

1215861 [2012] RRTA 1159 (21 December 2012)

DECISION RECORD

RRT CASE NUMBER:	1215861
DIAC REFERENCE(S):	CLF2012/176563
COUNTRY OF REFERENCE:	Pakistan
TRIBUNAL MEMBER:	Alison Murphy
DATE:	21 December 2012
PLACE OF DECISION:	Melbourne
DECISION:	The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

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

The primary application

20. The applicant arrived at [location deleted: s.431(2)], Australia as an undocumented irregular maritime arrival [in] May 2012 and lodged an application for protection [in] August 2012. He produced to the department scanned copies of the following identity documents:
 - Front pages of his Pakistani passport issued [in] July 2010 and valid until [a date in] July 2015 indicating that he was born in Quetta, Pakistan in [date deleted: s.431(2)] and recording his permanent address as [Town 1], Quetta;
 - An untranslated copy of his National Identity Card;
 - A Pakistani driver's licence dated 2004 recording his permanent address as in [Town 1], Quetta
 - Other untranslated documents.

21. The applicant states in his application that he was born in Ghazni, Afghanistan and that he gained his Pakistani citizenship by descent, crossing the border and settling in Quetta in January 1977. He states that [he has other relatives] in immigration detention in Australia.
22. The applicant states that he married [in] 2006 and has [children]. He states that his wife and children remain in Pakistan. He states that his father is deceased and that his mother [and siblings] reside in Pakistan. He states that he departed Pakistan [in] February 2012 and travelled to Australia via Thailand, Malaysia and Indonesia.
23. The applicant states that while in Pakistan he attended school [educational and employment details deleted: s.431(2)].
24. The applicant's protection claims are contained in a statutory declaration made [in] August 2012 in which he states:

My name is [name] and I am a [age] male born in [location], Jaghori, Ghanzi province, Afghanistan. My ethnicity is Hazara and my religion is Shia Muslim.

I am married and have [children]. My children live with my wife in Pakistan. My father died when I was [young]. My mother never remarried and lives in Quetta.

[My siblings] live in Quetta, Pakistan.

[Details of family name].

Why I left my home country

When I was [age], my father decided to leave Afghanistan and move to Pakistan. The reason was that the Pashtuns were persecuting Hazaras and it was dangerous for us to continue living in our village.

Why I left my country of former habitual residence

I left Pakistan because my life was in danger. Hazara Shias are discriminated against and persecuted in Pakistan as part of the ethnic cleansing and target killings. The situation has deteriorated considerably in the last ten years. It is very difficult to survive in a place like that.

Discrimination has been a constant problem since we moved to Pakistan. While I was working for [Employer 2], my brother and me were constantly teased, threatened and abused by the Pashtuns who were working with us. Very often they would show their weapons and say to us that we did not have a place in Pakistan and we had to leave the job and the country. We did not pay any attention to their threats but after a while, they [assaulted our employees].

I stopped working for [Employer 2] due to the intensity and frequency of the threats and also, the increased danger in the roads which made our travelling to and from work really difficult. We had to travel [some] hours to return home. We lived close to work in the mountains, in [location] and once a month we would go home. After my brother and I quit the job, we remained in Quetta for a while. Then I [started my taxi business].

When I was a taxi driver, I used to drive from Quetta to [Town 3] and return.

One day in March 2011 I was hired to drive [some] workers to [Town 3] and wait for them until they finished working and bring them back to Quetta. While I was waiting, men on two motorbikes came toward me and told me to go away because some people were on their way to kill me. [Town 3] is a Baloch area and as a Hazara I was not supposed to be there. I fled through another unpaved road. Later I found out that some people went to [Town 3] looking for me. After this incident, I continued driving taxis but closer to Quetta.

[In] July 2011, while I was driving passengers to [Suburb 4], a taxi in front of me got shot from both sides of the road. [A number of] people died on that incident. My passengers pleaded with me to return to Quetta and when I was turning the vehicle, we were shot at as well. Two bullets hit the boot of my car but were fortunate enough to escape uninjured.

I left Pakistan to save my life. I paid a smuggler to bring me to Australia. I arrived in [location] on [date] May 2012.

Why I cannot relocate

I left Afghanistan when I was about [age]. I do not think that the situation for us has changed and the Taliban continues to be active, killing Hazara Shias. I am not a citizen of Afghanistan as I am a citizen of Pakistan. I do not have any documents from Afghanistan.

In Pakistan I cannot relocate because the situation for Hazara Shias is the same in the whole country. We are easily recognised by our facial features and as such we are an easy target.

What I fear might happen if I go back to my home country and country of former habitual residence

In Afghanistan, I know that Hazara Shias are being persecuted and killed. I do not want to die because of my ethnicity or religion.

In Pakistan, I may be killed due to the ethnic cleansing and target killings that have been taking place for over a decade. I am a Muslim Shia and a Hazara; I will not be able to seek any protection as the authorities tend to protect Pashtuns because Pashtuns make the majority in government. In reality, authorities are powerless against Lashkar-e-Janghavi, the Pashtun Khua and the Baloch Liberation Army.

Who I think will harm or mistreat me if I go back

The Pashtuns and Taliban in Afghanistan and Lashkar-e-Janghavi, Pashtun Khua and the Baloch Liberation Army in Pakistan because I am a Hazara Shia.

Why I believe they will harm or mistreat me if I go back?

Because I am a Shia Muslim and a Hazara.

Why I believe the authorities in my country and country of former habitual residence will not protect me if I go back

In Pakistan, nobody will protect me against Lashkar-e-Janghavi and the Baloch Liberation Army. These groups are very powerful and have an unofficial control of the country.

In Afghanistan, the government is weak and does not have the resources or the power to protect their own people. I am an ordinary Hazara living in Pakistan.

Why I think I will suffer significant harm

Because I am a Shia Muslim and a Hazara.

Other matters that I would like the department to take into account

In Pakistan I feared for my life constantly. I love peace and I want my children to grow in peace, without fear. This is why I am in Australia.

The delegate's decision

25. [In] September 2012 a delegate decided to refuse the applicant a protection visa, not being satisfied that he was a person to whom Australia owed protection obligations. In the decision record of the same date, the delegate noted the following matters:
- That on the basis of the large number of identity documents submitted by the applicant, he accepted that the applicant was a citizen of Pakistan;
 - Although it is not explicitly stated, the delegate appears to have accepted that the applicant is a Hazara Shia living in Quetta noting that the delegate's decision raises no issues of credibility with respect to the applicant's claims;
 - The delegate accepted that there is a real chance that the applicant would be harmed if he returned to Quetta on the basis of his Shia religion and Hazara ethnicity and that he could not obtain effective state protection for that harm;
 - In relation to relocation, the delegate considered that attacks on Hazara Shias outside of Quetta are rare and that Hazara Shias are prominent in Karachi, Lahore and Islamabad and found in smaller numbers across Pakistan including in Rawalpindi. He considered that the chance that the applicant would face persecution outside of Quetta on account of his race or religion to be remote and was satisfied that relocation was reasonable given his demonstrated resourcefulness.

Country Information

The position of Shias in Pakistan

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

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

...

In the last year sectarian violence targeting the Shia minority, including through attacks on Shia processions and religious gatherings and sites, reportedly continued. Such attacks were carried out predominantly in the North-West of the country – including in Dera Ismail Khan, Hangu, Kohat and Tank districts of Khyber Pakhtunkhwa province, and Kurram and Orakzai Agencies in FATA – as well as in urban centres throughout the country – including Gilgit (Northern Areas), Lahore (Punjab province), Karachi (Sindh province) and Quetta (Balochistan province). Sectarian violence has resulted in hundreds of deaths and large-scale displacements from Kurram.¹

27. RRT Country Advice PAK38764, dated 17 May 2011 states in part that:

Attacks on Shia communities throughout Pakistan by Salafist and Deobandi extremist groups are part of a long-running campaign to create a Sunni Islamic state. Shia Muslims are regular victims of targeted attacks by Sunni extremist groups in Quetta, including Sipah-e-Sahaba Pakistan (SSP) and Lashkar-e-Jhangvi (LeJ). SSP, LeJ, and other Tehrik-e-Taliban Pakistan (TTP) groups continue to stage targeted attacks on Shia communities across Pakistan, including Lahore, Karachi and Faisalabad . . .

28. The Asian Human Rights Commission reports that:

Rather than make any attempt to control the religious extremists the government is following a policy of appeasement with the religious militants and banned groups to avoid open confrontation with them. This policy has cost them one governor, a federal minister and ordinary citizens who oppose the extremist Islamist thoughts, intolerance and terrorism².

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

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

In light of the foregoing, UNHCR considers that members of the Shia community, particularly those in areas where Taliban-affiliated groups are active, such as the northwest of Pakistan and in urban centres, may, depending on the individual

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

² Asian Human Rights Commission 'The State of Human Rights in Pakistan in 2011' AHRC-SPR-008-2011 at p3

circumstances of the case, be in need of international refugee protection on account of their religion and/or (imputed) political opinion.³

30. 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”.⁴
31. The term ‘Taliban’ is frequently employed as a shorthand term for a variety of violent Deobandi and Salafist jihadi groups operating in both Afghanistan and Pakistan. There are a number of indigenous Deobandi and Salafist extremist groups that operate throughout Pakistan, most of which carry out attacks on non-Deobandis and commit acts of terrorism against the state of Pakistan. Many of these groups communicate and cooperate with one another under the umbrella of Tehrik-e-Taliban Pakistan (TTP).

The position of Hazaras in Pakistan

32. In Pakistan, the largest Hazara community resides in Quetta, Balochistan. A 2010 report by the Department of Foreign Affairs and Trade (DFAT) states that there are at least 450,000 Hazaras living in Quetta.⁵ According to a separate DFAT report, it is estimated that there are “up to 600,000 Hazaras (both Pakistani and Afghani) living in Pakistan” and that other Hazara settlements “can be found in Karachi, Lahore and more recently in Multan”.⁶ DFAT noted in 2012 that “[m]ovement and contact between these communities is apparently minimal”.⁷

Security and Livelihood in Quetta

33. In October 2011, The Jamestown Foundation in their *Terrorism Monitor* reported:

Regular attacks on Hazaras in Balochistan began in the late 1990s in the wake of an urban sectarian war between Sipah-e-Sahaba Pakistan (SSP) and Sipah-e-Mohammad Pakistan (SMP). These groups were supported by Saudi and Iranian state patrons respectively in the context of a religious proxy conflict on Pakistani soil. Lashkar-e-Jhangvi (LeJ), an ever-more radical Sunni movement that splintered from the SSP, continues to carry out mass attacks on Shi’a. ...

Attacks on Quetta’s Hazara minority began in 1997 with virtually all attributed to LeJ. LeJ ideology employs the inherently controversial concept of *takfir* whereby they grant themselves the authority of declaring other Muslims apostates worthy of death. LeJ recently distributed a letter in Quetta essentially declaring war on the Hazara: “All Shiites are worthy of killing. We will rid Pakistan of unclean people. Pakistan means land of the pure and the Shiites have no right to live in this country We have the edict and signatures of revered scholars declaring Shi’ites infidels. Just as our fighters have waged a successful jihad against the Shiite Hazaras in

³ United Nations High Commissioner for Refugees 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan*, HCR/EG/PAK/12/02, 14 May, p.40 <<http://www.unhcr.org/refworld/docid/4fb0ec662.html>>

⁴ 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>>

⁵ Department of Foreign Affairs & Trade 2010, *Conditions for Asylum Caseloads: Hazaras in Quetta*, 30 July.

⁶ Department of Foreign Affairs & Trade 2010, *The Hazara Community*, 20 May.

⁷ DIAC Country Information Service 2012, *Country Information Report No. 12/20: Hazaras in Pakistan*, (sourced from DFAT advices of 01 March 2012 and 9 March 2012), 23 March.

Afghanistan, our mission in Pakistan is the abolition of this impure sect and its followers from every city, every village and every nook and corner of Pakistan” (Asia Times Online, October 5).

Balochistan’s highest ranking policeman, Inspector General Tariq Khosa, laid the blame for the sectarian violence on weak-willed politicians who have allowed rural tracts of the province to be guarded by militias called the Balochistan Levies Force who are accountable for their district’s own law and order. This arrangement leaves many areas off limits to formal Pakistani law enforcement responsible to Islamabad. ..

So long as Malik Ishaq, the group’s leader, and the LeJ leader in Balochistan, Usman Saifullah Kurd, remain at large, the security of Hazaras in the province will continue to deteriorate (*News International*, October 7; see *Militant Leadership Monitor*, July 2011).⁸

34. The United Kingdom COI Home Office Report for Pakistan dated 7 June 2012 which collates relevant and recent country information, contains the following:

20.07 IRIN reported on 7 February 2012 that, according to a Hazara chief, there were six to seven thousand Hazaras living in Pakistan, mostly based in Quetta although some were in Hyderabad, Sindh province, and other Baloch districts. The report added:

“Widespread fear of harassment, discrimination and killings has prompted some Hazara community members living in Quetta, the capital of Balochistan Province in southwestern Pakistan, to consider leaving the country, even by illegal means. ‘Over 600 Hazaras have been killed since 2000,’ Abdul Qayyum Changezi, head of the Hazara Jarga, a group representing Hazaras, told IRIN. Media reports speak of dozens recently killed in attacks on the community in Quetta and in other parts of the province.” ...

20.09 The Human Rights Commission of Pakistan noted in its annual report, State of Human Rights in 2009 (HRCP Report 2009), published February 2010, on violence against the Hazara-Shia community in Balochistan. The report stated:

The Hazara community believed that security agencies and the government were protecting and patronising the perpetrators of crimes against the Shia community. As an example, they presented the case of two convicted criminals, Usman Saifullah Kurd and Shafeeq Rind, belonging to the anti-Shia organization, Lashkar-i-Jhangvi, who had mysteriously escaped from a well-guarded jail of Anti-Terrorist Force (ATF) in Quetta Cantonment where no one could enter without a pass, implying they were helped by some elements within the security agency.

35. The website Hazara.net provides an up to date list of Hazara Victims of Terrorism, around Quetta, Balochistan, and its vicinity, although states the list is incomplete due to the number of victims and families leaving the area. The numbers and regularity of targeted killings of Hazaras in Quetta including business people, political and religious leaders, street sellers, students, pilgrims and ordinary Hazaras going about their everyday lives can leave no doubt that there is a real and not remote chance that the applicant will suffer serious harm if he is returned to Pakistan.
36. RRT *Country Advice* PAK38635 published in May 2011 states that Shi’ites in Balochistan are particularly vulnerable to targeted attacks when attending mass rallies, Friday prayers, or large religious ceremonies, particularly those staged during Ashura parades during the month of Muharram; all common practices in Shi’ite cultural/religious life.⁹

⁸ Jamestown Foundation, *Sectarian Violence Escalates in Balochistan as Shi’a Holy Month Approaches*, 21 October 2011, Terrorism Monitor Volume: 9 Issue: 38, available at: <http://www.unhcr.org/refworld/docid/4ea548dd2.html>

⁹ Refugee Review Tribunal Country Advice: PAK38635 available at: <http://www.mrt-rrt.gov.au/PerformSearch.aspx?ArticleID=193&ModuleID=651&Keywords=PAK38635&SiteSection=&SiteSectionDescr=>

37. The Human Rights Commission Pakistan stated in October 2011:

Lahore, October 10: The Human Rights Commission of Pakistan (HRCP) has expressed grave concern over mounting threats to the right to life across Pakistan as well as widespread impunity for killings and demanded more robust and meaningful efforts to protect human rights, particularly the right to life.

A statement issued at the conclusion of the HRCP Council meeting said: The Human Rights Commission of Pakistan takes serious note of the litany of threats to the right to life in Pakistan **It expresses serious concern that all manner of killings remain pervasive in Balochistan, including horrific bloodshed as a result of targeting of the Hazaras, and victims of enforced disappearance continue to be recovered as dead bodies.** There is large-scale killing in the tribal areas and no effort has been made to get to the truth despite months passing since reports emerged of a mass grave in Mohmand Agency. Killings of citizens in Karachi violence are now seen as the norm. The open season on journalists continues and the climate of impunity for journalists killers is such that it amounts to virtual immunity for murder. [Emphasis added]¹⁰.

38. DFAT reports that according to the Human Rights Commission of Pakistan (HRCP), over 260 members of the Hazara community in Quetta were killed in targeted killings and more than 1000 people suffered some form of injury between 2003 and 2009.¹¹ In December 2011, Human Rights Watch stated that at least 275 Shias, mostly of Hazara ethnicity, have been killed in sectarian attacks in Balochistan since 2008.¹² *The Australian* reported in April 2010 that a senior official in Pakistan's Federal Investigation Agency informed the paper that in Quetta, "eight to 10 Hazaras are being murdered every week"¹³
39. A July 2010 DFAT report on Hazaras in Quetta describes the security situation in Balochistan and Quetta as "generally poor", stating that "the Hazaran community is specifically affected by sectarian killings of Shia by armed Sunni groups as well as targeted killings of minorities and 'outsiders' by ethnic Baluchi elements". Furthermore, "Hazaras are also affected by kidnappings for ransom, which have become a lucrative way for armed militant groups in Baluchistan to raise money".¹⁴
40. A 2009 report by the Human Rights Commission of Pakistan (HRCP) suggests that Hazaras are also targeted in Quetta due to a perception that they are wealthy:

The relative prosperity of Hazara community, with handsome amounts of remittances coming home from a large number of expatriates, is cited as another reason behind increasing crimes against the community members. It seems a campaign has been launched to terrorise the Hazara community so that they leave Quetta by selling their businesses and property at throwaway prices. Pamphlets have been left at their homes telling them to sell their houses and leave. Incidents of abduction for ransom are

¹⁰ Available at: <http://www.unhcr.org/refworld/docid/4e9c2a51c.html>

¹¹ UK Home Office 2011, *Country of Origin Information Report – Pakistan*, 17 January, Section 20.06 <<http://www.unhcr.org/refworld/docid/4d37e8622.html>>

¹² Human Rights Watch 2011, *Pakistan: Protect Shia Muslims*, 3 December <<http://www.hrw.org/news/2011/12/03/pakistan-protect-shia-muslims>>

¹³ Hodge, A. 2010, 'Officials ridicule visa rethink', *The Australian*, 13 April, FACTIVA.

¹⁴ Department of Foreign Affairs and Trade 2010, *Conditions for Asylum Caseloads: Hazaras in Quetta*, 30 July.

common in Quetta and the members of Hazara community are abducted on sectarian basis. The ransom amount ranges between one and four million rupees.¹⁵

41. A March 2012 editorial on the Pakistan Blogzine¹⁶ website argues that Hazaras in Pakistan are targeted because they are Shia Muslims, not because of their ethnicity. The editorial states that attacks on Hazaras are part of a wider “Shia genocide”.¹⁷ However, due to their distinct appearance¹⁸, Hazara ethnicity identifies them as Shia Muslims. Abdul Khaliq, head of the Hazara Democratic Party (HDP), told *Central Asia Online* in July 2011 that Hazaras constitute an easy target for Lashkar-e-Jhangvi and other anti-Shia groups due to their distinct physical appearance; “[o]ur people happen to be an easier target ... because of our distinct Mongolian features”¹⁹
42. The Jamestown Foundation’s *Terrorism Monitor* reported in October 2011 that although the campaign of violence against the Hazaras in Quetta has been ongoing since the 1990s, the targeting and subsequent death toll escalated following the 2001 American invasion of Afghanistan. This invasion led to the relocation of the Taliban’s governing *shura* (council) to Quetta, a factor that might be linked to the upsurge in anti-Hazara violence: “[t]he unabated spate of anti-Hazara violence may very well be linked to the presence in Quetta of the Afghan Taliban leadership, the Quetta Shura”.²⁰
43. 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.²¹
44. There are numerous reports of targeted attacks on Hazaras in Quetta in the last several years, including, but not limited to, the following:

¹⁵ Human Rights Commission of Pakistan 2009, *Pushed to the Wall: Report of the HRCP fact-finding mission to Balochistan 5-11 October*, p.19 <<http://www.hrcp-web.org/pdf/Pushed%20to%20the%20wall.pdf>>

¹⁶ Pakistan Blogzine describes itself as a “human rights advocacy and media watch” group.

¹⁷ Pakistan Blogzine 2012, *The Friday Times misrepresents the suffering of Pakistan’s Shias and Ahmadis*, 2 March <<http://pakistanblogzine.wordpress.com/2012/03/02/the-friday-times-misrepresents-the-suffering-of-pakistans-shias-and-ahmadis/>>

¹⁸ “The Hazaras’ Mongol origins can be seen in their Central Asian features including high cheekbones, sparse beards, and epicanthic eye folds, which distinguish them from the surrounding ethnic groups.” Farr, G. 2003, *The Hazara of Central Afghanistan*, Portland State University, p.2.

¹⁹ Hazara Network 2011, *Lashkar-E Jhangvi (Lej) Blamed For Killing Of Hazaras In Quetta, Pakistan*, source: *Central Asia Online*, 23 July <<http://www.hazaranetwork.com/forum/topics/lashkar-e-jhangvi-lej-blamed-f>>

²⁰ Flood, D.H. 2011, ‘Sectarian Violence Escalates in Balochistan as Shia Holy Month Approaches’, Jamestown Foundation, *Terrorism Monitor*, Vol 9, Issue 38, 21 October.

²¹ ‘Forced out of town by ethnic violence’ 2011, *IRIN News*, 27 May.

Targeted Attacks of Hazaras*	
October 2012	Four members of the Hazara community were killed by gunmen riding on a motorcycle in the Sirki Road neighbourhood of Quetta, Balochistan. "Masked men fired gunshots into the air to whip up fear among residents". ²²
September 2012	A dentist belonging to the Hazara ethnic community was killed after unidentified gunmen opened indiscriminate fire on Shaukat Clinic on Kinrani Road (near Hazara Town) in Quetta. ²³
August 2012	Gunmen riding on a motorbike shot dead three members of the Hazara community in Quetta. "A little known organisation, Jaish-i-Islam, claimed responsibility for the killing". ²⁴
April 2012	Eight members of the Hazara community were shot dead by men on motorcycles in two separate incidents within minutes of one another in Quetta. ²⁵
January 2012	"An Inspector of Federal Investigation Agency (FIA) Vilayat Hussain, TV actor Abid Nazish and Mohammad Anwar were shot dead by unknown assailants on Wednesday night in Quetta, in what appeared to be an incident of sectarian killing". ²⁶
November 2011	Mohammad Danish Alam, a Shia teacher at Balochistan University, was gunned down by unidentified men in the Zarghoonabad suburb of Quetta. ²⁷
October 2011	Gunmen on motorbikes stopped a bus carrying Hazaras to work at a vegetable market, near Quetta, killing 13 and wounding 6. ²⁸
September 2011	Members of Lashkar-e-Jhangvi, stopped a bus returning from Iran near the town of Mastung in Balochistan, and shot dead 26 Hazaras. Human Rights Watch reports that three Hazaras who escape were later killed when they later returned to take the wounded to hospital. ²⁹
May 2011	<i>Central Asia Online</i> reported that "on 6 May a rocket barrage killed seven Hazara men and injured several others in Hazara Town". On 18 May, "unidentified men shot and killed seven members of the Hazara community, including a baby, and critically wounded five others in Mirgahi Khan Chowk, Quetta". ³⁰
September 2010	Approximately 73 Shia Muslims were killed and over 200 injured in a suicide bombing in Quetta. ³¹ LeJ claimed responsibility for the attack. ³²
April	Hazari Deputy Superintendent of Police Ghulam Mohammad was killed on 16 April

²² Zafar, M 2012, 'Targeted Attack: Gunmen kill four Hazaras in Quetta', *The Express Tribune (Pakistan)*, 17 October <<http://tribune.com.pk/story/452641/targeted-attack-gunmen-kill-four-hazaras-in-quetta/>>

²³ 'Shia dentist among four killed in Balochistan' 2012, *The Daily Times Pakistan*, 6 September <http://www.dailytimes.com.pk/default.asp?page=2012%5C09%5C06%5Cstory_6-9-2012_pg1_5>

²⁴ 'Three Hazara men shot dead in Quetta' 2012, *Dawn News Group*, 17 August <<http://dawn.com/2012/08/17/three-hazara-men-shot-dead-in-quetta-2/>>

²⁵ 'Death rains on Shias in Quetta' 2012, *Daily Times*, 15 April <http://www.dailytimes.com.pk/default.asp?page=2012%5C04%5C15%5Cstory_15-4-2012_pg1_1>

²⁶ 'Balochistan violence: Hazara Democratic Party stages protest' 2012, *The Express Tribune*, 26 January <<http://tribune.com.pk/story/327541/balochistan-violence-hazara-democratic-party-stages-protest-2/>>.

²⁷ Human Rights Watch 2011, *Pakistan: Protect Shia Muslims*, 3 December <<http://www.hrw.org/news/2011/12/03/pakistan-protect-shia-muslims>>

²⁸ Human Rights Watch 2011, *Pakistan: Protect Shia Muslims*, 3 December <<http://www.hrw.org/news/2011/12/03/pakistan-protect-shia-muslims>>

²⁹ Human Rights Watch 2011, *Pakistan: Protect Shia Muslims*, 3 December <<http://www.hrw.org/news/2011/12/03/pakistan-protect-shia-muslims>>

³⁰ Rehman, Z.U. 2011, 'LeJ blamed for killing Hazaras in Quetta', *Central Asia Online*, 19 July <http://centralasiaonline.com/cocoon/caii/mobile/en_GB/features/caii/features/pakistan/main/2011/07/19/feature-01>

³¹ Hughes, M. 2010, 'Suicide attack death toll reaches 73 in Quetta Pakistan', *The Examiner*, 4 September <<http://www.examiner.com/afghanistan-headlines-in-national/suicide-attack-death-toll-reaches-73-quetta-pakistan-video>>

³² Reporters Without Borders 2010, *Journalists killed and injured in Quetta bombing, reporter kidnapped in Islamabad*, UNHCR Refworld, 6 September <<http://www.unhcr.org/refworld/docid/4c8df29814.html>>

2010	2010. ³³
October 2009	A Hazara lawyer, Advocate Wulayet, was killed. ³⁴
September 2009	At least two Hazara vegetable sellers were killed and two others were seriously injured in Quetta when their truck came under fire. ³⁵
June 2009	A Shi'ite Hazara headmaster of a local school in Quetta was shot. ³⁶
March 2009	The <i>Baluchistan Times</i> reported that nine Hazaras were killed in a ten day period in March 2009. ³⁷
March 2009	Two Shia Hazara men were killed while driving down Arbab Karam Khan Road in Quetta by armed men on motorcycles. ³⁸
March 2009	Three Hazara construction workers were shot dead in Quetta. ³⁹
January 2009	Hussain Ali Yousafi, the chairman of the Hazara Democratic Party, was killed in Quetta. ⁴⁰
January 2009	Four policemen, three of them Shia Muslims, were killed in Quetta. ⁴¹ All of them were Hazara, according to <i>Dawn</i> ⁴²
March 2005	The bombing of a Shi'ite shrine in Jhal Magsi killed 65. ⁴³
March 2004	An attack on a Shia Ashura procession in Quetta killed 38. ⁴⁴
July 2003	The bombing of a Shia mosque in Quetta left more than 50 people dead. ⁴⁵
June 2003	Eight Hazara police cadets were killed upon their "return from holiday". ⁴⁶

³³ Mohammadi, I. 2010, *Reasons for the Target Killing of Hazaras in Balochistan, Pakistan*, Hazara.net, 22 August, p.2 <http://www.hazara.net/downloads/Hazara_Ethnic_Cleansing_Pakistan.pdf>

³⁴ Hazara News Pakistan 2009, *Target-Killing Campaign; Advocate Wulayet Murdered*, 3 October <<http://hazaranewspakistan.wordpress.com/2009/10/03/target-killing-campaign-advocate-wulayet-murdered/>>

³⁵ Hazara News Pakistan 2010, *2 Hazaras Killed in Hazar Ganji*, 2 October <<http://hazaranewspakistan.wordpress.com/2010/10/02/2-hazaras-killed-in-hazarganji/>>

³⁶ 'Quetta shuts down after target killings' 2009, *Dawn*, 23 June <<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/metropolitan/07-quetta-shut-down-after-target-killings-claim-three-lives-ha-05>>

³⁷ 'Three escape unhurt in row of target killings in Quetta' 2009, *Baluchistan Times*, 11 March, FACTIVA.

³⁸ '2 tribesmen gunned down' 2009, *The Nation*, 9 March, FACTIVA.

³⁹ Shahid, S. 2010, 'Retired SP among three shot dead in Quetta', *Dawn*, 18 March <<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/retired-sp-among-3-shot-dead-in-quetta-830>>.

⁴⁰ Akbar, M.S. 2009, 'Mastermind' of sectarian killings held in Quetta', *Daily Times*, 13 November <http://www.dailytimes.com.pk/default.asp?page=2009%5C11%5C13%5Cstory_13-11-2009_pg7_3>

⁴¹ 'Riots erupt in Quetta after the killing of Hazara Democratic Party leader' 2009, *The Nation*, 26 January <<http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/26-Jan-2009/Riots-erupt-in-Quetta-after-the-killing-of-Hazara-Democratic-Party-leader>>.

⁴² DSP gunned down in Quetta' 2009, *Dawn*, 15 January <<http://www.dawn.com/2009/01/15/top9.htm>>; 'Pakistan: 2009: Year of Terrorism' 2009, *Daily The Pak Banker*, 25 December, FACTIVA.

⁴³ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report no.164, 13 March, p.16.

⁴⁴ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report no.164, 13 March, p.16.

⁴⁵ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report no.164, 13 March, p.16.

⁴⁶ Idris, I. 2004, 'Carnage in Quetta', *Al-Ahram*, no.681, 11-17 March <<http://weekly.ahram.org/2004/681/in2.htm>>.

State Protection in Quetta

45. Despite hundreds of killings and kidnappings, DFAT commented in 2010 that “[t]here have been no convictions for any of these killings so far”.⁴⁷ In November 2009, Pakistan’s *The News* made a similar statement, reporting that “[n]ot a single perpetrator has been convicted so far.” *The News* states that the Hazaras believe that the Balochistan administration “protects the perpetrators of crimes against them” and “allege that some members of the police force have an ethnic bias against them and are involved in their killings”.⁴⁸
46. The International Crisis Group (ICG) reported in 2009 that some members of the Balochistan police force have been implicated in sectarian attacks on Hazaras:

Hazaras have become even more vulnerable as Sunni radical groups have penetrated the province’s police force. For example, police who belonged to the SSP were implicated in two sectarian attacks in quick succession, in March and May 2004. On 19 July 2008, nine Hazara protesters were killed in a clash with police. More than two dozen were killed between December 2008 and February 2009, with police from the Hazara community a particular target. In the absence of a robust campaign to bring the perpetrators of such violence to justice, sectarian violence in Balochistan will continue to claim lives.⁴⁹
47. Ethnic Hazaras are represented in the Balochistan police force. However, Hazaran police and security officers are common targets of Sunni extremists. Recent examples include: in January 2012, Vilayat Hussai, an Inspector with the Federal Investigation Agency, was among three Hazaras shot dead in Quetta⁵⁰; in January 2009 four policemen, three of them Shia Muslims, were killed in Quetta.⁵¹ All four of them were Hazara, according to *Dawn*⁵²; Hazaran Deputy Superintendent of Police Ghulam Mohammad, who survived the previous attack, was later killed on 16 April 2010⁵³; in June 2003, eight Hazara police cadets were killed upon their “return from holiday”.⁵⁴
48. Police in Quetta have taken some action against LeJ. In November 2009, *Daily Times* reported that Balochistan police arrested LeJ member Hafiz Muhammad Usman Muhammad Shahi, aka Abbas, in relation to 16 cases of terrorism, resulting in the death of at least 28 members of the Shia-Hazara community. Abbas reportedly confessed to being involved in the murder of Hussain Ali Yousafi, the assassinated chairman of the Hazara Democratic Party (HDP), killed in Quetta in January 2009.⁵⁵ In August 2009, Quetta police shot dead two

⁴⁷ Department of Foreign Affairs and Trade 2010, *Conditions for Asylum Caseloads: Hazaras in Quetta*, 30 July.

⁴⁸ Adil, A. 2009, ‘Confidence-building in Balochistan’ 2009, *The News*, 12 November <<http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=207985&Cat=9&dt=11/12/2009>>.

⁴⁹ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report no.164, 13 March, pp.16-17.

⁵⁰ ‘Balochistan violence: Hazara Democratic Party stages protest’ 2012, *The Express Tribune*, 26 January <<http://tribune.com.pk/story/327541/balochistan-violence-hazara-democratic-party-stages-protest-2/>>.

⁵¹ ‘Riots erupt in Quetta after the killing of Hazara Democratic Party leader’ 2009, *The Nation*, 26 January <<http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/26-Jan-2009/Riots-erupt-in-Quetta-after-the-killing-of-Hazara-Democratic-Party-leader>>

⁵² DSP gunned down in Quetta’ 2009, *Dawn*, 15 January <<http://www.dawn.com/2009/01/15/top9.htm>>.

⁵³ Mohammadi, I. 2010, *Reasons for the Target Killing of Hazaras in Balochistan, Pakistan*, Hazara.net, 22 August, p.2 <http://www.hazara.net/downloads/Hazara_Ethnic_Cleansing_Pakistan.pdf>

⁵⁴ Idris, I. 2004, ‘Carnage in Quetta’, *Al-Ahram*, no.681, 11-17 March <<http://weekly.ahram.org.eg/2004/681/in2.htm>>

⁵⁵ Akbar, M.S. 2009, ‘‘Mastermind’ of sectarian killings held in Quetta’, *Daily Times*, 13 November <http://www.dailytimes.com.pk/default.asp?page=2009%5C11%5C13%5Cstory_13-11-2009_pg7_3>

members of Sipah-e-Sahaba Pakistan (SSP), aka *Jamaat Ahle Sunnat*, after they assassinated Shia religious leader Allama Maqsood Ali Donki in a grenade attack. *The News* reported Jamaat Ahle Sunnat staged a public demonstration in Quetta the following day to protest the police killing of the two assailants.⁵⁶

49. In *Pushed to the Wall: Report of the HRCP fact-finding mission to Balochistan 5-11 October*, the Human Rights Commission of Pakistan (HRCP) recounted the captured in Quetta of LeJ militants Usman Saifullah Kurd and Shafeeq Rind. However, both men managed to escape from what the HRCP describes as Quetta's "very well-guarded" Anti-Terrorist Force gaol, thereby fuelling a belief among Hazaras that "security agencies and the government are protecting and patronising the perpetrators of the crimes against the Shia group" The HRCP states that many Hazaras believe that the escape of these men from such a facility must have been "facilitated by the security agencies." Shafeeq Rind was later recaptured.⁵⁷

Karachi

50. An October 2011 report in *The News* quotes a Hazara resident of Karachi, who states that that city has a Hazara population of approximately 13,000. The article, titled 'Hazaras not safe even in Karachi', quoted the resident as stating that three Hazaras were recently killed in the Karachi neighbourhood of Manghopir, including one during Ramazan (Ramadan).⁵⁸
51. In April 2011, a Hazaran rickshaw driver Qurban Ali Aajiz was shot and killed in the Gulshan Iqbal area of Karachi by "unknown armed motorcyclists" The Hazara Nation website claims that Mr Aajiz was also a social worker and general secretary of the Hazara Mughal Yekjehti Forum.⁵⁹
52. A 2010 report on the Hazara People website argued that there has been "a wave of Hazara target killing in Karachi recently" The article states that five Hazaras had been killed as part of the wave, including "[t]wo Hazaras... in [the] last two months". However, the article does not argue that the killings are sectarian. Rather, it blamed a Mr Mirza Yousaf, "the leader of Shia Action Committee and staunch anti-Hazara". The article also states that the campaign is being supported by the Imamia Students Organisation, the Majlis e Wahdat e Muslimeen, and Maulana Yousaf of Shia Ulema Council. The main purpose of the "Gilgati terror campaign against Hazaras of Mughul Goth", states the authors, "is to kick Hazaras out of the Hazara Mughul Goth area" The article suggests that Gilgatis are seeking to dominate the Mughul Goth, long populated by Hazaras.⁶⁰
53. While no recent reports indicate that LeJ specifically targets the ethnic Hazara community in Karachi, LeJ has reportedly attacked Shia Muslim targets in the city.⁶¹ The ICG reports that since 2007, SSP, LeJ, and *Lashkar-e-Tayyaba* (LeT) have all openly held public meetings in

⁵⁶ Adil, A. 2009, 'On the run: Target killing in Balochistan is rising', *Daily Jang*, 8 November
<<http://www.jang.com.pk/thenews/nov2009-weekly/nos-08-11-2009/dia.htm#4>>

⁵⁷ Human Rights Commission of Pakistan 2009, *Pushed to the Wall: Report of the HRCP fact-finding mission to Balochistan 5-11 October*, p.18<<http://www.hrcp-web.org/pdf/Pushed%20to%20the%20wall.pdf>>

⁵⁸ Ali, R. 2011, 'Hazaras not safe even in Karachi', Hazara News Pakistan, source: *The News*, 7 October
<<http://hazaranewspakistan.wordpress.com/2011/10/09/hazaras-not-safe-even-in-karachi/>>

⁵⁹ Hazara Nation website 2011, *Hazara Guy Shot Dead in Karachi*, 30 April
<<http://www.hazaranation.com/news1.htm>>

⁶⁰ Hazara People website 2010, *Target Killing of Hazaras in Karachi*, 5 November
<<http://www.hazarapeople.com/2010/11/05/target-killing-of-hazaras-in-karachi/>>

⁶¹ Rakisits, C. 2009, *Urban Conflict in Pakistan*, Geopolitical Assessment.com, 30 January, p.5
<http://www.geopoliticalassessments.com/Urban_conflict_in_Pakistan.pdf>

Karachi. Another anti-Shia group, *Jaish-e-Mohammed* (JeM), runs a large madrassah in the suburb of Ehsanabad; it was at this madrasa that Daniel Pearl's kidnappers were arrested. The ICG reports that due to threats against the Shia Imam Bara (mosque) made by Sunni Imams from nearby mosques, the former president of the Imam Bara turned it "into a fortress, with armed guards on the rooftop during Friday prayers".⁶²

54. A March 2010 report, *The Open City: Social Networks and Violence in Karachi*, states that "[a]fter a lull of some two years, a Shia religious processions were bombed in December 2009 and February 2010, claiming over sixty lives".⁶³ The renowned Pakistan scholar, Pervez Hoodbhoy wrote in *The Express Tribune* in March 2012 that "Karachi's Shia neighbourhoods are visibly barricaded and fortified".⁶⁴

Multan/Southern Punjab

55. No specific information was located on the welfare and security of the reported Hazara community in Multan. The following information relates to the security and welfare of the wider Shia Muslim community in Multan and southern Punjab.
56. Data from the 1998 census indicated that Multan had a population of 3,116,851.⁶⁵ A 2007 source estimated that Shia Muslims constitute 40 per cent of the population of the city of Multan.⁶⁶ However, sources indicate that Multan and Southern Punjab are also home to Sunni radical groups, most notably SSP and LeJ.⁶⁷ In January 2012, at least 18 people were killed at a Shia Chhelum festival in Khanpur, near Multan. LeJ is suspected to have carried out the attack.⁶⁸ 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.⁶⁹
57. A 2007 paper, *Islamisation in Pakistan: A Case Study of Punjab*, states that organised and violent groups targeting Shia Muslims began in southern Punjab, particularly in Jhang and Multan. Furthermore, the anti-Shia Ahle Hadith group, *Lashkar-e-Toiba* (LeT) has a strong presence in Multan:

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,

⁶² International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report N°164, 13 March, p.10.

⁶³ Budhani, et al 2010, *The Open City: Social Networks And Violence In Karachi*, Crisis States Research Centre, Working Paper no. 70, March, p.7 <<http://www.crisisstates.com/download/wp/wpSeries2/WP70.2.pdf>>.

⁶⁴ Hoodbhoy, P. 2012, 'Run for your life', *The Express Tribune*, 4 March <<http://tribune.com.pk/story/345377/run-for-your-life/>>.

⁶⁵ Population Census Organization 1998, *Multan District at Glance*, Government of Pakistan <<http://www.census.gov.pk/PUNJAB/MULTAN.htm>>

⁶⁶ 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>

⁶⁷ 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/>>

⁶⁸ '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/>>; 'Pakistan blast: Shias killed in Khanpur procession' 2012, *BBC News*, 15 January <<http://www.bbc.co.uk/news/world-asia-16567052>>

⁶⁹ Hoodbhoy, P. 2012, 'Run for your life', *The Express Tribune*, 4 March <<http://tribune.com.pk/story/345377/run-for-your-life/>>

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.⁷⁰

Lahore

58. Little information was located on the welfare and security of the Hazara community in Lahore. However, in April 2012, at least thirty members of Lahore's ethnic Hazara population, as well as other human rights activists, staged a protest against the government's failure to protect Hazaras from targeted killings in Quetta. According to *The Express Tribune*, one participant "lamented that in Lahore there was a lack of understanding of the seriousness of the situation. 'People need to realize how bad the situation is in Quetta,' he said".⁷¹
59. Once considered a relatively peaceful city, since 2009 Lahore has witnessed large scale attacks on sectarian targets, including Shia targets; in September 2010 suicide/grenade attacks on a Shia procession killed 43 people and injured another 230. LeJ reportedly claimed responsibility for the coordinated attacks.⁷²

Islamabad-Rawalpindi

60. Little information was located on the security and livelihood experienced by ethnic Hazaras who relocate to Islamabad, however there are numerous reports of attacks on Shias in that city and surrounding regions. On 21 November 2012, a suicide bomber in Rawalpindi is reported to have killed at least 18 people and injured at least 25 others including several children when he entered a procession of Shias gathering to observe the first ten days of the month of Muharram and detonated an explosive device. The blast is reported to have ripped a hole in the walls of a mosque and the Pakistani Taliban claimed responsibility for the attack.⁷³
61. The BBC reported in August 2012 that as many as 25 Shias were forced off a bus travelling from Rawalpindi to Gilgit and killed after having their identification documents checked:

Police told the BBC that those killed in the latest attack were travelling on three buses for the forthcoming Muslim festival of Eid in the district of Mansehra. They were either shot or bludgeoned to death. The victims were checked for their identification documents, police say, before they were lined up and killed. . . "Ten to 12 people wearing army uniform stopped forced some people off the buses," Mansehra administration chief Khalid Omarzai told the AFP news agency. "After checking their papers, they opened fire and at least 20 people are

⁷⁰ Bahadur, K. 2007, *Islamisation in Pakistan: A Case Study of Punjab*, Observer Research Foundation, Issue Brief 12, October, pp.4-5

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

⁷¹ Shaukat, A. 2012, 'Sectarian violence: Lahore protests against Quetta killings', *The Express Tribune*, 17 April <<http://tribune.com.pk/story/366039/sectarian-violence-lahore-protests-against-quetta-killings/>>

⁷² South Asian Terrorism Portal 2011, *Punjab Assessment – 2011*
<<http://www.satp.org/satporgtp/countries/pakistan/punjab/index.html>>

⁷³ <http://www.aljazeera.com/news/asia/2012/11/2012112201551449540.html>

reported to have been killed. This is initial information and the final toll may go up. They are all Shias," he said⁷⁴.

62. A similar incident is reported to have occurred in February 2012, when 18 Shia Muslims were killed after the bus they were travelling on was stopped en route from Rawalpindi to Gilgit:

PESHAWAR: Sectarian gunmen ambushed a bus on Tuesday, killing 18 Shia Muslims in a usually peaceful region of northern Pakistan that neighbours the former Taliban stronghold of Swat, officials said.

The bus was stopped, before passengers were ordered off and shot in the mountainous district of Kohistan as it travelled from Rawalpindi to the northern city of Gilgit. "Armed men hiding on both sides of the road attacked the bus," local police chief Mohammad Ilyas said. "Eighteen people have died and eight wounded," he added. The ambush happened near the town of Harban, 130 miles (208 kilometres) north of the capital Islamabad.

Survivors said seven or eight gunmen stopped the bus, forced the passengers to get off and then opened fire, regional administration chief Khalid Omarzai told AFP by telephone, confirming the casualty numbers. "It appears to be a sectarian attack," local MP Abdul Sattar Khan said.

"It's a remote area. We are getting reports that the gunmen forced people to get off the bus. They checked their papers and shot them dead," he told AFP. The victims were Shia Muslims, he said⁷⁵.

63. Ahlulbait News Agency states that Shias assassinated on the Karakoram Highway, Gilgit Baltistan province in 2012 were singled out by their national identity cards which identified those with Shia names, the recital of a particular prayer which Shias are said to recite differently and the self-flagellation marks on their backs:

The video footage of one such attack on the Karakoram Highway (Gilgit Baltistan province) earlier this year shows a convoy of buses being stopped by gun-toting terrorists. Unhurriedly, the terrorists – dressed in Army fatigues - ask the passengers to furnish their national identity cards to single out those with Shia names.

The grainy video does not clearly show this but some accounts of the attack claim the passengers were made to recite a particular prayer which Shias say differently. Thereafter the 'kameez' (shirts) of the men were lifted to check for self-flagellation marks. Their Shia identity established, they were lined up and killed amid chants of "kafir, kafir, Shia kafir" (infidels, infidels, Shia are infidels). In this particular attack, three Sunni men were also killed for trying to defend the Shias⁷⁶.

64. 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".⁷⁷ In December 2009, a suicide bomber detonated his device when

⁷⁴ <http://www.bbc.co.uk/news/world-asia-19280339>

⁷⁵ <http://dawn.com/2012/02/28/atleast-18-dead-in-pakistan-bus-ambush-police/>

⁷⁶ <http://abna.ir/data.asp?lang=3&Id=373111>

⁷⁷ Human Rights Commission Pakistan 2011, *State of Human Rights in 2010*, April, p.125.

confronted by police in the Shakrial area of Rawalpindi, killing two. He was reportedly attempting to enter a Shia “gathering” commemorating Ashura.⁷⁸

The Tribunal hearing

65. The applicant appeared before the Tribunal [in] December 2012 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Hazaragi and English languages.
66. The applicant was represented in relation to the review by his registered migration agent.
67. The applicant gave evidence about his personal background and experiences in Pakistan that was materially consistent with that contained in the documents on the departmental file. The Tribunal noted that the applicant’s visa application stated that he had departed Karachi on a false passport, while his statutory declaration stated that he had departed on a genuine passport. The applicant gave evidence that his passport was a genuine passport and his representative submitted that the reference in the application form to a false passport was likely to be a mistake.
68. The applicant gave the following additional evidence at the Tribunal hearing:
 - That his father brought the family to Pakistan from Afghanistan when the applicant was [age deleted: s.431(2)] and that he grew up in Quetta in a household comprising his parents [and siblings]. He stated that his father died when he was [young] and that as far as he remembered, his father had worked in the [occupation deleted: s.431(2)];
 - That he attended school [and then] worked with his brother in [town deleted: s.431(2)] in Sindh province for 7-8 years where his brother had [employment details deleted: s.431(2)], travelling back to Quetta to see their families every 3-4 months. He stated that they had to stop when they and their [Hazara] employees were threatened by Baloch people working in that area who didn’t like the fact that Hazaras had good jobs in the area. When asked what the Baloch people were doing in Sindh, the applicant stated that Sindh, Baloch, Pashtuns and Afghans all lived and worked in Sindh. He stated that Hazaras could be identified throughout Pakistan and Afghanistan by their face and language. The applicant stated that it became too dangerous to work in Sindh and to travel back and forth to Quetta and so his brother gave up the [work];
 - The applicant stated that after returning to Quetta, he worked as a taxi driver for 7-8 months, transporting passengers from [Suburb 4] to [another location] and also transporting [labourers] to [Town 3], [over an hour] away. He stated that he was frightened of being attacked while driving and used to recite verses of the Quran while working. He stated that one day people on both sides of the road fired on a [vehicle] travelling in front of them and [a number of people] in that car were killed. He stated that his passengers told him to turn around and he did so and they were shot at but managed to escape. He stated that in Quetta, Hazaras had to use taxis as the bus services were run by Balochs who would stop the buses and kill Hazaras. He

⁷⁸ ‘Bomber targets Shia Muslims gathering in Rawalpindi’ 2009, *Press TV*, 24 December
<<http://edition.presstv.ir/detail/114589.html>>

stated that all taxi drivers in [Town 1] were Hazara and the only people coming out of that area in those taxis were also Hazara which led to the taxis being targeted;

- He stated that once when he transported labourers to [Town 3], he was stopped by Balochs who asked him why he came and worked in their area. He told them that he would drop off the labourers and wouldn't come again and they let him go. He dropped the labourers off uphill and sat in his car for 5-10 minutes having a cup of tea when people came down and told him to leave or he would be killed. He returned to Quetta and told the [company] that he couldn't transport their labourers anymore and that they would need to make other arrangements;
- In relation to relocation, the applicant stated that Hazaras were not safe in Quetta where there was 800,000 of them so could not be safe in other parts of Pakistan where they were by themselves. The Tribunal put to the applicant that Lahore, Multan and Islamabad were reported to have significant Shia populations. The applicant stated that other Shias could live there, but that they didn't look like Hazara people;
- The Tribunal noted that the applicant did not appear to have typical Hazara features. The applicant stated that Hazaras looked all sorts of ways and that although his hair was light coloured, he could be identified as a Hazara by his facial features, his language, his manner of praying and the self-flagellation scars on his back.

Submissions on the applicant's behalf

69. It was submitted on the applicant's behalf that the applicant had a young family and was also responsible for his mother and [sibling] who lived with him. It was submitted that any continuation of his work as a taxi driver would expose him to risk given his unusual physical features. It was further submitted that his work [skills] was not transferable to large cities in Pakistan.

FINDINGS AND REASONS

Country of Nationality

70. The applicant claims to be a citizen of Pakistan. He has provided to the department a copy of an apparently valid Pakistani passport which states that he is a national of that country and which he claims was issued to him by the government of Pakistan. The Tribunal has considered the brief reference the "Details of countries of former residence" attachment to the applicant's Form 866B which appears to suggest that the passport was false. The applicant told the Tribunal that this was incorrect and the applicant's representative submitted that the reference was a mistake. The Tribunal notes that the statutory declaration lodged by the applicant with his visa application states that the passport was genuine. In these circumstances, the Tribunal accepts that the reference to a false passport in the attachment to the Form 866B is an administrative error and that the applicant departed Pakistan on a genuinely issued passport as stated in his accompanying statutory declaration. There is no evidence before the Tribunal to suggest that he is a national of any other country. The Tribunal finds on this basis that the applicant is a national of Pakistan, and has assessed his claims accordingly.

Assessment of Protection Claims

71. The applicant claims to be at risk of persecution in Pakistan on the basis of his Shia religion, his Hazara ethnicity, his actual and imputed political opinion and his membership of various particular social groups. For the reasons below, the Tribunal accepts that there is a real chance that the applicant will face serious harm amounting to persecution now or in the foreseeable future should he return to Pakistan on the basis of his Shia religion and his Hazara ethnicity.
72. The Tribunal notes that the delegate was satisfied that the applicant's identity and nationality were as stated by the applicant, who accepted his was a Hazara Shia from Quetta. The Tribunal noted that the applicant speaks Hazaragi and has provided copies of a range of identity documents indicating that he resides in [Town 1], Quetta. The Tribunal accepts that the applicant is in fact a Hazara and a Shi'ite from Quetta. The Tribunal further accepts that the applicant has limited education and has worked as a taxi driver in Quetta and in the [occupation deleted: s.431(2)] industry in Sindh.
73. The threat which Sunni extremists pose to Shia Hazaras in Quetta is well documented in the sources set out above. The United Kingdom COI Home Office Report for Pakistan dated 7 June 2012 noted that over 600 Hazaras had been killed in terrorist attacks since 2000. *The Australian* reported in April 2010 that a senior official in Pakistan's Federal Investigation Agency informed the paper that in Quetta, "eight to 10 Hazaras are being murdered every week".⁷⁹ In October 2011, the Human Rights Commission Pakistan expressed its "serious concern that all manner of killings remain pervasive in Balochistan, including horrific bloodshed as a result of targeting of the Hazaras".
74. The Tribunal accepts on the basis of this country information that there is more than a remote chance that the applicant will encounter serious harm capable of amounting to persecution for the purposes of s.91R of the Act in the reasonably foreseeable future, should he return to Quetta or elsewhere in Balochistan, for the reasons of his Shia religion and his Hazara ethnicity.
75. It follows that the Tribunal accepts that there is a real chance that the applicant will encounter serious harm capable of amounting to persecution for the purposes of s.91R of the Act in the reasonably foreseeable future, should he return to Quetta or elsewhere in Balochistan for reasons of his Shia religion and his Hazara, which the Tribunal finds for the purposes of s.91R(1)(a) to be the essential and significant reasons for the harm feared. The Tribunal is satisfied that the harm feared by the applicant involves serious harm for the purposes of s.91R(1)(b) and that the persecution feared by the applicant involves systematic and discriminatory conduct for the purposes of s.91R(1)(c).

State Protection

76. In this case, the harm that the applicant fears from Sunni extremists is from non-state agents. Harm from non-state agents may amount to persecution for a Convention reason if the motivation of the non-State actors is Convention-related, and the State is unable to provide adequate protection against the harm. Where the State is complicit in the sense that it encourages, condones or tolerates the harm, the attitude of the State is consistent with the possibility that there is persecution: *MIMA v Respondents S152/2003* (2004) 222 CLR 1, per

⁷⁹ Hodge, A. 2010, 'Officials ridicule visa rethink', *The Australian*, 13 April, FACTIVA.

Gleeson CJ, Hayne and Heydon JJ, at [23]. Where the State is willing but not able to provide protection, the fact that the authorities, including the police, and the courts, may not be able to provide an assurance of safety, so as to remove any reasonable basis for fear, does not justify an unwillingness to seek their protection: *MIMA v Respondents S152/2003* (2004) 222 CLR 1, per Gleeson CJ, Hayne and Heydon JJ, at [28]. In such cases, a person will not be a victim of persecution, unless it is concluded that the government would not or could not provide citizens in the position of the person with the level of protection which they were entitled to expect according to international standards: *MIMA v Respondents S152/2003* (2004) 222 CLR 1, per Gleeson CJ, Hayne and Heydon JJ, at [29]. Harm from non-State actors which is not motivated by a Convention reason may also amount to persecution for a Convention reason if the protection of the State is withheld or denied for a Convention reason.

77. The applicant claims that authorities in Pakistan cannot protect him from the harm he fears. Country information indicates that law enforcement authorities in Pakistan are unable or unwilling to protect members of religious minorities including Shias and that Sunni militant groups, such as the banned Lashkar-e Jhangvi, operate with impunity, including in areas where State authority is well established.⁸⁰ The ICG reported in 2009 that some members of the Balochistan police force had been implicated in sectarian attacks on Hazaras⁸¹ and other sources note that while ethnic Hazaras are represented in the Balochistan police force, they are common targets for Sunni extremists⁸²
78. In any case, given the long-standing nature and the seriousness of that sectarian violence together with the weight of the country information indicating that the authorities in Pakistan are struggling to contain that violence, the Tribunal accepts that the state of Pakistan cannot meet the level of protection which citizens are entitled to expect as discussed in *MIMA v Respondents S152/2003* (2004) 222 CLR 1. It follows that the Tribunal finds that the applicant faces a real chance of persecution for reasons of his religion if he returns to his home in Quetta, now or in the reasonably foreseeable future. The Tribunal concludes that the applicant's unwillingness to seek protection from those authorities is therefore justified for the purposes of Article 1A(2).

Relocation

79. In *SZATV v MIAC* (2007) 233 CLR 18 the High Court endorsed the proposition that a person will not be excluded from refugee status merely because he or she could have sought refuge in another part of the same country, if under all the circumstances it would not be reasonable to expect him or her to do so. The Court further held at [24] that what is reasonable, in the sense of practicable, must depend on the particular circumstances of the applicant and the impact upon that person of relocating within their country. As Kirby J stated at [97], the

⁸⁰ United Nations High Commissioner for Refugees 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan*, HCR/EG/PAK/12/02, 14 May, p.40 <<http://www.unhcr.org/refworld/docid/4fb0ec662.html>>

⁸¹ International Crisis Group 2009, *Pakistan: The Militant Jihadi Challenge*, Asia Report no.164, 13 March, pp.16-17.

⁸² 'Balochistan violence: Hazara Democratic Party stages protest' 2012, *The Express Tribune*, 26 January <<http://tribune.com.pk/story/327541/balochistan-violence-hazara-democratic-party-stages-protest-2/>>; 'Riots erupt in Quetta after the killing of Hazara Democratic Party leader' 2009, *The Nation*, 26 January <<http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/26-Jan-2009/Riots-erupt-in-Quetta-after-the-killing-of-Hazara-Democratic-Party-leader>>
'DSP gunned down in Quetta' 2009, *Dawn*, 15 January <<http://www.dawn.com/2009/01/15/top9.htm>>

supposed possibility of relocation will not detract from a “well-founded fear of persecution” where any such relocation would, in all the circumstances, be unreasonable.

80. The Tribunal is satisfied that the applicant, as a citizen of Pakistan, has the right to relocate within Pakistan. The range of factors which may be relevant in any particular case to the question of whether relocation is reasonably available will be largely determined by the case sought to be made out by an applicant.⁸³ The Tribunal accepts that the applicant will be readily identified throughout Pakistan as a Shi’a Hazara from Quetta by his Hazaragi language, his identity documents which identify him as being from [Town 1], Quetta and the self-flagellation scars on his back.
81. The May 2012 UNHCR Eligibility Guidelines extracted above state includes that Shias, as [t]he largest Muslim minority in Pakistan... are the target of violent attacks by Sunni fundamentalist groups throughout the country. RRT Country Advice PAK40760 of 29 August 2012 notes that [t]here is information available indicating that there has been increased Lashkar-e-Jhangvi (LeJ) activity against Shias in Pakistan during 2012 compared to the previous year. LeJ is, of course, but one of the extremist Sunni groups in Pakistan. As the earlier RRT Country Advice PAK38764 of 27 May 2011 notes,

SSP, LeJ, and other Tehrik-e-Taliban Pakistan (TTP) groups continue to stage targeted attacks on Shia communities across Pakistan, including Lahore, Karachi and Faisalabad.
82. Furthermore, as noted above in RRT background paper *Shia Muslims in Pakistan*,

Abdul Khaliq, head of the Hazara Democratic Party (HDP), told Central Asia Online in July 2011 that Hazaras constitute an easy target for Lashkar-e-Jhangvi and other anti-Shia groups due to their distinct physical appearance; “[o]ur people happen to be an easier target ... because of our distinct Mongolian features”
83. Having considered the above together with the country information set out earlier in this decision, the Tribunal has formed the view that the harm feared by the applicant in Quetta exists throughout Balochistan and in other parts of Pakistan. While security may be better in cities outside of Balochistan, the Tribunal is not satisfied that a person with the applicant’s profile, being a Hazara Shia from Quetta, could safely relocate elsewhere in Pakistan and find employment, accommodation and practise his religion freely without attracting the adverse attention of religious extremists. Therefore the Tribunal finds that there is nowhere in Pakistan where, in the reasonably foreseeable future, there is no appreciable risk of the persecution feared.
84. Having regard to the above, the Tribunal finds that the applicant faces a real chance of persecution if he returns to Pakistan in the reasonably foreseeable future for the Convention reasons of his Shia religion and his Hazara ethnicity.

CONCLUSIONS

85. The Tribunal is satisfied that the applicant is a person in respect of whom Australia has protection obligations. Therefore the applicant satisfies the criterion set out in s.36(2)(a) for a protection visa.

⁸³ *Randhawa v MILGEA* (1994) 52 FCR 437 per Black CJ at 443; per Whitlam J at 453.

DECISION

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