecution for the essential and significant reasons of his ethnicity and religion. The Tribunal is satisfied that the harm he fears amounts to persecution in the context of Section 91R(1) given the record of assaults, violence and killings perpetrated by the Sunni extremist groups in Pakistan. The Tribunal is satisfied that the persecution will involve systematic and discriminatory conduct in that it will be directed at him in a non-random way for the reasons outlined above.
82. As to whether state protection is available to religious minorities in Pakistan, country information above indicates that the Pakistani authorities do not adequately protect religious minorities in Pakistan, including Hazara Shia. The Human Rights Commission of Pakistan (HRCP) provided information in its annual report, published February 2010, on the government's reluctance to bring perpetrators against the Hazara Shia community to justice. The 2012 US Commission on International Religious Freedom Report also notes that "Government officials do not provide adequate protections from societal violence to members of religious minority communities, and perpetrators of attacks on minorities rarely are brought to justice." This also accords with information provided by UNHCR in its 2012 *Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan* The Tribunal is therefore not satisfied that the applicant will be able to access state protection in Quetta or elsewhere in Pakistan were he to return there in the reasonable foreseeable future.
83. The Tribunal is not satisfied that the applicant could safely relocate to another part of Pakistan. As a Hazara, the applicant will be easily identifiable as a Shia anywhere in Pakistan. The country information above makes clear that the risk of harm to the applicant is

not localised to Quetta or Balochistan. The UNHCR has noted that sectarian attacks against Shia are occurring across Pakistan including in urban centres such as Karachi and Lahore where state authority is well established. DFAT has reported that sectarian attacks on Shia in Karachi are relatively common. Groups such as LeJ are headquartered in Punjab, close to centres such as Multan, which has a Hazara population, and attacks have occurred in that region. Lahore, which has a small Hazara community, has also suffered large scale attacks. Shia mosques have been attacked in Rawalpindi. The AHRC has described the northern and north-western areas of Pakistan as “a killing ground” for Shias.

84. The Tribunal therefore find that the applicant faces a real chance of serious harm for the essential and significant reason of his religion and ethnicity, and that there would be a failure on the part of the state of Pakistan to protect him.
85. Having carefully considered the applicant’s claims, the Tribunal finds that the applicant has a well-founded fear of persecution for the Convention reason of his Shi’a religion and his Hazara ethnicity if he returns to Pakistan, now or in the reasonably foreseeable future.

### **CONCLUSION**

86. 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**

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