



**UNHCR ELIGIBILITY GUIDELINES FOR ASSESSING
THE INTERNATIONAL PROTECTION NEEDS OF
MEMBERS OF RELIGIOUS MINORITIES FROM
PAKISTAN**

**United Nations High Commissioner for Refugees (UNHCR)
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NOTE

Eligibility Guidelines are issued by the Office of the United Nations High Commissioner for Refugees (UNHCR) to assist decision-makers, including UNHCR staff, Governments and private practitioners, in assessing the international protection needs of asylum-seekers. They are legal interpretations of the refugee criteria in respect of specific profiles on the basis of assessed social, political, economic, security, human rights and humanitarian conditions in the country/territory of origin concerned. The international protection needs are analyzed in detail, and recommendations made as to how the applications in question relate to the relevant principles and criteria of international refugee law as per, notably, the UNHCR Statute, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and relevant regional instruments such as the 1984 Cartagena Declaration on Refugees, the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention) and the EU Qualification Directive. The recommendations may also touch upon, as relevant, complementary or subsidiary protection regimes.

UNHCR issues *Eligibility Guidelines* to promote the accurate interpretation and application of the above-mentioned refugee criteria in line with its supervisory responsibility as contained in paragraph 8 of its Statute in conjunction with Article 35 of the 1951 Convention and Article II of the 1967 Protocol and based on the expertise it has developed over the years in matters related to eligibility and refugee status determination. It is hoped that the *Guidelines* will be considered carefully by relevant authorities and the judiciary in reaching decisions on asylum applications. The *Guidelines* are based on in-depth research, information provided by UNHCR's global network of field offices and material from independent country specialists, researchers and other sources, rigorously reviewed for reliability. The *Guidelines* are posted on UNHCR's Refworld website at <http://www.refworld.org>.

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I. Introduction

These Guidelines are issued against a backdrop of ongoing freedom of religion and belief issues, as well as sectarian and religiously-motivated violence in the Islamic Republic of Pakistan (Pakistan). They contain information on the particular profiles of religious minorities for which international protection needs may arise in the current context in Pakistan.¹ UNHCR's recommendations, as set out in detail in these Guidelines, may be summarized as follows.

All asylum claims based on the refugee criteria contained in the 1951 Convention relating to the Status of Refugees² (1951 Convention) and/or its 1967 Protocol³ need to be considered on their own merits according to fair and efficient status determination procedures and up-to-date and relevant country of origin information.

UNHCR considers that asylum claims made by members of religious minorities require particularly careful examination of possible risks. UNHCR considers that members of religious minorities with the profiles described below may, depending on the individual circumstances of the case, be in need of international refugee protection. These risk profiles, while not necessarily exhaustive, include members of the (i) Ahmadi; (ii) Christian; (iii) Hindu; (iv) Sikh; (v) Baha'i; (vi) Shia; and (vii) Sufi / Barelvi communities.

In the context of Pakistan, an internal flight or relocation alternative (IFA/IRA) will generally not be available in Federally Administered Tribal Areas, Khyber Pakhtunkhwa, as well as Balochistan province, which are currently affected by sustained security and military counter-insurgency operations and retaliatory militant attacks. Given the sustained religiously-motivated sectarian violence and the wide geographic reach of some armed militant groups, an IFA/IRA will generally not be available to individuals at risk of being targeted by such groups. Furthermore, UNHCR does not generally consider internal flight as a relevant option in cases where an individual is liable to criminal prosecution under the country's blasphemy and/or anti-Ahmadi laws.

In light of the long history of sectarian violence and militant activities in Pakistan, including reports of serious human rights violations, exclusion considerations under Article 1F of the 1951 Convention may arise in individual asylum claims by members of religious minorities in Pakistan. Careful consideration needs to be given in particular to claims made by individuals belonging to religious minorities with the following profiles: (i) (current and former) members of military, police, security and intelligence forces, particularly those involved in counter-terrorism campaigns; (ii) (current and former) members of Islamic militant groups, including Sipah-e-Muhammad Pakistan, or persons otherwise involved in sectarian violence; (iii) officials in the local and federal administrations; and (iv) members of the judiciary.

II. Background Information

With a population estimated at over 187 million, the Islamic Republic of Pakistan is the sixth most populous country in the world and the second most populous country with a Muslim majority.⁴ Approximately 95 percent of the population professes to be Muslim – of this 75 percent are Sunni and 20 percent are Shia. The remaining five percent includes Christians, Ahmadis and Hindus.⁵

¹ These Guidelines are based on information available to UNHCR as of 23 March 2012, unless otherwise stated.

² Convention relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, <http://www.unhcr.org/refworld/docid/3be01b964.html>.

³ Protocol relating to the Status of Refugees, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, <http://www.unhcr.org/refworld/docid/3ae6b3ae4.html>.

⁴ US Central Intelligence Agency, *The World Factbook: Pakistan*, last updated 4 January 2012, <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>.

⁵ According to the 1998 census, 1.85 percent of the country population were Hindus (including "scheduled castes"/lower castes representing 0.25 percent); 1.59, Christians; 0.22, Ahmadis; and 0.7 belonged to other religious minorities; see Population Census Organisation, Government of Pakistan, *1998 Census: Population by Religion*, undated (accessed 20 October 2011), <http://www.census.gov.pk/Religion.htm>. The preliminary results of the census scheduled to be carried out during 2011, were expected to be published in December 2011; see Population Census Organisation, Government of Pakistan, *Census 2011*, undated (accessed 27 January 2012), <http://www.census.gov.pk/census2011.php#cv>.

Pakistan became an independent State in 1947, following the partition of British India and nine months of civil war. In 1971, East Pakistan separated and became the People's Republic of Bangladesh. Pakistan today consists of four provinces (i.e. Sindh, Punjab, Balochistan and Khyber Pakhtunkhwa, formerly known as the North-West Frontier Province),⁶ the Federally Administered Tribal Areas (FATA),⁷ as well as the capital territory, Islamabad.⁸

After nearly nine years in power, former President Musharraf's supporting party was defeated in the February 2008 parliamentary elections, marking the return of civilian rule in Pakistan. A short-lived coalition government – formed by the Pakistan People's Party (PPP) and former Prime Minister Nawaz Sharif's Muslim League, and led by the PPP's Yusuf Raza Gilani – took office in March 2008. Mr. Asif Ali Zardari of the PPP was elected President on 6 September 2008.⁹

In a move to relinquish some of the powers accumulated by Pakistan's presidency in four decades of successive military rule, the Parliament unanimously passed the 18th Amendment to the Constitution in April 2010.¹⁰ Hailed as an important step in restoring Pakistan's system of parliamentary democracy, the Amendment introduced several key changes, including limits on presidential powers, freedom of information in all matters of public importance, as well as the right to free compulsory education for all children aged five to 16.¹¹ Passed by the Parliament in December 2010, the 19th Amendment to the Constitution further strengthened the role of chief justice and other senior members of the judiciary, including in relation to judicial appointments to superior courts.¹²

Since September 2008, the Government, under the lead of the late Minister for Minorities' Affairs, Shahbaz Bhatti, has also taken positive steps towards ensuring religious freedom and tolerance, including the official celebration of the festivals of 10 religious minorities, the introduction of a five percent quota in federal employment for members of religious minorities and the establishment of a 24-hour hotline to report acts of violence against religious groups.¹³ A National Interfaith Council also convened to promote religious diversity and tolerance.¹⁴ Furthermore, the 18th Amendment to the Constitution created, *inter alia*, 10 seats in the National Assembly (i.e. the lower house of the Parliament) and four seats in the Senate for non-Muslims, as well as seats for representatives from non-Muslim minorities in the provincial assemblies.¹⁵ A National Commission for Minorities, which

⁶ The name of the North-West Frontier Province was changed in April 2010 by the 18th Amendment to the Constitution; see Article 3 of the Constitution (Eighteenth Amendment) Act, 2010, 19 April 2010, <http://www.pakistani.org/pakistan/constitution/amendments/18amendment.html>.

⁷ FATA include seven agencies (administrative districts): Bajaur, Orakzai, Mohmand, Khyber, Kurram, North Waziristan and South Waziristan; as well as the Tribal Areas adjoining Bannu, Peshawar, Kohat and Dera Ismail Khan districts; see International Crisis Group, *Reforming Pakistan's Prison System*, 12 October 2011, <http://www.unhcr.org/refworld/docid/4e968f382.html>.

⁸ The Pakistani-administered area of the disputed Jammu and Kashmir region consists of Azad Kashmir and the Northern Areas, which have their own political and administrative structures; see, for example, US Central Intelligence Agency, *The World Factbook: Pakistan*, last updated 4 January 2012, <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>.

⁹ Impeachment procedures were launched against former President Musharraf, who eventually resigned as President of Pakistan on 18 August 2008; see BBC News, *Pakistan: Country Profile*, last updated 12 December 2011, http://news.bbc.co.uk/2/hi/americas/country_profiles/1157960.stm.

¹⁰ Constitution (Eighteenth Amendment) Act, 2010, 19 April 2010, <http://www.pakistani.org/pakistan/constitution/amendments/18amendment.html>. For an official consolidated version of the Constitution of Pakistan, incorporating amendments made by the Constitution (Eighteenth Amendment) Act, 2010, see *Constitution of the Islamic Republic of Pakistan (as amended as of 20 April 2010)*, 10 April 1973, <http://www.na.gov.pk/publications/constitution.pdf>.

¹¹ For a list of all the changes introduced by the 18th Amendment, see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, pp. 19-37, <http://www.hrcp-web.org/Publications/AR2010.pdf>. See also Human Rights Watch, *World Report 2011 - Pakistan*, 24 January 2011, <http://www.unhcr.org/refworld/docid/4d3e8022d.html>.

¹² Constitution (Nineteenth Amendment) Act, 2011, 1 January 2011, <http://www.pakistani.org/pakistan/constitution/amendments/19amendment.html>.

¹³ The quota in federal employment for religious minorities has, however, not been met and has been applied unevenly across the country; US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.

¹⁴ Membership of the Council included four principal Imams of Pakistan, the heads of its principal madrassas, the leading Catholic and Protestant Bishops, and the leaders of the Ahmadi, Buddhist, and Farsi communities. The Council urged religious tolerance and denounced terrorism in its concluding statement in July 2010; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. Over 120 interfaith committees have since been established at district level; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.

¹⁵ Articles 16, 18 and 36 of the Constitution (Eighteenth Amendment) Act, 2010, 19 April 2010, <http://www.pakistani.org/pakistan/constitution/amendments/18amendment.html>, respectively. The allocation of seats has however not been done on a per capita basis and has been criticized as non-reflective of the size of the non-Muslim population; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.

will review laws and policies concerning minorities, as well as investigate allegations of discrimination and abuse against religious minorities, will reportedly be established.¹⁶

Despite further efforts taken by the current Government to ensure the protection of human rights, including the ratification of the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),¹⁷ concerns persist, notably regarding the independence of the judiciary, legislative provisions associated with diminished religious freedom and misconduct at the level of law enforcement.¹⁸

The Pakistani legal system is based on English common law and Islamic law and comprises civil and criminal courts. Established by Presidential Order in 1980,¹⁹ the Federal Shariat Court has the power to examine and determine whether a law is repugnant to the injunctions of Islam, as well as to review decisions by criminal courts and decide on *Hudood* cases.²⁰ Decisions of the Federal Shariat Court are binding on the lower courts, but are subject to the review of the Supreme Court.²¹ The Frontier Crimes Regulation (FCR),²² which governs the justice system in FATA, allows, *inter alia*, tribal leaders to administer justice according to Sharia law and tribal custom.²³ In August 2011, however, President Zardari signed the Amendments to the Frontier Crimes Regulation (2011) Order, setting in motion administrative, judicial and political reforms in the FATA. Notably, the amendments provide that an accused has to be produced before a court within 24 hours of his arrest and has the right to bail. The amendments also introduce a three-member tribunal, including a senior civil servant and a qualified judge of the High Court, with powers similar to the High Courts under the Constitution.²⁴ Pursuant to the 2009 Nizam-e-Adl Regulation, Sharia law is imposed in designated parts of the

¹⁶ The Commission will consist of two representatives each from the Christian and Hindu communities, a representative from the Sikh, one from the Parsi community and two Muslims; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.

¹⁷ Pakistan ratified the ICCPR and CAT on 23 June 2010, but made several key reservations, including to Articles 3, 6, 7, 18 and 19 of ICCPR and Articles 4, 6, 12, 13 and 16 of CAT. Pursuant to its reservations, Pakistan is not bound by these provisions insofar as they conflict with the Pakistan Constitution and Sharia law; see UN Treaty Collection, *International Covenant on Civil and Political Rights: Status*, as of 29 April 2011, http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-4&chapter=4&lang=en#EndDec; and UN Treaty Collection, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Status*, as of 29 April 2011, http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-9&chapter=4&lang=en.

¹⁸ See, for example, Human Rights Watch, *World Report 2012 – Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>; Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hreport/2011/AHRC-SPR-008-2011/at_download/file; Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2011 – Pakistan*, 6 July 2011, <http://www.unhcr.org/refworld/docid/4e16d3658.html>; Amnesty International, *Amnesty International Annual Report 2011 – Pakistan*, 13 May 2011, <http://www.unhcr.org/refworld/docid/4dce154bc.html>; US Department of State, *2010 Country Reports on Human Rights Practices – Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>; Amnesty International, *Victims of reported disappearances and alleged extrajudicial and unlawful killings in Balochistan, 24 October 2010 – 20 February 2011*, 23 February 2011, <http://www.unhcr.org/refworld/docid/4d6f527f2.html>; and International Crisis Group, *Reforming Pakistan's Broken Judiciary*, 6 December 2010, <http://www.unhcr.org/refworld/docid/4d00dee42.html>.

¹⁹ Section 3 of the Constitution (Amendment) Order 1980, (P.O. No. 1 of 1980), with effect from 26 May 1980, http://www.pakistani.org/pakistan/constitution/orders/po1_1980.html. Only four of the seven judges are legally qualified, with the remaining three being Islamic law scholars. See Articles 203D(1) and 203C(3) and (3A) of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>.

²⁰ Article 203DD of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>. For further information on Hudood Ordinances, see Section III(D) below.

²¹ Article 302GG of the Constitution. In March 2005, the Supreme Court of Pakistan ruled that the Federal Shariat Court had no jurisdiction to review a decision by a provincial high court; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. International human rights observers have called for the abolishment of the Federal Shariat Court; see, for example, International Crisis Group, *Islamic Parties in Pakistan*, 12 December 2011, <http://www.unhcr.org/refworld/docid/4ee6f6fc2.html>.

²² For a detailed analysis of the FCR, see Human Rights Commission of Pakistan, *FCR – A bad law nobody can defend*, 2004, <http://www.hrcp-web.org/pdf/FCR%20Report.pdf>. See also Jamestown Foundation, *Pakistan Seeks Administrative Solution to Terrorism on the Northwest Frontier*, Terrorism Monitor Volume: 9 Issue: 35, 15 September 2011, <http://www.unhcr.org/refworld/docid/4e7855f92.html>.

²³ Feudal landlords and tribal elders throughout the country also reportedly adjudicate some disputes and impose punishments, including the death penalty and the forced exchange of brides between tribes, in *jirgas*, i.e. unsanctioned traditional courts; see Freedom House, *Freedom in the World 2011 – Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>.

²⁴ The reforms also amend the concept of “collective responsibility”, pursuant to which the political authorities used to punish an entire tribe for the crimes of one person. Women, children below 16 and those aged above 65 can no longer be arrested or detained under the concept of “collective responsibility”; see Jamestown Foundation, *Pakistan Seeks Administrative Solution to Terrorism on the Northwest Frontier*, Terrorism Monitor Volume: 9 Issue: 35, 15 September 2011, <http://www.unhcr.org/refworld/docid/4e7855f92.html>; Dawn, *Major changes made in FCR: Fata people get political rights*, 13 August 2011, <http://www.dawn.com/2011/08/13/major-changes-made-in-fcr-fata-people-get-political-rights.html>; and Daily Times, *Frontier Crimes Regulation amended*, 13 August 2011, http://www.dailytimes.com.pk/default.asp?page=2011%5C08%5C13%5Cstory_13-8-2011_pg1_1.

Provincially Administered Tribal Areas²⁵ in Khyber Pakhtunkhwa, where judges are assisted by Islamic scholars.²⁶ A parallel system of justice, applying a strict interpretation of Sharia law, is also reportedly operated by militants in several tribal areas and districts of Khyber Pakhtunkhwa province.²⁷

Lower courts remain, reportedly, plagued by endemic corruption and their judges are said to be prone to intimidation by local officials, powerful individuals and Islamic extremists. Furthermore, heavy backlogs of cases can result in lengthy pre-trial detention.²⁸ Corruption within the police forces is reportedly widespread, ranging from accepting bribes for registering false complaints or avoiding charges, to intimidation of political opponents. Allegations of torture in police custody are commonplace.²⁹ Despite a prohibition of arbitrary arrest and detention in law, the authorities have reportedly not always complied with it. A First Information Report (FIR), the legal basis for all arrests, can be issued by the police at the request of a complainant upon reasonable proof that a crime has been committed and allows detention of a suspect for 24 hours. Although in principle only a magistrate can extend such detention for an additional 14 days, it is reported that police routinely hold suspects without charge until detention is challenged before the courts, sometimes on false charges in order to extort payment for release.³⁰ Trials routinely start six months after the filing of charges, despite the fact that by law a person must appear before a court within 30 days from the arrest. It is also reported that some accused remain in pre-trial detention for longer periods than the maximum imprisonment sentence for the crime with which they are charged. Some suspects linked to terrorist organizations are allegedly held indefinitely in preventive detention, despite the maximum period of 90 days (or 180 days with the approval of a court) prescribed by law.³¹ Prisons are reportedly overcrowded and prison conditions are generally poor.³²

As set out in detail in these Guidelines, members of religious minorities are reportedly subject to religiously motivated harassment and violence at the hands, or instigation, of extremist elements.

²⁵ The Provincially Administered Tribal Areas (PATA) include the districts of Buner, Chitral, Lower Dir, Upper Dir, Malakand, Shangla and Swat, as well as the Tribal Area adjoining Mansehra district and the former state of Amb, administered since 1975 under a separate civil and criminal code from the rest of Khyber Pakhtunkhwa; see International Crisis Group, *Reforming Pakistan's Prison System*, 12 October 2011, <http://www.unhcr.org/refworld/docid/4e968f382.html>.

²⁶ The Regulation, which was passed on 13 April 2009, was met with international and national concern. The full text of the 2009 Nizam-e-Adl Regulation is available on the website of the Associated Press of Pakistan at: http://www.app.com.pk/en/index.php?option=com_content&task=view&id=73492&Itemid=2. Recently, the Khyber Pakhtunkhwa lawyer associations demanded a review of the Nizam-e-Adl Regulation; see The News, *KP lawyers want NJP, Nizam-e-Adl law reviewed*, 10 July 2011, <http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=56951&Cat=7&dt=7/10/2011>. See also International Crisis Group, *Islamic Parties in Pakistan*, 12 December 2011, <http://www.unhcr.org/refworld/docid/4ee6f6fc2.html>; US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and International Crisis Group, *Reforming Pakistan's Prison System*, 12 October 2011, <http://www.unhcr.org/refworld/docid/4e968f382.html>.

²⁷ See, for example, IRIN, *Pakistan: Mutilated for venturing outdoors*, 11 January 2012, <http://www.unhcr.org/refworld/docid/4f0fecc92.html>; Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>.

²⁸ The backlog is estimated at some 1.5 million cases. A National Judicial Policy introduced in June 2009 has had some success, significantly reducing case backlogs in certain areas; see Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>. See also Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hreport/2011/AHRC-SPR-008-2011/at_download/file; US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>; and International Crisis Group, *Reforming Pakistan's Broken Judiciary*, 6 December 2010, <http://www.unhcr.org/refworld/docid/4d00dee42.html>.

²⁹ See, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hreport/2011/AHRC-SPR-008-2011/at_download/file; Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>; and US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

³⁰ See, for example, US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

³¹ See, for example, US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

³² For an in-depth overview of Pakistan's prison system see International Crisis Group, *Reforming Pakistan's Prison System*, 12 October 2011, <http://www.unhcr.org/refworld/docid/4e968f382.html>. See also Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>; US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>; and UK Foreign and Commonwealth Office, *Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Pakistan*, 31 March 2011, <http://www.unhcr.org/refworld/docid/4d99aa805f.html>.

Failure to prosecute perpetrators of such violence, as well as institutionalized discrimination against religious minorities, reportedly contributes to a climate of impunity and the growing sense of insecurity amongst these communities.³³

Furthermore, sectarian violence, including militant attacks targeting religious processions and places of worship, continues to claim civilian lives.³⁴ Counter-insurgency campaigns by military/security forces, retaliatory attacks by radical Sunni Islamist and militant sub-nationalist groups have reportedly led to the killing and displacement of civilians and destruction of property.³⁵ It is reported that the population in Kurram Agency remains besieged as a result of regular attacks by militants on the road connecting the region to the rest of the country.³⁶ Although militant attacks were more frequent in the regions bordering Afghanistan,³⁷ in Khyber Pakhtunkhwa³⁸ and the adjacent FATA,³⁹ as well as

³³ See, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>; Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file; and Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

³⁴ Hundreds of Shia have reportedly been killed across Pakistan by alleged Sunni extremists in the last few years. According to the Pakistan Human Rights Commission, nearly 400 persons were killed and 600 injured in incidents of violence against various Muslim sects in 2011; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. At least 275 Shias, mostly of Hazara ethnicity, in the southwestern province of Balochistan alone since 2008; see Human Rights Watch, *Pakistan: Protect Shia Muslims - Hold Accountable Extremist Groups Responsible for Killings*, 3 December 2011, <http://www.hrw.org/news/2011/12/03/pakistan-protect-shia-muslims>. See also, Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>; Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2011 - Pakistan*, 6 July 2011, <http://www.unhcr.org/refworld/docid/4e16d3658.html>.

³⁵ Although the Pakistani army pushed Taliban forces out of the Swat Valley and South Waziristan in 2009, and out of the Bajaur and Orakzai agencies in 2010, targeted attacks by militant groups continue in FATA and Khyber Pakhtunkhwa; see, for example, Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>; US Department of State, *Country Reports on Terrorism 2010 – Pakistan*, 18 August 2011, <http://www.unhcr.org/refworld/docid/4e52481b2d.html>; Amnesty International, *Amnesty International Annual Report 2011 - Pakistan*, 13 May 2011, <http://www.unhcr.org/refworld/docid/4dce154bc.html>; US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>; Jamestown Foundation, *Government Offensive Triggers Taliban Reprisal Attacks in Pakistan's Mohmand Agency*, 24 February 2011, <http://www.unhcr.org/refworld/docid/4d675fc2.html>; IRIN, *Pakistan: Militant threat feeds fear*, 8 February 2011, <http://www.unhcr.org/refworld/docid/4d590eb2c.html>; Jamestown Foundation, *Islamist Militants of the TNSM Plan Return to Pakistan's Swat Valley*, 20 January 2011, <http://www.unhcr.org/refworld/docid/4d39653c2.html>; Human Rights Watch, *"Their Future is at Stake": Attacks on Teachers and Schools in Pakistan's Balochistan Province*, 13 December 2010, <http://www.unhcr.org/refworld/docid/4d061d082.html>; and Amnesty International, *'As if Hell Fell on Me': The Human Rights Crisis in Northwest Pakistan*, 10 June 2010, <http://www.unhcr.org/refworld/docid/4c108a552.html>. It is reported that over 4,800 people have been killed in suicide attacks and bomb explosions in Pakistan since July 2007, many of them carried out by the Taliban and other Al-Qaeda-aligned militant groups; Agence France-Presse, *Pakistan quells militant attack, eight killed*, 14 January 2012, <http://reliefweb.int/node/470467>; and Radio Free Europe/Radio Liberty, *Two killed, some 14 hurt in northwest Pakistan suicide bombing*, 1 September 2011, <http://www.unhcr.org/refworld/docid/4e6f684723.html>. The South Asia Terrorism Portal reported that 7,435 people were killed nationwide in insurgent-related violence in 2010, including 1,796 civilians; see Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>. For up-to-date information on the security situation in Pakistan, see also Reuters' Factbox: Security developments in Pakistan, available at <http://www.reuters.com/search?blob=Factbox%3A+Security+developments+in+Pakistan>.

³⁶ Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>.

³⁷ According to the Pakistan Human Rights Commission, 44 suicide attacks took place in Pakistan in 2011, claiming 669 lives, 438 of whom in Khyber Pakhtunkhwa alone. Over 2,300 persons died and 4,300 were injured as a result of militant attacks. The majority of these attacks occurred in FATA, Balochistan and Khyber Pakhtunkhwa; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>.

³⁸ Recent military operations and militant attacks in Khyber Pakhtunkhwa province include: the quelling of a militant attack by the Pakistani forces on 14 January 2012 in Dera Ismail Khan city (Agence France-Presse, *Pakistan quells militant attack, eight killed*, 14 January 2012, <http://reliefweb.int/node/470467>); a militant rocket attack on a school bus on the outskirts of Peshwar which resulted in the death of the driver and three children on 13 September 2011 (Radio Free Europe/Radio Liberty, *Three Pakistani schoolchildren killed in bus attack*, 14 September 2011, <http://www.unhcr.org/refworld/docid/4e8973c732.html>); a militant attack against a police checkpoint in July 2011 which left three policemen dead (Radio Free Europe/Radio Liberty, *Police: Militants kill 3 Pakistani policemen in country's north*, 3 July 2011, <http://www.unhcr.org/refworld/docid/4e204389c.html>); a militant attack in Dir District which reportedly left at least 25 Pakistani troops dead (BBC News, *Pakistan: Militant attack on anti-Taliban elders*, 20 June 2011, <http://www.bbc.co.uk/news/world-south-asia-13835540>); a cross-border attack in the district of Upper Dir in June 2011 which reportedly left 23 soldiers and 35 militants dead (BBC News, *Pakistan: Militant attack on anti-Taliban elders*, 20 June 2011, <http://www.bbc.co.uk/news/world-south-asia-13835540>); and a suicide attack on a Government building in Hangu which killed 32 persons in May 2011 (BBC News, *Pakistan: Suicide car-bomber strikes in Hangu*, 26 May 2011, <http://www.bbc.co.uk/news/world-south-asia-13565904>).

³⁹ Recent military operations and militant attacks in FATA include: clashes between the Pakistani army and suspected militants in North Waziristan on 19 March 2012, in which at least eight people have been reported killed (Radio Free Europe/Radio Liberty, *Pakistani clashes leave at least 8 dead*, 19 March 2012, <http://www.unhcr.org/refworld/docid/4f717ae421.html>); on 1 March 2012, Pakistani fighter jets responded to a series of attacks by bombing militant positions in the Kurram and Orakzai tribal agencies, killing an estimated 22 Islamist fighters (Jamestown Foundation, *The Looming Storm in Pakistan's Kurram Agency*, 8 March 2012, Terrorism

Balochistan,⁴⁰ they also increasingly target civilian populations in other parts of the country, including in urban centres.⁴¹

Since August 2008, Pakistan has experienced waves of internal displacement as a result of security operations in the North-West of the country – FATA and Khyber Pakhtunkhwa. Over four million people were reportedly displaced as a consequence of the violence.⁴² Although vast numbers have since returned, as of December 2011 almost one million remained displaced.⁴³ New waves of internal displacement have since been reported as a result of sustained military operations in FATA, which are

Monitor Volume: 10 Issue: 5, <http://www.unhcr.org/refworld/docid/4f5dd7fe2.html>); clashes between the Pakistani forces and Taliban militants in Kurram Agency, which left 23 persons dead on 25 January 2012 (BBC News, *Pakistan clashes: Many dead in Kurram fighting*, 25 January 2012, <http://www.bbc.co.uk/news/world-asia-16723902>); a terrorist bombing in the town of Jamrud, Khyber Agency, which left some 30 persons dead and 60 injured on 10 January 2012 (UN News Service, *Ban deplores deadly bombing in north-western Pakistani town*, 10 January 2012, <http://reliefweb.int/node/469499>); a militant attack, in December 2011, on a village in the Shalobar area of Khyber Agency, during which at least five civilians were killed and six injured (Agence France-Presse, *Militants kill five Pakistani villagers: officials*, 13 December 2012, <http://reliefweb.int/node/464813>); a militant attack on a security checkpoint in Khyber tribal district which killed 15 people on 18 September 2011 (Radio Free Europe/Radio Liberty, *Clash in Pakistan tribal area kills 15*, 18 September 2011, <http://www.unhcr.org/refworld/docid/4e8973e828.html>); a suicide bomb attack on 19 August 2011 at a mosque in Jamrud, a town in the Khyber agency, which left at least 48 people dead and over 100 others wounded. Although no group claimed responsibility, local tribesmen opposed to Taliban activity in the region may have been the intended target (Radio Free Europe/Radio Liberty, *Condemnations of Pakistan mosque blast*, 19 August 2011, <http://www.unhcr.org/refworld/docid/4e5cdbc13.html>); a military offensive against militants in Kurram Agency in July 2011 (BBC News, *Pakistan begins offensive in the Kurram tribal region*, 4 July 2011, <http://www.bbc.co.uk/news/world-south-asia-14015104>; and Radio Free Europe/Radio Liberty, *Pakistan military: New offensive launched near Afghan border*, 4 July 2011, <http://www.unhcr.org/refworld/docid/4e20438a28.html>); a military operation in Orakzai Agency during which hundreds of insurgents were allegedly killed (Radio Free Europe/Radio Liberty, *At least 15 dead in clash between Pakistani militant groups*, 25 June 2011, <http://www.unhcr.org/refworld/docid/4e0b2e3ac.html>); a military operation in Mohmand Agency in June 2011, during which 25 militants were reportedly killed (Radio Free Europe/Radio Liberty, *Pakistani army: 25 insurgents, four soldiers killed in tribal operation*, 19 June 2011, <http://www.unhcr.org/refworld/docid/4e142b6a1c.html>); and Radio Free Europe/Radio Liberty, *Officials: Pakistani troops kill 11 militants near Afghan border*, 17 June 2011, <http://www.unhcr.org/refworld/docid/4e142b5d8.html>); a militant attack in June 2011 on a village in Bajaur Agency reportedly left two women wounded (BBC News, *Pakistan: Militant attack on anti-Taliban elders*, 20 June 2011, <http://www.bbc.co.uk/news/world-south-asia-13835540>); at least eight Pakistani soldiers and 10 Taliban militants were reportedly killed in fighting in the northwestern Waziristan tribal region in an incident in June 2011 (Radio Free Europe/Radio Liberty, *Up to 20 reported killed in militant attack in Pakistan's northwest*, 9 June 2011, <http://www.unhcr.org/refworld/docid/4e142b245.html>). It is reported that the Pakistani military is urging the local Wazir and Dawar tribes of North Waziristan to initiate an uprising against militants in the area; see Jamestown Foundation, *Pakistan's Military Urges Tribal Uprising against Militants in North Waziristan*, Terrorism Monitor Volume: 9 Issue: 34, 9 September 2011, <http://www.unhcr.org/refworld/docid/4e6dbaf32.html>.

⁴⁰ Balochistan is facing a low-level insurgency, with ethnic Balochi activists demanding enhanced political autonomy as well as more local control over the province's natural resources. It is reported that Balochi militants carried out several attacks on security forces, as well as non-Balochi teachers and educational institutions in 2010; see Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>; Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>; and Human Rights Watch, *"Their Future is at Stake": Attacks on Teachers and Schools in Pakistan's Balochistan Province*, 13 December 2010, <http://www.unhcr.org/refworld/docid/4d061d082.html>.

⁴¹ During 2011, over 1,700 persons were reportedly killed in incidents of violence in Karachi; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. Other examples include, two suicide bombers in early September 2011 targeting a senior security official killed 23 people and wounded over 60 others in Quetta. The Taliban claimed responsibility for the attacks, which were allegedly conducted as retaliation for the arrest of a senior Al-Qaeda member in Quetta; see Radio Free Europe/Radio Liberty, *Suicide bombers kill 23 in southwest Pakistan*, 7 September 2011, <http://www.unhcr.org/refworld/docid/4e6f685f2.html>; and UN News Service, *Secretary-General deplores suicide bombings in Pakistan*, 8 September 2011, <http://www.unhcr.org/refworld/docid/4e6f16262.html>. In June 2011, two explosions in the city of Peshawar killed 34 people and injured nearly 100; see Radio Free Europe/Radio Liberty, *Twin blasts kill 34 in Pakistan*, 12 June 2011, <http://www.unhcr.org/refworld/docid/4e142b3723.html>; and BBC News, *Peshawar rocked by twin blasts*, 12 June 2011, <http://www.bbc.co.uk/news/world-south-asia-13740746>.

⁴² Conflict-induced displacement continued to occur. Since April 2011, major displacements have taken place in Kurram and Khyber Agencies (FATA), and in a number of other locations; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; and Internal Displacement Monitoring Centre, *Displacement caused by conflict and natural disasters, achievements and challenges*, 10 January 2012, <http://www.unhcr.org/refworld/docid/4f0e97f82.html>. See also Amnesty International, *Amnesty International Annual Report 2011 - Pakistan*, 13 May 2011, <http://www.unhcr.org/refworld/docid/4dce154bc.html>; and UK Foreign and Commonwealth Office, *Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Pakistan*, 31 March 2011, <http://www.unhcr.org/refworld/docid/4d99aa805f.html>.

⁴³ According to official statistics, some 850,000 people were internally displaced in FATA and Khyber Pak as of November 2011. A large number of IDPs from FATA's Bajaur, Mohmand and Orakzai Agencies returned to or near their places of origin; despite a lack of data on their situation, the Government no longer considered them displaced. Some 77 percent of the remaining IDPs were from Kurram and South Waziristan Agencies; see Internal Displacement Monitoring Centre, *Displacement caused by conflict and natural disasters, achievements and challenges*, 10 January 2012, <http://www.unhcr.org/refworld/docid/4f0e97f82.html>. Other estimates place the IDP population at 600,000 as of January 2012; see UNHCR, *2012 UNHCR country operations profile – Pakistan*, undated (accessed 27 January 2012), <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e487016>.

expected to continue.⁴⁴ Armed clashes over control of land and natural resources between Pakistani armed forces and tribal militants in Balochistan also caused large-scale displacement in 2010.⁴⁵

Extensive floods in the summer of 2010 reportedly inundated 20 percent of the country and displaced or otherwise affected more than 20 million people in Khyber Pakhtunkhwa, Balochistan, Sindh and Punjab provinces.⁴⁶ The flooding, compounded by the security situation, reportedly led food prices to double and food insecurity to become more widespread.⁴⁷ Similarly, heavy monsoon rains over the course of August 2011 has affected over nine and a half million people and claimed an estimated 520 lives in Sindh and parts of Balochistan province.⁴⁸ Humanitarian actors estimate that, in Sindh province alone, 1.8 million persons were displaced by the floods; 495,000 of whom were still residing in temporary settlements and makeshift camps across the province in October 2011.⁴⁹ Thus far, due to funding constraints, humanitarian assistance has reached only a small proportion of the affected population leaving millions in critical need of emergency assistance, such as safe drinking water and sanitation.⁵⁰ Although floodwaters have receded in the flood-affected districts of Sindh Province, some of the displaced population is still unable to return to their homes due to poor sanitary conditions.⁵¹

Although a breakdown by profile is not available, during the period from January to end of November 2011, 14,380 asylum applications were submitted by Pakistani nationals globally – compared to 10,017 applications registered during the same period in 2010, representing a 43 percent increase.⁵²

⁴⁴ On-going security operations by the Government forces against non-State armed groups in Khyber Agency in FATA have reportedly resulted in the displacement of more than 250,000 persons since January 2012; see Save the Children, *Conflict forces a quarter of a million people from their homes in Pakistan as world turns blind eye to Khyber crisis*, 4 April 2012, <http://reliefweb.int/node/487687>. Additional reports indicate that 24,600 families were displaced since mid-January 2012 from Khyber Agency to Jalozi camp in Khyber Pakhtunkhwa province. Further displacements are expected as security operations continue in Khyber Agency; see UN Office for the Coordination of Humanitarian Affairs, *Pakistan: Khyber Agency Displacement - Situation Report No. 1*, 28 March 2012, http://reliefweb.int/sites/reliefweb.int/files/resources/full%20report_108.pdf. 100,000 persons were newly displaced in 2011 from Kurram, Agency alone; Internal Displacement Monitoring Centre, *Displacement caused by conflict and natural disasters, achievements and challenges*, 10 January 2012, <http://www.unhcr.org/refworld/docid/4f0e97f82.html>. In February 2011, for example, UNHCR registered some 25,000 people internally displaced as a result of fresh military operations against insurgents in Mohmand agency, FATA; see UNHCR, *New displacement in north-west Pakistan*, 4 February 2011, <http://www.unhcr.org/4d4bd2626.html>.

⁴⁵ See, for example, Internal Displacement Monitoring Centre, *Internal Displacement: Global Overview of Trends and Developments in 2010 - Pakistan*, 23 March 2011, <http://www.unhcr.org/refworld/docid/4d932e18c.html>.

⁴⁶ Over 1,600 individuals lost their lives according to official figures; see UNHCR, *2011 UNHCR country operations profile – Pakistan*, undated (accessed 20 October 2011), <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e487016>. See also Brookings-Bern Project on Internal Displacement, *A Year of Living Dangerously: A Review of Natural Disasters in 2010*, April 2011, <http://www.unhcr.org/refworld/docid/4dabde142.html>. Other sources estimate the number of deaths at 1,900; see Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>.

⁴⁷ See, for example, UN Food and Agriculture Organization, *Pakistan: Country Profile*, undated (accessed 20 October 2011), <http://www.fao.org/countries/55528/en/pak/>; and Food Security Portal, *Pakistan*, undated (accessed 20 October 2011), <http://www.foodsecurityportal.org/Pakistan>.

⁴⁸ According to official figures; see Government of Pakistan, *Damages / Relief in Sindh & Balochistan 30-Dec-2011*, 1 January 2012, http://reliefweb.int/sites/reliefweb.int/files/resources/PDF_15.pdf. See also UNHCR, *Pakistan floodwaters recede, urgent humanitarian needs remain*, 5 October 2011, <http://www.unhcr.org/refworld/docid/4e8d4ba02.html>.

⁴⁹ See, for example, UNICEF, *Pakistan Update 2011 Floods: Needs and Response*, 20 October 2011, <http://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Floods%20Update%2020%20October%202011.pdf>; and Internal Displacement Monitoring Centre (IDMC), *Pakistan: Urgent need for more resources to assist people displaced by flooding*, 7 October 2011, <http://www.unhcr.org/refworld/docid/4e92e02c2.html>.

⁵⁰ Many humanitarian organisations were reportedly forced to scale down their relief operations due to the lack of funding. Although, according to the Food and Agriculture Organisation, 86 percent of the water had receded from flood affected areas, nearly 2000 km² remained under water as of January 2012; see UNICEF, *Pakistan Update 2011 Floods: Needs and Response in Sindh and Balochistan*, 17 January 2012, <http://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Floods%20Update%2012%20January%202012.pdf>. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), one million persons were provided with food and 500,000 persons with essential medicines. As of 20 October 2011, emergency shelter and water had been provided to only 25 percent of the targeted population. Three million flood-affected people remain highly vulnerable and in need of immediate food assistance in Sindh and Balochistan provinces; see UN Office for the Coordination of Humanitarian Affairs, *Pakistan Monsoon 2011 – Situation Report No. 9*, 20 October 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/OCHASitrepNo.9_PakistanFloods2011.pdf. See also UNICEF, *Pakistan Update 2011 Floods: Needs and Response*, 20 October 2011, <http://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Floods%20Update%2020%20October%202011.pdf>.

⁵¹ See, for example, UNICEF, *Pakistan Update 2011 Floods: Needs and Response in Sindh and Balochistan*, 17 January 2012, <http://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Floods%20Update%2012%20January%202012.pdf>; and UN Office for the Coordination of Humanitarian Affairs, *Pakistan Monsoon 2011 – Situation Report No. 9*, 20 October 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/OCHASitrepNo.9_PakistanFloods2011.pdf.

⁵² According to statistics compiled by UNHCR in relation to 44 industrialized countries in Europe, North America, Oceania and Asia; see UNHCR, *Asylum claims in industrialized countries – Latest monthly data: Pakistan*, 22 December 2011, <http://www.unhcr.org/statistics/Latest-monthly-asylum-data.zip>. See also UNHCR, *Asylum Levels and Trends in Industrialized*

III. National Legal Framework

A. Historic Overview

Although the principles of religious freedom and equal rights for all, irrespective of caste or creed, were endorsed by the founding father of modern Pakistan,⁵³ successive constitutional and legislative revisions prompted by rising religious fundamentalism have resulted in a steady erosion of the rights and freedoms protected by the Constitution.⁵⁴

Throughout the 1970s Islamic activism gained ground, evolving into the main voice of dissent, and defining the policies of the government of former Prime Minister Zulfikar Ali Bhutto (1971-1977).⁵⁵ The 1973 Constitution incorporated a repugnancy provision, pursuant to which all laws had to be in accordance with Islam.⁵⁶ In 1974, amid waves of anti-Ahmadi⁵⁷ disturbances and in an effort to appease the Islamist movement,⁵⁸ the Bhutto government declared Ahmadis a non-Muslim minority.⁵⁹

Shortly after seizing power in a military coup in July 1977, General Mohammad Zia ul-Haq embarked on a process of Islamization of the Pakistan legal system.⁶⁰ As a result, *hadd* offenses⁶¹ were introduced into criminal law through four ordinances collectively referred to as the *Hudood Ordinances*,⁶² and the Federal Shariat Court, with exclusive jurisdiction to examine whether a law is in accordance with Islam, was established.⁶³

Countries: Statistical overview of asylum applications lodged in Europe and selected non-European countries, 18 October 2011, <http://www.unhcr.org/refworld/docid/4e9d6ac72.html>.

⁵³ In his address to the first Constituent Assembly of Pakistan on 11 August 1947, Quaid-e-Azam Muhammad Ali Jinnah, then President of the Constituent Assembly, said: “You are free; you are free to go to your temples, you are free to go to your mosques or to any other places of worship in the State of Pakistan. You may belong to any religion or caste or creed – that has nothing to do with the business of the State. [...] We are starting with this fundamental principle: that we are all citizens and equal citizens of one State.”; see *Address of the Founder of Pakistan Quaid-e-Azam Muhammad Ali Jinnah on 11th August, 1947 to 1st Constituent Assembly*, <http://www.na.gov.pk/>. Pakistan’s original 1956 Constitution clearly provided for the right of each citizen to profess, practice and propagate his or her religion; see Article 18 of the Constitution of Pakistan, 2 March 1956, http://pakistan.space.tripod.com/archives/56_02.htm.

⁵⁴ See, for example, International Crisis Group, *Reforming Pakistan’s Prison System*, 12 October 2011, <http://www.unhcr.org/refworld/docid/4e968f382.html>; Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 21-29, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; Martin Lau, *Twenty-Five Years of Hudood Ordinances – A Review*, 64 Wash & Lee L. Rev. 1291-1314 (2007), <http://law.wlu.edu/deptimages/Law%20Review/64-4Lau.pdf>; and Amjad Mahmood Khan, *Persecution of the Ahmadiyya Community in Pakistan: An Analysis Under International Law and International Relations*, Harvard Human Rights Journal, Vol. 16, 2003, pp. 217-244, <http://www.law.harvard.edu/students/orgs/hrj/iss16/khan.pdf>.

⁵⁵ Karen Parker, J.D., *Religious Persecution in Pakistan: the Ahmadi Case at the Supreme Court*, Humanitarian Law Project, December 1993, available at <http://www.guidetoaction.org/parker/ahmadi.html>.

⁵⁶ Pursuant to Article 227(1) of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>, all laws had to be in conformity with the injunctions of Islam, save for the personal laws of non-Muslims (Article 227(3)).

⁵⁷ For further information on the treatment of Ahmadis, see Section IV(A)(1) below.

⁵⁸ See, for example, Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 24-25, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

⁵⁹ Adopted on 17 September 1974, the *Constitution (Second Amendment) Act, 1974* amended the Constitution by incorporating in Article 260 the following clause:

“A person who does not believe in the absolute and unqualified finality of The Prophethood of MUHAMMAD (Peace be upon him), the last of the Prophets or claims to be a Prophet, in any sense of the word or of any description whatsoever, after MUHAMMAD (Peace be upon him), or recognizes such a claimant as a Prophet or religious reformer, is not a Muslim for the purposes of the Constitution or law.”

The full text of the Second Amendment 1974 is available at <http://www.pakistan.org/pakistan/constitution/amendments/2amendment.html>. Articles 260(3)(a) and (b) of the Constitution, which defined the term “Muslim” and listed groups legally considered “non-Muslim” (i.e. persons belonging to the Christian, Hindu, Sikh, Buddhist or Parsi community, a person of the Qadiani Group or Lahori Group (who call themselves ‘Ahmadis’ or by any other name) or a Bahai, and a person belonging to any of the Scheduled Castes), were introduced in 1985; see Section 6 of the Constitution (Third Amendment) Order, 1985, President’s Order 24 of 1985, 19 March 1985, http://www.pakistan.org/pakistan/constitution/orders/po24_1985.html.

⁶⁰ See, for example, International Crisis Group, *Islamic Parties in Pakistan*, 12 December 2011, <http://www.unhcr.org/refworld/docid/4ee6f6fc2.html>; and Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 25-27, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

⁶¹ *Hadd* offenses are those for which the Qur’an prescribes fixed punishments; see Martin Lau, *Twenty-Five Years of Hudood Ordinances – A Review*, 64 Wash & Lee L. Rev. 1291-1314 (2007), <http://law.wlu.edu/deptimages/Law%20Review/64-4Lau.pdf>.

⁶² The Prohibition (Enforcement of Hadd) Order, 1979, President’s Order No. IV of 1979, 10 February 1979, <http://www.unhcr.org/refworld/docid/4db9988a2.html>; Offence of Zina (Enforcement of Hudood) Ordinance, 1979, Ordinance No. VII of 1979, 10 February 1979, <http://www.unhcr.org/refworld/docid/4db99952.html>; Offence of ‘Qazf’ (Enforcement of Hadd) Ordinance, 1979, Ordinance No. VIII of 1979, 10 February 1979, <http://www.unhcr.org/refworld/docid/4db99a162.html>; and Offences

During the 1980s, several criminal law ordinances were passed by the Parliament, including five which explicitly targeted religious minorities and criminalized blasphemy: a law punishing the defiling of the Qur'an; a prohibition against insulting the Prophet Muhammad, his wives, family, or companions;⁶⁴ and two laws specifically restricting the activities of Ahmadis.⁶⁵ The General Ordinance XX (1984)⁶⁶ amended Pakistan's Penal Code and Press Publication Ordinance by incorporating sections 298B and 298C.⁶⁷ The sections, referred to collectively as the "anti-Ahmadi laws", expressly prohibit Ahmadis from professing to be Muslims or using Muslim practices in their worship or in the propagation of their faith, each offence being punishable with imprisonment for up to three years and a fine.⁶⁸ The introduction of the blasphemy laws in the Penal Code reportedly promoted an atmosphere of religious intolerance and contributed to the institutionalization of discrimination against religious minorities, particularly the Ahmadi community. The discriminatory nature of the provisions and the severity of the punishments incurred, as well as their subsequent exploitation by religious extremists, have attracted widespread international criticism.⁶⁹

In 1985, for example, the former UN Sub-Commission on Prevention of Discrimination and Protection of Minorities warned that the situation of religious minorities in Pakistan had the potential to lead to mass exodus, especially of members of the Ahmadi community. It considered Ordinance XX as a "*prima facie violation [...] of the right of religious minorities to profess and practice their own religion*", and "*expresse[d] grave concern that persons charged with and arrested for violations of Ordinance XX have been reportedly subjected to various punishments and confiscation of personal property, [...] discrimination in employment and education and to the defacement of their religious property.*"⁷⁰

Attempts by successive governments to reform or repeal the blasphemy laws have failed under the pressure of hardline religious groups.⁷¹ In November 2010, with the Government's expression of support, the former Information Minister and member of the ruling Pakistan People's Party (PPP),

Against Property (Enforcement of 'Hudood') Ordinance, 1979, Ordinance No. VI of 1979, 10 February 1979, <http://www.unhcr.org/refworld/docid/4dd101512.html>.

⁶³ International Crisis Group, *Islamic Parties in Pakistan*, 12 December 2011, <http://www.unhcr.org/refworld/docid/4ee6f6fc2.html>; Martin Lau, *Twenty-Five Years of Hudood Ordinances – A Review*, 64 Wash & Lee L. Rev. 1291-1314 (2007), <http://law.wlu.edu/deptimages/Law%20Review/64-4Lau.pdf>; and Amjad Mahmood Khan, *Persecution of the Ahmadiyya Community in Pakistan: An Analysis Under International Law and International Relations*, Harvard Human Rights Journal, Vol. 16, 2003, pp. 217-244, <http://www.law.harvard.edu/students/orgs/hrj/iss16/khan.pdf>.

⁶⁴ For a more in-depth overview of the "blasphemy laws", see Section III(C)(1) below.

⁶⁵ See, for example, Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 25-27, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights - Pakistan*, 21 October 2010, <http://www.unhcr.org/refworld/docid/4d5a7009c.html>; and Martin Lau, *Twenty-Five Years of Hudood Ordinances – A Review*, 64 Wash & Lee L. Rev. 1291-1314 (2007), <http://law.wlu.edu/deptimages/Law%20Review/64-4Lau.pdf>.

⁶⁶ The *Anti-Islamic Activities of the Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, 1984*, also known as *Ordinance No. XX of 1984*, published in the Gazette of Pakistan, 26 April 1984, available at <http://www.thepersecution.org/archive/ordxx.html>. The Ordinance was subsequently validated by the *Constitution (Eight Amendment) Act 1985*, adopted on 9 November 1985 and published in the Gazette of Pakistan, Extraordinary, on 11 November 1985, <http://www.pakistani.org/pakistan/constitution/amendments/8amendment.html>.

⁶⁷ See Pakistan Penal Code, 1860 (as amended), Act XLV of 1860, 6 October 1860, <http://www.unhcr.org/refworld/docid/485231942.html>. The amendments to the Penal Code were validated through the adoption of the eighth amendment to the Constitution; see *Constitution (Eight Amendment) Act 1985*, adopted on 9 November 1985 and published in the Gazette of Pakistan, Extraordinary, on 11 November 1985, <http://www.pakistani.org/pakistan/constitution/amendments/8amendment.html>.

⁶⁸ For a more in-depth overview of the "anti-Ahmadi laws", see Section III(C)(2) below.

⁶⁹ See, for example, Human Rights First, *Blasphemy Laws Exposed: The Consequences of Criminalizing "Defamation of Religions"*, updated March 2011, http://www.humanrightsfirst.org/wp-content/uploads/Blasphemy_Cases.pdf; Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights - Pakistan*, 21 October 2010, <http://www.unhcr.org/refworld/docid/4d5a7009c.html>; Amjad Mahmood Khan, *Persecution of the Ahmadiyya Community in Pakistan: An Analysis Under International Law and International Relations*, Harvard Human Rights Journal, Vol. 16, 2003, pp. 217-244, <http://www.law.harvard.edu/students/orgs/hrj/iss16/khan.pdf>; Pedro C. Moreno, *Handbook on Religious Liberty Around the World: Pakistan*, The Rutherford Institute, 1996, <http://religiousfreedom.lib.virginia.edu/rihand/Pakistan.html>; and Amnesty International, *Use and Abuse of the Blasphemy Laws*, 1 July 1994, <http://www.unhcr.org/refworld/docid/3ae6a9aa4.html>.

⁷⁰ See Resolution 1985/21 as reported in the UN Economic and Social Council (ECOSOC), *Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its 38th session, Geneva, 5-30 August 1985*, E/CN.4/1986/5, 4 November 1985, <http://www.unhcr.org/refworld/docid/4dd4d8e92.html>.

⁷¹ See, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 27-29, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; and Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Pakistan: Overview*, September 2010, <http://www.unhcr.org/refworld/docid/4954ce652.html>.

Sherry Rehman, introduced a private bill aimed at reforming the blasphemy laws. The proposed amendments sought, *inter alia*, to remove the death penalty for such offences, criminalize incitement to religious discrimination or violence, as well as to penalize false or frivolous accusations.⁷² In December 2010, at the request of the Government, the Council of Islamic Ideology⁷³ reviewed the controversial blasphemy laws and recommended certain procedural changes with a view to preventing their misuse.⁷⁴ Under the pressure of large rallies organized by hardline Islamic groups and religious political parties in protest against the bill in December 2010 and January 2011,⁷⁵ the Government reneged on its commitment to review the blasphemy laws.⁷⁶ Two high profile public figures – Salman Taseer, the Governor of Punjab,⁷⁷ and Shahbaz Bhatti, Pakistan’s Minister for Minority Affairs⁷⁸ – were killed on 4 January and 2 March 2011, respectively, purportedly due to their overt opposition to the blasphemy laws. The UN High Commissioner for Human Rights condemned these assassinations

⁷² The PPP itself reportedly did not support the bill; see Inter Press Service News Agency, *Pakistan: Blasphemy Law Carries Over Into New Year*, 1 January 2011, <http://ipsnews.net/news.asp?idnews=54014>.

⁷³ The Council of Islamic Ideology is a constitutional advisory body on Islamic injunctions; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, p. 38, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

⁷⁴ The Council, however, opposed their repeal and recommended that capital punishment be retained for offenders; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, p. 38, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; and The Express Tribune, *Top Islamic body proposes changes in blasphemy law*, 19 December 2010, <http://tribune.com.pk/story/91838/council-of-islamic-ideology-top-islamic-body-proposes-changes-in-blasphemy-law/>.

⁷⁵ A rally organized by Tahaffuz-e-Namoos-e-Risalat, a conglomerate of religious parties, and held in Karachi on 9 January 2011 reportedly numbered over 40,000 persons; see Asian Human Rights Commission, *Government must file FIRs for attempted murder against the religious leaders calling for the killing of innocent persons*, 10 January 2011, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAG-001-2011>. See also The Express Tribune, *Secular politicians jump on blasphemy bandwagon*, Pakistan, 31 January 2011, <http://tribune.com.pk/story/111688/secular-politicians-jump-on-blasphemy-bandwagon/>; The Express Tribune, *Defiance of law: Tahaffuz rally speakers threaten courts*, 18 January 2011, <http://tribune.com.pk/story/104903/jamaat-ud-dawa-rally-banned-outfit-incites-violence/>; and Inter Press Service News Agency, *Pakistan: Blasphemy Law Carries Over Into New Year*, 1 January 2011, <http://ipsnews.net/news.asp?idnews=54014>. A 24-hour nationwide strike was also organised by Muslim clerics to protest against changes to the laws; see BBC News, *Pakistan on strike against bill to amend blasphemy law*, 31 December 2010, <http://www.bbc.co.uk/news/world-south-asia-12097687>.

⁷⁶ On 30 December 2010, the Government publicly stated that it had no intention of repealing or amending the laws; see, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>; Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 4-5, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; and Guardian, *Sherry Rehman next on Pakistan militants' hitlist, friends fear*, 2 March 2011, <http://www.guardian.co.uk/world/2011/mar/02/sherry-rehman-pakistan-blasphemy-laws-hitlist>.

⁷⁷ It is reported that Governor Taseer was murdered by his own bodyguard in Islamabad. The killer, Mumtaz Qadri, was apparently influenced by clerics who issued a decree of death against Mr Taseer for opposing the blasphemy law and sympathising with Asia Bibi, a Christian woman convicted under it; see, for example, Asian Human Rights Commission, *Failure to take action against fundamentalists makes a mockery of the law*, 14 January 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-008-2011>; Time, *Pakistan's Pols Paralyzed by Religious Extremism*, January 13, 2011 <http://www.time.com/time/world/article/0,8599,2042522,00.html>; and The Guardian, *Salmaan Taseer: murder in an extremist climate*, 5 January 2011, <http://www.guardian.co.uk/commentisfree/belief/2011/jan/05/salman-taseer-murder-pakistan>. It is reported that Qadri's actions were praised by 500 Muslim clerics belonging to Jamaat-e-Ahl-e-Sunnat, a prominent Barelvi organization. The clerics have also warned the public against mourning the late Governor; see US Commission on International Religious Freedom, *USCIRF Annual Report 2011 - Countries of Particular Concern: Pakistan*, 28 April 2011, <http://www.unhcr.org/refworld/docid/4dbe90c1c.html>. In October 2011, Qadri was sentenced to death for the killing of Governor Taseer; see Radio Free Europe/Radio Liberty, *Pakistan court orders death for assassin of blasphemy reform governor*, 1 October 2011, <http://www.unhcr.org/refworld/docid/4e9ea77027.html>. However, the presiding judge reportedly fled the country amid fears for his safety; see, for example, Amnesty International, *Pakistan: Blasphemy law reform more urgent one year after Governor killing*, 4 January 2012, <http://www.unhcr.org/refworld/docid/4f06ad372.html>; and Asian Human Rights Commission, *Pakistan: Government sends a judge abroad to appease extremist religious groups*, 26 October 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-160-2011/>. Furthermore, Governor Taseer's son was reportedly abducted in August 2011 by militants and remains missing; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 - Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.

⁷⁸ Minister Bhatti was reportedly killed by a group of gunmen on 2 March 2011. Prior to his assassination, he is said to have received several death threats, including from militant groups such as the Taliban, and predicted his own deaths months before it happened; see Human Rights Watch, *Pakistan: Rights Suffer Under Army Power Grab: Upsurge in Attacks on Civilians, Torture, Targeted Killings*, 23 January 2012, <http://www.hrw.org/news/2012/01/23/pakistan-rights-suffer-under-army-power-grab>; Asian Human Rights Commission, *The brutal assassination of Minister Shahbaz Bhatti exposes the nexus between the security agencies and the Taliban*, 3 March 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-036-2011>; The Citizen, *Slain Christian minister left video warning*, 3 March 2011, <http://www.citizen.co.za/citizen/content/en/citizen/world-news?oid=176716&sn=Detail&pid=40&Slain-Christian-minister-left-video-warning>; and Reuters, *Militants say killed Pakistani Minister for blasphemy*, 2 March 2011, <http://uk.reuters.com/article/2011/03/02/uk-pakistan-minister-idUKTRE72119020110302>. Little progress was made in the investigation into his murder, which initially focussed on the Christian community and Bhatti's family. All those arrested for suspected involvement have reportedly been released; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 - Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.

as “*symptomatic of pervasive violence against religious minorities in Pakistan*”.⁷⁹ Following the murders of Governor Taseer and Minister Bhatti, Rehman withdrew her proposed legislation,⁸⁰ while the country experienced an upsurge in blasphemy allegations.⁸¹

B. Constitution

While the Constitution of Pakistan⁸² guarantees the rights of religious minorities,⁸³ as well as other fundamental rights such as gender equality, freedom of expression and press, freedom of association and assembly,⁸⁴ it effectively segregates the country’s citizens on the basis of religion.⁸⁵ The Constitution proclaims Islam as the State religion,⁸⁶ and binds the legal system to Islamic law by stipulating that no law should be repugnant to the injunctions of Islam as laid down in the Holy Qur’an and Sunnah, and that all existing laws should be brought in conformity.⁸⁷ Fundamental freedoms, such as the freedom of expression and press, are also subject to “*any reasonable restriction imposed by law in the interest of the glory of Islam*”.⁸⁸

⁷⁹ UN Office of the High Commissioner for Human Rights, *UN human rights chief condemns Pakistan assassination, urges reform of blasphemy laws*, 2 March 2011, <http://reliefweb.int/node/390347>. In his yearly address at the opening of Parliament on 22 March 2011, President Zardari publicly condemned the murders of the two high-level officials and vowed to fight militancy and extremism; see New York Times, *Pakistan’s President Vows, Again, to Fight Extremism*, 22 March 2011, <http://www.nytimes.com/2011/03/23/world/asia/23pakistan.html>.

⁸⁰ Ms. Rehman’s decision reportedly came after the Government had publicly ruled out amending the blasphemy laws; see Guardian, *Sherry Rehman next on Pakistan militants’ hitlist, friends fear*, 2 March 2011, <http://www.guardian.co.uk/world/2011/mar/02/sherry-rehman-pakistan-blasphemy-laws-hitlist>; and Minority Rights Group International, *Pakistan blasphemy law targets minorities and should be repealed – MRG*, 4 February 2011, <http://www.minorityrights.org/10497/minorities-in-the-news/pakistan-blasphemy-law-targets-minorities-and-should-be-repealed-mrg.html>. She has also reportedly received several death threats for her opposition to the blasphemy laws and a cleric from a Karachi mosque reportedly publicly states that she deserved to die for introducing the bill. No action was taken against the cleric; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; ASSIST News Service, *Pakistan police says no to blasphemy case against Sherry Rehman*, 20 February 2010, <http://www.assistnews.net/Stories/2011/s11020133.htm>; and BBC News, *Pakistan MP drops effort to repeal blasphemy laws*, 3 February 2011, <http://www.bbc.co.uk/news/world-south-asia-12355001>.

⁸¹ Member of religious minorities, Muslims, as well as children and persons with mental disabilities were charged under the blasphemy provisions in 2011; see, for example, Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>.

⁸² The Constitution has been repeatedly amended and suspended since its adoption, on 12 April 1973. For an up-to-date consolidated version of the Constitution of Pakistan incorporating amendments made by the Constitution (Eighteenth Amendment) Act, 2010, see Constitution of the Islamic Republic of Pakistan (as amended as of 20 April 2010), 10 April 1973, <http://www.na.gov.pk/publications/constitution.pdf>.

⁸³ The freedom to profess religion and manage religious institutions is enshrined under Article 20 of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>.

⁸⁴ See Articles 25, 19, 17 and 16 of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>, respectively.

⁸⁵ Article 260(3) of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>, identifies Christians, Hindus, Sikhs, Buddhists, Parsis, Baha’is and Ahmadis (whether of the Qadiani or Lahori group) as “non-Muslims”. Eligibility for presidency is restricted to Muslims (Article 41(2)). Some seats in the National and Provincial Assemblies are reserved for women and non-Muslims (Articles 51 and 106).

⁸⁶ Article 2 of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>.

⁸⁷ Article 227 of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>. The Enforcement of Shari’ah Act 1991, Act X of 1991, 18 June 1991, <http://www.pakistani.org/pakistan/legislation/1991/actXof1991.html>, adopted by Parliament in 1991, effectively made Sharia the supreme law in Pakistan and required all laws to be interpreted in accordance with it.

⁸⁸ Article 19 of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>. Freedom of speech is subject to limitations under the Constitution and other legislation, such as the Official Secrets Acts. As such, self-censorship reportedly occurs in relation to the coverage of sensitive social or religious issues, as well as certain militant groups and political parties; see Freedom House, *Freedom of the Press 2011 - Pakistan*, 10 October 2011, <http://www.unhcr.org/refworld/docid/4e92af05d.html>. See also Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>; Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hreport/2011/AHRC-SPR-008-2011/at_download/file; and US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

C. Penal Code

1. Blasphemy Laws

Inherited from the British legal system, Sections 295, 295A and 298 of the Pakistan Penal Code are aimed at preventing and limiting religious violence.⁸⁹ Significant changes were, however, introduced by the Zia-ul-Haq Government. In the early 1980s, for instance, the insertion of Section 298A in the Penal Code made the use of derogatory remarks “by words, [...] or by imputation, innuendo or insinuation directly or indirectly” in respect of persons revered in Islam a criminal offence punishable with up to three years’ imprisonment and/or a fine. Two years later, the introduction of Section 295B also rendered defiling the Qur’an a criminal offence punishable with imprisonment for life.⁹⁰

Most notably, the Criminal Law (Amendment) Act, 1986⁹¹ introduced section 295C, pursuant to which anyone who “by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad” is liable to the death penalty, life imprisonment or a fine. Blasphemy cases carry a mandatory capital punishment since 1991,⁹² although no death sentence has reportedly been carried out.⁹³

Although the death penalty is not prohibited under international law, it has long been regarded as an exception, which may be imposed only for the “most serious crimes”.⁹⁴ This has been consistently interpreted as applying to cases where there was an intention to kill which resulted in the loss of life.⁹⁵ Applying the death penalty for blasphemy was deemed disproportionate by successive UN Special Rapporteurs on freedom of religion or belief.⁹⁶ Disproportionate punishments imposed for breaches of

⁸⁹ The Pakistan Penal Code is based on colonial India’s Penal Code of 1862 and has been amended several times since independence in 1947. Other provisions aimed at the protection of religious freedom include Section 296, which bans voluntary disturbances of religious assemblies, and Section 297, which deals with trespassing on burial grounds.

⁹⁰ See Section 295B of the Pakistan Penal Code, 1860 (as amended), Act XLV of 1860, 6 October 1860, <http://www.unhcr.org/refworld/docid/485231942.html>.

⁹¹ *Criminal Law (Amendment) Act, 1986*, Act III of 1986, 12 November 1986, http://www.thepersecution.org/archive/10_c.html.

⁹² In 1991, the Supreme Court of Pakistan issued an order declaring any person found guilty of blasphemy under section 295C of the Penal Code was liable to the death penalty; see, for example, International Crisis Group, *Reforming the Judiciary in Pakistan*, 16 October 2008, <http://www.unhcr.org/refworld/docid/48f83e932.html>; and UN Commission on Human Rights, *Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief: report*, E/CN.4/1996/95/Add.1, 2 January 1996, http://ap.ohchr.org/documents/alldocs.aspx?doc_id=780.

⁹³ According to the Pakistan Human Rights Commission, four persons were sentenced to long prison terms and three were given capital punishment under the blasphemy laws during 2011. All were Muslim. There were 26 new cases (28 persons) of offenses against religion, among which four were against Christians and two against Ahmadis; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, pp. 40-43, <http://www.hrcp-web.org/arhrcp.html>. As of March 2012, there were at least 14 individuals with pending death sentences or in the process of appealing them. In June 2011, for example, Abdul Sattar was sentenced to death in Punjab province for allegedly texting blasphemous messages. See US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>.

⁹⁴ See, for example, Article 6(2) of the International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>. Pakistan signed and ratified the ICCPR in April 2008 and June 2010, respectively, but made several key reservations, including to Articles 6 (right to life), 18 (freedom of thought and religion) and 19 (right to hold opinions without interference). Pursuant to its reservation, Pakistan is not bound by these provisions insofar as they conflict with the Pakistan Constitution and Shari’a law. Furthermore, Pakistan is not a party to the ICCPR’s Optional Protocol, which would subject it to the jurisdiction of the UN Human Rights Council. As a consequence, challenges to the country’s blasphemy laws cannot be brought before the Council; see UN Treaty Collection, *International Covenant on Civil and Political Rights: Status*, as of 29 April 2011, http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-4&chapter=4&lang=en#EndDec.

⁹⁵ The UN Human Rights Council has consistently rejected the imposition of death penalties in cases not involving the loss of life; see, for example, UN General Assembly, *Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt - Addendum - Summary of cases transmitted to Governments and replies received*, A/HRC/16/53/Add.1, 14 February 2011, para. 330, <http://www.unhcr.org/refworld/docid/4d74d7162.html>.

⁹⁶ See, for example, UN General Assembly, *Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt - Addendum - Summary of cases transmitted to Governments and replies received*, A/HRC/16/53/Add.1, 14 February 2011, paras. 330-335, <http://www.unhcr.org/refworld/docid/4d74d7162.html>; and UN Commission on Human Rights, *Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief: report*, E/CN.4/1996/95/Add.1, 2 January 1996, para. 82, http://ap.ohchr.org/documents/alldocs.aspx?doc_id=780. It should also be noted that The UN General Assembly recently called upon States to “ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief”; see UN General Assembly, *Elimination of all forms of intolerance and of discrimination based on religion or belief: resolution / adopted by the General Assembly*, A/RES/64/164, 17 March 2010, para. 10(b), <http://www.un.org/en/ga/64/resolutions.shtml>.

the blasphemy laws and/or the *Hudood* Ordinances, such as imprisonment or death, may amount to persecution.⁹⁷

In the absence of a clear definition of what constitutes a violation, no *mens rea* requirement, and the lack of procedural safeguards, the blasphemy laws are open to widespread abuse and have reportedly been used to harass and target religious minorities, as well as to settle personal scores or carry out personal vendettas.⁹⁸ Although Pakistan's blasphemy laws apply to all its citizens, irrespective of creed or religious affiliation, it is reported that such laws disproportionately affect (per capita) non-Muslim religious minorities, with two thirds of all blasphemy cases filed in Punjab province.⁹⁹

Pressure from radical elements and corruption (see above) reportedly contribute to police complicity in registering false charges of blasphemy against members of religious minorities.¹⁰⁰ Personal prejudices amongst law enforcement personnel are also believed to hinder effective protection of these minorities.¹⁰¹ In an attempt to curb the abusive application of the blasphemy provisions, the Parliament enacted in 2005 a law requiring a senior police officer to investigate blasphemy complaints before registering them with the courts. To date, the law has reportedly had little effect and is not uniformly enforced.¹⁰²

Bail is generally not granted in blasphemy cases on the ground that persons facing the death penalty are likely to abscond. Furthermore, prosecution of blasphemy cases is notoriously slow and suspects often ultimately spend lengthy periods in prison. Although some blasphemy convictions are overturned on appeal, first instance courts are often subject to intimidation resulting in, *inter alia*, a lengthy decision process and refusal of bail out of fear of retaliation from religious extremists.¹⁰³

⁹⁷ See UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, para. 22, <http://www.unhcr.org/refworld/docid/4090f9794.html>.

⁹⁸ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file; Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 39-43, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; Human Rights First, *Blasphemy Laws Exposed: The Consequences of Criminalizing “Defamation of Religions”*, updated March 2011, http://www.humanrightsfirst.org/wp-content/uploads/Blasphemy_Cases.pdf; The Express Tribune, *Hand out blinkers for blasphemy law*, 4 February 2011, <http://tribune.com.pk/story/113997/hand-out-blinkers-for-blasphemy-law/>; and Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights - Pakistan*, 21 October 2010, <http://www.unhcr.org/refworld/docid/4d5a7009c.html>.

⁹⁹ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; Center for Human Rights and Humanitarian Law, *Protecting Religion or Proscribing Expression? Pakistan's Blasphemy Law*, 23 April 2011, <http://hrbrief.org/2011/04/protecting-religion-or-proscribing-expression-pakistan%E2%80%99s-blasphemy-law/>; and Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights - Pakistan*, 21 October 2010, <http://www.unhcr.org/refworld/docid/4d5a7009c.html>. However, according to the National Commission of Justice and Peace, a human rights organization sponsored by the Catholic Church of Pakistan, at least 67 Ahmadis, 17 Christians, eight Muslims and six Hindus were charged with blasphemy in 2010; see Amnesty International, *Amnesty International Annual Report 2011 - Pakistan*, 13 May 2011, <http://www.unhcr.org/refworld/docid/4dce154bc.html>. According to the same organizations, at least 1,060 people have been charged under the blasphemy law between 1986 and 2010. This includes 450 Muslims, 456 Ahmadis, 133 Christians and 21 Hindus; see Inter Press Service News Agency, *Pakistan: Blasphemy Law Carries Over Into New Year*, 1 January 2011, <http://ipsnews.net/news.asp?idnews=54014>. Similar numbers are also provided by the Jinnah Institute; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, p. 40, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf. According to the Asian Human Rights Commission, some 161 persons were charged with blasphemy in 2011; see Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file.

¹⁰⁰ See, for example, Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file. Incidents of false blasphemy charges against religious minorities, including Ahmadis, Christians and Hindus, continue to be reported; see Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>; and Asian Human Rights Commission, *Pakistan: A Christian labourer arrested on blasphemy charges in an attempt to convert his girlfriend to Islam*, 7 December 2011, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-242-2011/>.

¹⁰¹ Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, p. 124, <http://www.hrcp-web.org/Publications/AR2010.pdf>.

¹⁰² See, for example, US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and International Crisis Group, *Reforming the Judiciary in Pakistan*, 16 October 2008, <http://www.unhcr.org/refworld/docid/48f83e932.html>. In 2000, former President Musharraf's proposal to amend the blasphemy law to allow only senior district officials to register blasphemy cases had to be withdrawn due to pressure from religious groups; see BBC News, *Pakistan's blasphemy law U-turn*, 17 May 2000, http://news.bbc.co.uk/2/hi/south_asia/751803.stm.

¹⁰³ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Human Rights First, *Blasphemy Laws Exposed: The Consequences of Criminalizing “Defamation of Religions”*, updated March 2011, http://www.humanrightsfirst.org/wp-content/uploads/Blasphemy_Cases.pdf.

Intimidation, harassment and acts of violence against lawyers defending individuals accused of blasphemy and witnesses for the defense are also reported.¹⁰⁴ Some accused are reportedly tortured or killed while in police custody or detention,¹⁰⁵ and non-Muslims are allegedly held in poorer facilities than Muslim inmates.¹⁰⁶ Blasphemy accusations sometimes spark assaults, assassinations and mob attacks.¹⁰⁷ Those acquitted of blasphemy charges are reportedly subject to death threats by radical religious elements, and thus often have to relocate or go into hiding following acquittal.¹⁰⁸

2. Anti-Ahmadi Laws

Incorporated in the Penal Code in 1984 through Ordinance No. XX,¹⁰⁹ Sections 298B and 298C further institutionalized Ahmadi segregation from mainstream Islam. Commonly referred to as the “anti-Ahmadi laws”, they render certain Ahmadi religious practices illegal. Pursuant to section 298B, Ahmadis’ use of epithets, descriptions and titles reserved for certain holy personages and places constitutes an offence punishable with imprisonment for up to three years and a fine.¹¹⁰ Section 298C prohibits Ahmadis from calling themselves Muslims, or preaching or propagating their faith.¹¹¹

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- [content/uploads/Blasphemy_Cases.pdf](#); Asian Human Rights Commission, *Appeal to amend the Blasphemy Laws*, 23 December 2010, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-183-2010/>; and Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights - Pakistan*, 21 October 2010, <http://www.unhcr.org/refworld/docid/4d5a7009c.html>.
- ¹⁰⁴ For example, in April 2010 a local religious leader issued a fatwa against Zafar Iqbal, a witness for the defence in a blasphemy case. The fatwa declared him an accomplice to the two accused in the case. Allegedly, the religious leader also instructed his followers to kill Mr Iqbal; see UN General Assembly, *Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt - Addendum - Summary of cases transmitted to Governments and replies received*, A/HRC/16/53/Add.1, 14 February 2011, <http://www.unhcr.org/refworld/docid/4d74d7162.html>.
- ¹⁰⁵ Three persons, all Christians, charged with offenses against religion died in detention during 2011; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, p. 40, <http://www.hrcp-web.org/arhrcp.html>. In September 2011, for example, Aslam Masih died of preventable diseases while in police custody, while in March 2011, Qamar David, a Christian sentenced to 25 years imprisonment for sending blasphemous text messages, was found dead in a Karachi prison; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. See also Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>; and Jinnah Institute; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 40-41, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf. In another case, in September 2009, Robert Fanish, a Christian arrested on blasphemy charges, was found dead in prison. His body bore marks of torture; see The New York Times, *Pakistan Rights group Seeks Answers on Christian's Death*, 16 September 2009, <http://www.nytimes.com/2009/09/17/world/asia/17pstan.html>; and Daily Times, *Christian held for blasphemy 'commits suicide'*, 16 September 2009, http://www.dailytimes.com.pk/default.asp?page=2009%5C09%5C16%5Cstory_16-9-2009_pg7_19. See also US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights - Pakistan*, 21 October 2010, <http://www.unhcr.org/refworld/docid/4d5a7009c.html>.
- ¹⁰⁶ While it is difficult to determine whether religious affiliation is a factor, both the Christian and Ahmadi communities claim that their members are also more likely to be abused while in custody; see, for example, International Crisis Group, *Reforming Pakistan's Prison System*, 12 October 2011, <http://www.unhcr.org/refworld/docid/4e968f382.html>; and US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights - Pakistan*, 21 October 2010, <http://www.unhcr.org/refworld/docid/4d5a7009c.html>.
- ¹⁰⁷ In February 2012, for example, a mob gathered outside the police station where a Christian girl from Lahore accused of desecrating the Qur'an was under preventive custody and demanded she be turned over; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. See also Jinnah Institute; *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 39-43, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf. According to the Asian Human Rights Commission, nine persons accused of blasphemy were extrajudicially killed in 2011; see Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file. In July 2010, for example, two Christian brothers accused of blasphemy were shot and killed as they were leaving a hearing at the Faisalabad courthouse. Violent clashes between the local Christian and Muslim communities ensued; see Express Tribune, *Clashes in Faisalabad as 'Blasphemers' Shot Dead*, 20 July 2010, <http://tribune.com.pk/story/29024/clashes-in-faisalabad-as-%E2%80%98blasphemers%E2%80%99-shot-dead/>; and Daily Times, *Two Christians Killed Outside Court Over 'Blasphemy'*, 20 July 2010, http://www.dailytimes.com.pk/default.asp?page=2010%5C07%5C20%5Cstory_20-7-2010_pg1_4.
- ¹⁰⁸ In March 2011, for example, Qamar David, a Christian sentenced to 25 years imprisonment for sending blasphemous text messages, was found dead in a Karachi prison; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.
- ¹⁰⁹ The sections were introduced by the *Anti-Islamic Activities of the Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, 1984*, No. XX of 1984, 26 April 1984, <http://www.pakistanlaw.net/pakistan-law/criminal-law-pakistan/the-anti-islamic-activities-of-the-qadiani-group-lahori-group-and-ahmadis-prohibition-and-punishment-ordinance-1984/>.
- ¹¹⁰ Pursuant to Section 298B of the Penal Code:
- “(1) Any person of the Qadiani group or the Lahori group (who call themselves Ahmadis or by any other name) who by words, either spoken or written or by visible representation:
- (a) refers to, or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (Peace Be Upon Him), as Ameer-ul-Mumineen, Khalifa-tul-Mumineen, Khalifa-tul-Muslimeen, Sahaabi or Razi Allah Anho;

The overall effect of sections 298B and 298C is to render it illegal for Ahmadis to: (i) refer to themselves as Muslims or refer to their founder as a Prophet; (ii) refer to their places of worship as mosques; (iii) use the traditional Muslim form of greeting; (iv) use the Muslim call to prayer, known as the Adhan; (v) use the Qur'an or observe Islamic rites; and (vi) preach or "propagate" the Ahmadi faith.

Alongside the blasphemy provisions, sections 298B and 298C of the Penal Code impose severe limitations on the exercise of the Ahmadi faith. These restrictions, which encompass a prohibition to proselytize, were found to be incompatible with international human rights law,¹¹² including the right to freedom of thought, expression, conscience and religion and the right of religious minorities to profess and practice their own religion.¹¹³ This has led many human rights observers to question whether sections 298B and 298C can be justified on the ground of public order or safety.¹¹⁴

(b) refers to, or addresses, any person, other than a wife of the holy Prophet Muhammad (Peace Be Upon Him), as Ummul-Mumineen;

(c) refers to, or addresses, any person, other than a member of the family (Ahle-bait) of the holy Prophet Muhammad (Peace Be Upon Him), as Ahlebait;

(d) or refers to, or names, or calls, his place of worship as Masjid (mosque);

shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to [a] fine.

(2) Any person of the Qadiani group or Lahori group, (who call themselves Ahmadis or by any other names), who by words, either spoken or written, or by visible representations, refers to the mode or form of call to prayers followed by his faith as Azan [call to prayer] or recites Azan as used by the Muslims, shall be punished with imprisonment of either description for a term which may be extended to three years and shall also be liable to [a] fine."

¹¹¹ Pursuant to Section 298C of the Penal Code:

"Any person of the Qadiani group or the Lahori group (who call themselves Ahmadis or any other name), who directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representation or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to [a] fine."

¹¹² In 1985, the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted a resolution stating that Ordinance XX violated, *prima facie*, the right to liberty and security of the person; the right to freedom from arbitrary arrest and detention; the right to freedom of thought, expression, conscience and religion; the right of religious minorities to profess and practice their own religion and the right to an effective legal remedy; see UN Economic and Social Council (ECOSOC), *Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its 38th session, Geneva, 5-30 August 1985*, E/CN.4/1986/5, 4 November 1985, <http://www.unhcr.org/refworld/docid/4dd4d8e92.html>. See also the UN Economic and Social Council, *Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief: Report / submitted by Abdelfattah Amor, Special Rapporteur, in accordance with Commission on Human Rights resolution 1995/23*, E/CN.4/1996/95/Add.1, 2 January 1996, para. 82, <http://www1.umn.edu/humanrts/commission/country52/95-add1.htm>, where it was noted that that Pakistan's "laws related to religious minorities, and more generally speaking the subject of tolerance and non-discrimination based on religion or belief, are likely to favour or foster intolerance in society".

¹¹³ Article 18(1) of ICCPR and Article 1(1) of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (GA Res. 36/55, U.N. Doc. A/36/51 (1981), 25 November 1981, <http://www.un.org/documents/ga/res/36/a36r055.htm>) explicitly provide for the right "to manifest one's religion or belief, either individually or in community with others and in public or private in worship, observance, practice and teaching". The right of religious minorities to "to profess and practise their own religion" is specifically protected under Article 27 of the ICCPR. Several human rights instruments stipulate that the right to manifest one's religion includes carrying out actions to persuade others to believe in a certain religion. For example, Article 6(d) of the 1981 Declaration states that the practice of the freedom of religion includes the freedom "to write, issue and disseminate relevant publications [...]". The UN Special Rapporteur of the Commission on Human Rights on freedom of religion or belief also stated that Article 19 of ICCPR, which protects freedom of expression, also encompasses missionary activities and the propagation of one's religion; see UN General Assembly, *Elimination of All Forms of Religious Intolerance. Note by the Secretary-General*, A/60/399, 30 September 2005, <http://www.unhcr.org/refworld/docid/43f30fca0.html>.

¹¹⁴ Pursuant to Article 18(3) of the ICCPR, restrictions on the freedom to manifest one's religion or beliefs must be "prescribed by law and [...] necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others". Furthermore, such "limitations may be applied only for the purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner"; see UN Human Rights Committee, *General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)*, CCPR/C/21/Rev.1/Add.4, 30 July 1993, para. 8, <http://www.unhcr.org/refworld/docid/453883fb22.html>. Examples of permissible restrictions or limitations include measures to prevent criminal activities (such as ritual killings), or harmful traditional practices and/or other practices injurious to the best interests of the child, as determined by international law standards. Legitimate restrictions could also involve the criminalization of hate speech when committed in the name of religion; see UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, <http://www.unhcr.org/refworld/docid/4090f9794.html>. It should be noted that, pursuant to the reservations made upon ratification of ICCPR on 23 June 2010, Pakistan is not bound by Article 18 insofar as it conflicts with the Pakistan Constitution and Sharia law. No equivalent reservation was, however, made in respect to Articles 26 and 27, which guarantees the rights of religious minorities to practice and profess their religion; see UN Treaty Collection, *International Covenant on Civil and Political Rights: Status*, as of 29 April 2011, http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-4&chapter=4&lang=en#EndDec. In its resolution 1985/21, the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities called for the immediate repeal of the sections introduced by Ordinance XX; see UN Economic and Social Council (ECOSOC), *Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its 38th session, Geneva, 5-30 August 1985*, E/CN.4/1986/5, 4 November 1985, <http://www.unhcr.org/refworld/docid/4dd4d8e92.html>. In 1993, however, the

Furthermore, the vagueness of language reportedly opens sections 298B and 298C to the same type of abuse as the blasphemy laws.¹¹⁵

D. *Hudood Ordinances*

Introduced in 1979 by Zia-ul-Haq's military regime and sanctioned by the Eighth Amendment to the Constitution,¹¹⁶ the *Hudood Ordinances* impose punishments according to orthodox interpretations of Islamic law and are enforced alongside the country's secular legal system.¹¹⁷ They apply both to Muslims and non-Muslims.¹¹⁸

The Ordinances prohibit, *inter alia*, theft,¹¹⁹ alcohol consumption,¹²⁰ extra-marital sex, including in the context of rape,¹²¹ and making false allegations of adultery.¹²² The proscribed punishments are severe and include amputation of limbs, flogging, stoning to death and other forms of capital punishment (i.e. *Hadd* (Quranic) punishments), as well as imprisonment and whipping for lesser offences (i.e. *Taazir* (non-Quranic) punishments).¹²³ Both the UN Committee against Torture and the UN Special Rapporteur on Torture deemed such punishments in breach of Pakistan's international obligations to prevent torture or cruel, inhuman, and degrading treatment or punishment.¹²⁴

Discriminatory evidentiary requirements also apply under the *Hudood Ordinances*. For instance, women's testimony is not accepted in *Hadd* cases, nor is the testimony of non-Muslims unless the accused is also non-Muslim. Despite the fact that the *Hudood Ordinances* cover a range of crimes, women and religious minorities have reportedly been disproportionately affected by their application. For example, rape victims who do not meet the high evidentiary requirements – i.e. providing the testimony of four adult male witnesses – risk prosecution for extra-marital sex.¹²⁵

Supreme Court of Pakistan dismissed a complaint that sections 298B and 298C violated the constitutional rights of the Ahmadi community. The Court held, *inter alia*, that in order to maintain law and order, Pakistan needed to control Ahmadi religious practice because it angered and offended the Sunni majority in the country; see *Zaheerudin v. State*, 26 S.C.M.R. 1718 (S.Ct. 1993) (Pak.).

¹¹⁵ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights - Pakistan*, 21 October 2010, <http://www.unhcr.org/refworld/docid/4d5a7009c.html>.

¹¹⁶ Constitution (Eight Amendment) Act 1985, adopted on 9 November 1985 and published in the Gazette of Pakistan, Extraordinary, on 11 November 1985, <http://www.pakistan.org/pakistan/constitution/amendments/8amendment.html>.

¹¹⁷ See, for example, International Crisis Group, *Reforming the Judiciary in Pakistan*, 16 October 2008, <http://www.unhcr.org/refworld/docid/48f83e932.html>; Martin Lau, *Twenty-Five Years of Hudood Ordinances – A Review*, 64 Wash & Lee L. Rev. 1291-1314 (2007), <http://law.wlu.edu/deptimages/Law%20Review/64-4Lau.pdf>; and Dr Faqir Hussain, *The Judicial System of Pakistan*, undated (accessed 20 October 2011), <http://www.scribd.com/doc/54195655/Judicial-System-of-Pakistan-faqir-Hussain>.

¹¹⁸ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Pakistan: Overview*, September 2010, <http://www.unhcr.org/refworld/docid/4954ce652.html>.

¹¹⁹ The Offences Against Property (Enforcement of Hudood) Ordinance, 1979, Ordinance No. VI of 1979, 10 February 1979, <http://www.unhcr.org/refworld/docid/4dd101512.html>, proscribes theft and armed robbery. Its punishments include: for a first offence of theft, amputation of the right hand from the wrist; for a second offence, the amputation of a foot; and for third-time offenders, imprisonment for life.

¹²⁰ The Prohibition (Enforcement of Hadd) Order IV of 1979, 10 February 1979, <http://www.unhcr.org/refworld/docid/4db9988a2.html>, prohibits the sale and consumption of alcohol and drugs and, in the case of drinking, it prescribes public whipping.

¹²¹ Offence of Zina (Enforcement of Hadd) Ordinance, 1979, Ordinance No. VII of 1979, 10 February 1979, <http://www.unhcr.org/refworld/docid/4db999952.html>, prohibits extra-marital fornication, rape, gang rape, kidnapping or inducing women to forced marriage. Punishments include stoning to death, whipping and imprisonment.

¹²² Offence of Qazf (Enforcement of Hadd) Ordinance, 1979, Ordinance No. VIII of 1979, 10 February 1979, <http://www.unhcr.org/refworld/docid/4db99a162.html>, prohibits false accusation of zina.

¹²³ See, for example, International Crisis Group, *Reforming the Judiciary in Pakistan*, 16 October 2008, <http://www.unhcr.org/refworld/docid/48f83e932.html>; and Martin Lau, *Twenty-Five Years of Hudood Ordinances – A Review*, 64 Wash & Lee L. Rev. 1291-1314 (2007), <http://law.wlu.edu/deptimages/Law%20Review/64-4Lau.pdf>.

¹²⁴ Although extreme corporal punishments, such as stoning and amputation, have generally not been carried out in practice in Pakistan, lesser punishments such as jail terms or fines have been imposed; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. Pakistan ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) on 23 June 2010; see Status as of 16 May 2011, http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en. According to the reservations made upon ratification, some of the central CAT provision (including the obligation to criminalize torture under Article 4) would only apply to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws.

¹²⁵ See also Jinnah Institute; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, p. 26, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Pakistan: Overview*, September 2010, <http://www.unhcr.org/refworld/docid/4954ce652.html>; International Crisis Group, *Reforming the Judiciary in Pakistan*, 16 October

In 2006, following widespread campaigning by human rights observers,¹²⁶ the operation of the *Zina* Ordinance was severely curtailed by the adoption of the Protection of Women Act.¹²⁷ The Act brought, *inter alia*, the crime of rape under the jurisdiction of criminal courts by removing it from the sphere of the *Hudood* Ordinances and re-inserting it into the Pakistan Penal Code, and prohibited the conversion of a case of rape into one of fornication or adultery.¹²⁸ In December 2010, however, the Federal Shariat Court¹²⁹ ruled that several key sections of the Protection of Women Act were unconstitutional and un-Islamic. The decision, which seeks to re-incorporate several offences – including *zina* (i.e. fornication, adultery and rape) – within the purview of the *Hudood* Ordinances,¹³⁰ has been strongly condemned by national women’s and human rights organizations.¹³¹ The Federal Government has reportedly appealed and taken no action to implement the ruling.¹³²

IV. Eligibility for International Protection

All claims by asylum-seekers, whether on the basis of the refugee criteria in the 1951 Convention or broader international protection criteria, including complementary forms of protection, need to be considered on their merits according to fair and efficient status determination procedures and up-to-date and relevant country of origin information.¹³³ UNHCR considers that claims of members of religious minorities and their family members require particularly careful examination of possible risks. , UNHCR considers that members of religious minorities with the profiles described below may, depending on the individual circumstances of the case, be in need of international refugee protection. This listing is not necessarily exhaustive and is based on information available to UNHCR at the time

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- 2008, <http://www.unhcr.org/refworld/docid/48f83e932.html>; and Martin Lau, *Twenty-Five Years of Hudood Ordinances – A Review*, 64 Wash & Lee L. Rev. 1291-1314 (2007), <http://law.wlu.edu/deptimages/Law%20Review/64-4Lau.pdf>.
- ¹²⁶ See, for example, Human Rights Solidarity, *Pakistan: The Women's Commission and the Hudood Ordinances*, 3 March 2004, <http://www.hrsolidarity.net/mainfile.php/2003vol13no04-05/2292/>. Although recent statistics are not available, in 2003, the Pakistan National Commission on the Status of Women reported that 88 percent of the women in prison, many of them reported rape victims, were serving time for alleged offenses under the *Hudood* Ordinances; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.
- ¹²⁷ Protection of Women (Criminal Laws Amendment) Act, 2006, Act No. VI of 2006, 1 December 2006, <http://www.unhcr.org/refworld/docid/4db992cd2.html>.
- ¹²⁸ See Section 375 of the Pakistan Penal Code, 1860 (as amended), Act XLV of 1860, 6 October 1860, <http://www.unhcr.org/refworld/docid/485231942.html>. In addition, the Protection of Women Act re-incorporated a number of other offences into the Pakistan Penal Code, redefined the offences of *zina* and *quazf* (wrongful accusation of *zina*), and created new procedures for the prosecution of adultery and fornication offences; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Martin Lau, *Twenty-Five Years of Hudood Ordinances – A Review*, 64 Wash & Lee L. Rev. 1291-1314 (2007), <http://law.wlu.edu/deptimages/Law%20Review/64-4Lau.pdf>; and Immigration and Refugee Board of Canada, *Pakistan: The Protection of Women (Criminal Laws Amendment) Act, 2006 and its implementation*, 3 December 2007, <http://www.unhcr.org/refworld/docid/4784def9c.html>. A new offence of “fornication” punishable by imprisonment for up to five years was, however, also introduced in the Penal Code (Section 496B).
- ¹²⁹ Federal Shariat Court has jurisdiction over offences under Islamic criminal law; see Section 203D and 203DD of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>.
- ¹³⁰ On 22 December 2010, the Federal Shariat Court declared sections 11, 25, 28 and 29 of the Protection of Women Act in violation of Article 203DD of the Constitution; see Federal Shariat Court Declaration, 22 December 2010, http://www.pakistani.org/pakistan/judgments/2010/fsc_wpb.pdf; and Dawn, *Shariat Court knocks out 3 sections of women's protection act*, 23 December 2010, <http://www.dawn.com/2010/12/23/shariat-court-knocks-out-3-sections-of-women%E2%80%99s-protection-act.html>.
- ¹³¹ The Human Rights Commission of Pakistan and the Pakistan National Commission on the Status of Women, as well as several women’s rights activists, strongly condemned the declaration as a move to revert back to the Hudood Ordinance of 1979 positions which were highly discriminatory and abusive to the dignity and rights of women and girls; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, <http://www.hrccp-web.org/Publications/AR2010.pdf>; and The Express Tribune, *Women's voice: Abolition of Shariat court, CII demanded*, 1 January 2011, <http://tribune.com.pk/story/97537/womens-voice-abolition-of-shariat-court-cii-demanded/>. See also Asian Human Rights Commission, *Pakistan: Sharia Court Launches Major Challenge to Protection of Women Act*, 23 December 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-268-2010>.
- ¹³² See US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file. No information was available as to the status or outcome of the appeal at the time of writing.
- ¹³³ The: (i) sustained counter-insurgency military operations in some areas of the FATA, and Khyber Pakhtunkhwa and Balochistan provinces; (ii) ensuing struggle for territorial control by militant groups; and (iii) outbreaks of violence in previously unaffected areas, may give rise to a need for complementary forms of protection on the basis of a fear of serious and indiscriminate harm arising from a situation of generalized violence. Applications by asylum-seekers from Pakistan claiming to flee generalized violence in certain parts of the country need to be assessed carefully on their individual merits, in light of the evidence presented by the applicant and other current and reliable information on the place of former residence. Guidance on eligibility under broader international protection criteria, including complementary forms of protection is, however, outside the scope of these Guidelines.

of writing. Hence, an asylum claim by a member of religious minorities from Pakistan should not automatically be considered without merit simply because it does not fall within any of the profiles identified below.¹³⁴

Discriminatory laws and/or practices¹³⁵ against members of religious minorities may amount, cumulatively or of themselves, to persecution within the meaning of the 1951 Convention and its 1967 Protocol, depending on the individual circumstances of the case.¹³⁶ Certain asylum claims by members of religious minorities from Pakistan may also require examination for possible exclusion from refugee status.

A. Potential Risk Profiles

I. Ahmadis

There is a well-documented history of violence and discrimination against Ahmadis in Pakistan.¹³⁷ According to conservative estimates, *circa* 600,000 Ahmadis currently live in the country.¹³⁸ They represent over 97 percent of the population of Rabwah, Punjab province, the headquarters of the Ahmadi community in Pakistan.¹³⁹ The Ahmadiyya Jama'at (i.e. Ahmadi movement) was officially established in 1889 in India as a reform movement within Islam. Although they consider themselves Muslim, Ahmadis hold beliefs that are different from mainstream Sunni interpretations of fundamental Islamic concepts, including the finality of Prophethood.¹⁴⁰ These doctrinal differences are considered by mainstream Muslims as un-Islamic and blasphemous.¹⁴¹

¹³⁴ Members of other religious minorities not addressed in these Guidelines, including, but not limited to, Zikris, Ismailis, Jews, Parsi/Zoroastrians, Buddhists and members of the Mehdi Foundation, may also be in need of international protection.

¹³⁵ For further information on discriminatory practices against members of religious minorities in Pakistan, please see the potential risk profiles outlined in the sections below.

¹³⁶ Religious-based discrimination may amount to persecution where it seriously restricts the applicant's enjoyment of fundamental human rights. Examples of discrimination amounting to persecution include, but are not limited to, discrimination with consequences of a substantially prejudicial nature for the person concerned, such as serious restrictions on the right to earn a livelihood, or to access normally available educational facilities and/or health services; see UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, paras. 17-19, <http://www.unhcr.org/refworld/docid/4090f9794.html>. Where measures of discrimination are, in themselves, not of a serious character, they may nevertheless give rise to a well-founded fear of persecution on cumulative grounds; see UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, January 1992, paras. 53-55, <http://www.unhcr.org/refworld/docid/3ae6b3314.html>.

¹³⁷ The term "Ahmadis" is used in this paper to collectively designate the Ahmadiyya Community and the Lahore Ahmadiyya Movement. For historical information about the two groups, see, for example: John Gilchrist, *Muhammad and the Religion of Islam, Part 9: Muslim Movements and Schisms – A Study of the Ahmadiyya Movement*, Vol. 1, 1986, <http://www.answering-islam.org/Gilchrist/Vol1/9c.html>; The Lahore Ahmadiyya Movement in Islam, *Quadini Beliefs Refuted: A Comparative Study of the Beliefs of the Two Sections of the Ahmadiyya Movement (Lahore vs. Qadiani Groups)*, undated (accessed 4 December 2011), <http://www.aaiil.org/text/qadi/intro/cmprsn.shtml>; as well as The Lahore Ahmadiyya Movement website, *A Word about Ourselves*, <http://www.muslim.org/who.htm> (accessed 4 December 2011).

¹³⁸ Figure according to the Ahmadi community; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. Other sources estimate the Ahmadi population at four million; see The Economist, *A mosque by any other name*, 13 January 2010, http://www.economist.com/node/15266768?story_id=E1_TVNGGSGR; and 10 million worldwide: see Jinnah Institute; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, p. 35, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

¹³⁹ The population of Rabwah is estimated at 70,000; see UrbanPK, *Rabwah*, undated (accessed 20 October 2011), <http://www.urbanpk.com/forums/index.php?showtopic=10832>. The name of the town was changed to Chenab Nagar in 1998 by the Punjab Assembly through a unanimous resolution, but against the wishes of the Ahmadi community; see, for example, Immigration and Refugee Board of Canada, *Pakistan: The faith of the Ahmadiyya Movement in Islam, including its origin, beliefs and rituals (August 2005)*, 31 August 2005, <http://www.unhcr.org/refworld/docid/440ed73d20.html>. For ease of reference, the name "Rabwah" will be used throughout this paper.

¹⁴⁰ One of the tenets of mainstream Islam is the finality of Prophethood, i.e. the idea that Muhammad is the "seal", the greatest and last prophet. Ahmadis, however, believe that Mirza Ghulam Ahmad, the 19th-century Indian who founded their tradition, was a latter-day prophet. For an overview of the various doctrinal differences between the Ahmadi movement and mainstream Islam, see, for example, WRITENET, *Pakistan: The Situation of Religious Minorities*, May 2009, <http://www.unhcr.org/refworld/docid/4b01856e2.html>; Chaudhry, A.A., *The Promised Messiah and Mahdi*, Islamabad: Islam International Publications, 1995, p. 5; Zirvi, K., *Welcome to Ahmadiyyat: The True Islam, Ahmadiyya Movement in Islam*, Silver Springs: Islamic Publications Ltd, 2002; Ahmad, W., *A Book of Religious Knowledge for Ahmadi Muslims*, Athens: Fazl-i-Umar Press, 1988; and Lavan, S., *The Ahmadiyya Movement: A History and Perspective*, Delhi: Manohar Book Service, 1974.

¹⁴¹ See, for example, WRITENET, *Pakistan: The Situation of Religious Minorities*, May 2009, pp. 24-30, <http://www.unhcr.org/refworld/docid/4b01856e2.html>.

Declared a non-Muslim minority in 1974,¹⁴² Ahmadis are subject to the most severe legal restrictions and officially-sanctioned discrimination of all religious minorities in Pakistan. Blasphemy, “anti-Ahmadi” and other criminal provisions are reportedly used to target and harass followers of, and converts to, the Ahmadi faith.¹⁴³ According to the National Commission of Justice and Peace, a human rights organization sponsored by the Catholic Church of Pakistan, at least 1,060 people, including 456 Ahmadis, were charged under the blasphemy law between 1986 and 2010.¹⁴⁴ At least 67 Ahmadis were reportedly charged with blasphemy in 2010¹⁴⁵ and 57 in 2009.¹⁴⁶ Although only two new cases of blasphemy offenses against Ahmadis were reported in 2011,¹⁴⁷ an upsurge in blasphemy allegations, including against Ahmadis, was reported following the high-profile assassinations of Governor Taseer and Minister Bhatti earlier last year.¹⁴⁸ According to reports, members of the Ahmadi community are often charged with religious offences on spurious grounds or to settle personal or business disputes.¹⁴⁹

Discriminatory laws promulgated since the 1970s are said to foster an atmosphere of religious intolerance. Violence against Ahmadis has reportedly increased over the past three years and targeted

¹⁴² Pursuant to the *Constitution (Second Amendment) Act, 1974*, adopted on 17 September 1974, <http://www.pakistani.org/pakistan/constitution/amendments/2amendment.html>. Articles 260(3)(a) and (b) of the Constitution, which defined the term “Muslim” and listed groups legally considered “non-Muslim” (i.e. persons belonging to the Christian, Hindu, Sikh, Buddhist or Parsi community, a person of the Quadiani Group or Lahori Group (who call themselves ‘Ahmadis’ or by any other name) or a Bahai, and a person belonging to any of the Scheduled Castes), were introduced in 1985; see Section 6 of the Constitution (Third Amendment) Order, 1985, President’s Order 24 of 1985, 19 March 1985, http://www.pakistani.org/pakistan/constitution/orders/po24_1985.html.

¹⁴³ According to the Rabwah-based Jamaat-e-Ahmadiyya, in the last half of 2010, three Ahmadis claimed to face false criminal charges under anti-Ahmadi and blasphemy laws, and 21 Ahmadis under other sections of the Penal Code. As of December 2010, seven Ahmadis were reportedly in prison. The Ahmadi community claimed the arrests were groundless and based on the accused’s religious beliefs. Several criminal cases, ranging from killings to destruction of property, were also reportedly filed against prominent members of the Ahmadi community in 2010. In January 2009, five Ahmadis, including four teenagers, were detained on charges of blasphemy, under Section 295C of the Pakistan Penal Code, in Layyah district. They were arrested after villagers claimed to find blasphemous writings in a mosque’s toilet. An investigation, required by law prior to the registration of a blasphemy case, was reportedly not performed; the First Information Report (FIR) simply indicated that the arrest was based on the premise that the accused must have committed the offence as they were the only non-Muslims coming to the mosque. The accused were acquitted in April 2010; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and Daily Press, *Ahmadi children arrested in Pakistan*, 23 February 2009, <http://www.vvdailyexpress.com/common/printer/view.php?db=vvdailyexpress&id=11003>. The police allegedly acted under pressure by extremists and local politicians; see Human Rights Commission of Pakistan, *Pakistan: Ahmadis held without any evidence of blasphemy: HRCP*, 12 February 2009, <http://www.ahrchk.net/statements/mainfile.php/2009statements/1878/>. It is also reported that a member of the National Assembly instigated a protest on the day on which the accused were appearing before the court; see Asia Human Rights Commission, *Pakistan: Provincial government of Punjab is instigating violence against Ahmadis*, 16 February 2009, <http://www.ahrchk.net/statements/mainfile.php/2009statements/1884/>. For more information on criminal charges against Ahmadis, see also Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>; and UK Parliament, House of Commons All-Party Group, *Report of the PHRG Fact Finding Mission to Pakistan to Examine the Human Rights Situation of the Ahmadiyya Community*, 24 September 2010, <http://www.unhcr.org/refworld/docid/4cc7ea9c2.html>.

¹⁴⁴ See Inter Press Service News Agency, *Pakistan: Blasphemy Law Carries Over Into New Year*, 1 January 2011, <http://ipsnews.net/news.asp?idnews=54014>. Other sources report that 295 Ahmadis were charged with blasphemy (section 295C of the Penal Code) and some 938 under the anti-Ahmadi provisions (sections 298B/C of the Penal Code) between April 1984 and December 2009. A summary of all the cases registered against Ahmadis under the blasphemy and anti-Ahmadi provisions of the Pakistan Penal Code during the same period (April 1984-December 2009) is available at <http://www.thepersecution.org/facts/summary.html>.

¹⁴⁵ According to the Human Rights Commission of Pakistan, 67 Ahmadis were charged with offences on account of their religious beliefs during 2010; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, <http://www.hrcp-web.org/Publications/AR2010.pdf>. Similar figures were reported by the National Commission of Justice and Peace, who stated that at least 67 Ahmadis, 17 Christians, eight Muslims and six Hindus were charged with blasphemy in 2010; see Amnesty International, *Amnesty International Annual Report 2011 - Pakistan*, 13 May 2011, <http://www.unhcr.org/refworld/docid/4dce154bc.html>.

¹⁴⁶ According to figures provided by the National Commission of Justice and Peace. As of June 2010, six Ahmadis were reportedly in prison: one was facing life imprisonment, three were facing death sentences, and two were incarcerated on charges of preaching; see US Department of State, *2010 Report on International Religious Freedom – Pakistan*, 17 November 2010, <http://www.unhcr.org/refworld/docid/4cf2d07550.html>.

¹⁴⁷ See Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>.

¹⁴⁸ Human Rights Watch, *Pakistan: Rights Suffer under Army Power Grab: Upsurge in Attacks on Civilians, Torture, Targeted Killings*, 23 January 2012, <http://www.hrw.org/news/2012/01/23/pakistan-rights-suffer-under-army-power-grab>; and US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

¹⁴⁹ See, for example, UK Parliament, House of Commons All-Party Group, *Report of the PHRG Fact Finding Mission to Pakistan to Examine the Human Rights Situation of the Ahmadiyya Community*, 24 September 2010, <http://www.unhcr.org/refworld/docid/4cc7ea9c2.html>; and Asian Human Rights Commission, *Pakistan: The year 2009 was worst for Ahmedis*, 3 February 2010, <http://www.humanrights.asia/news/forwarded-news/AHRC-FST-009-2010>. In March 2009, 15 Ahmadis were charged under Section 298C of the Penal Code with posing as Muslim and calling their place of worship a mosque. The reason behind the arrest was allegedly a business dispute; see Asia Human Rights Commission, *Pakistan: Two murdered and 15 charged as discrimination against Ahmadis continues unabated*, 18 March 2009, <http://www.ahrchk.net/statements/mainfile.php/2009statements/1947/>.

killings are on the rise.¹⁵⁰ On 28 May 2010, Taliban militants carried out coordinated attacks during Friday prayers on two Ahmadi congregations in Lahore, which left over 80¹⁵¹ dead and injured hundreds.¹⁵² Although the attacks received global and national attention, and were condemned by both the United Nations and the National Assembly of Pakistan, as of March 2011 no official investigation had reportedly been conducted.¹⁵³

Moreover, it is reported that Ahmadis who marry outside their faith may also be subject to reprisals by the community and the family members of the non-Ahmadi spouse, including threats of violence, false criminal charges and ill-treatment while in police custody.¹⁵⁴

Little or no protection is reportedly afforded by the State authorities. It appears that crimes and acts of violence against Ahmadis are not consistently investigated, allegedly due to intimidation tactics and pressure from Islamic fundamentalist groups, and perpetrators of such crimes are reportedly rarely brought to justice.¹⁵⁵

¹⁵⁰ At least six Ahmadis were reportedly killed in targeted attacks on account of their faith during 2011; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. It is reported that some 202 Ahmadis have been killed in faith-based attacks since 1984, including as many as 99 in 2010 alone, of which over 80 died in two devastating attacks on Ahmadi places of worship in Lahore in May 2010; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, p. 128, <http://www.hrcp-web.org/Publications/AR2010.pdf>. See also Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 35-36, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf. Targeted attacks include the abduction of a senior surgeon belonging to the Ahmadi community and of his 11 year old son on 30 October 2011 in Kashmir; see Asian Human Rights Commission, *Pakistan: A senior surgeon belonging to the Ahmadi sect is abducted with his son and remains missing*, 3 November 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-167-2011/>. In August 2010, two Ahmadis were murdered in targeted killings in Sindh province in August 2010; see Asian Human Rights Commission, *Pakistan, Two more Ahmadis murdered in target killings*, 23 August 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-178-2010>. In January 2010, an Ahmadi leader was gunned down allegedly for seeking police protection against sectarian violence in Ferozewala. The family of the victim alleged that extremists killed him for demanding that the police stop them from creating religious strife in the area. Extremist elements had reportedly gathered earlier, carrying placards and signboards bearing slogans against Ahmadis; see Daily Times, *Ahmadi leader shot dead in Ferozewala*, 6 January 2010, http://www.dailytimes.com.pk/default.asp?page=2010%5C01%5C06%5Cstory_6-1-2010_pg7_5. In early 2010, a spate of armed robberies and kidnappings of members of the Ahmadi community in Faisalabad was traced to members of Jamaat-ud-Dawa, the group previously known as Lashkar-e-Taiba. The killing of three Ahmadis were also attributed to the group; see The Guardian, *Pakistan's Punjab region on knife-edge as extremists take hold, says governor*, 29 April 2010, <http://www.guardian.co.uk/world/2010/apr/29/pakistan-punjab-taliban>.

¹⁵¹ According to other sources, 96 persons were killed in the attacks; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 35-36, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

¹⁵² See, for example, US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, p. 128, <http://www.hrcp-web.org/Publications/AR2010.pdf>; Human Rights Watch, *Pakistan: Massacre of Minority Ahmadis*, 1 June 2010, <http://www.unhcr.org/refworld/docid/4e0cb5fec.html>; Asian Human Rights Commission, *Pakistan: The tragedy continues – the killing of more than eighty Ahmadis by Muslim extremists*, 29 May 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-088-2010>. Three days later, unidentified gunmen attacked Lahore's Jinnah Hospital where victims and one of the alleged attackers were being treated. A Taliban statement "congratulated" Pakistanis for the attacks, calling people from the Ahmadi and Shia communities "the enemies of Islam and common people"; see Human Rights Watch, *World Report 2011 - Pakistan*, 24 January 2011, <http://www.unhcr.org/refworld/docid/4d3e8022d.html>. In September 2010, another attack on an Ahmadi mosque in the town of Mardan in the northwest of the country left five dead; see Radio Free Europe/Radio Liberty, *Suicide blast hits Pakistan minority mosque*, 3 September 2010, <http://www.unhcr.org/refworld/docid/4cb83e6d23.html>.

¹⁵³ Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 35-36, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf. No further information was available at the time of writing of these Guidelines.

¹⁵⁴ See, for example, UK Parliament, House of Commons All-Party Group, *Report of the PHRG Fact Finding Mission to Pakistan to Examine the Human Rights Situation of the Ahmadiyya Community*, 24 September 2010, <http://www.unhcr.org/refworld/docid/4cc7ea9c2.html>; Asian Human Rights Commission, *Pakistan: Three more Ahmadis murdered in target killings*, 7 April 2010, www.ahrchk.net/statements/mainfile.php/2010statements/2491/; and Immigration and Refugee Board of Canada, *Pakistan: Intermarriage between a non-Ahmadi Muslim and an Ahmadi; whether the marriage would be legally recognized; the consequences for the couple and the officiant of the marriage*, 11 November 2009, http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=452644&l=e.

¹⁵⁵ See, for example, Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file; US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and UK Parliament, House of Commons All-Party Group, *Report of the PHRG Fact Finding Mission to Pakistan to Examine the Human Rights Situation of the Ahmadiyya Community*, 24 September 2010, <http://www.unhcr.org/refworld/docid/4cc7ea9c2.html>. In October 2011, for example, a teacher was killed in Punjab province reportedly because of his conversion to the Ahmadi faith. In July 2011, a well-known Ahmadi lawyer was shot at point blank range and killed by an unknown assailant; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. On 23 December 2010, an Ahmadi was killed in Mardan district in an allegedly religiously motivated attack. He was the fourth person in his family to be reportedly killed during the year. His family and community alleged that the authorities have failed to afford them adequate protection; The Express Tribune, *Premeditated murders: Ahmadis concerned over state inaction, Pakistan*, 30 December 2010, <http://tribune.com.pk/story/96675/premeditated-murders-ahmadis-concerned-over-state-inaction/>. In April 2010, three Ahmadis were

Anti-Ahmadi sentiment is reportedly tolerated by the authorities. For example, the Punjab Government allowed Muslim religious leaders to hold an anti-Ahmadi conference in Rabwah on 7 September 2008, on the anniversary of the constitutional amendment which declared Ahmadis to be non-Muslim.¹⁵⁶ Rallies and campaigns promoting intolerance and discrimination against Ahmadis, whether through traditional media, or distribution of pamphlets, use of stickers and wall graffiti, are reported across the country.¹⁵⁷ It is also reported that hate speech and incitement to violence against Ahmadis, including by Islamic scholars, remain largely unchecked and/or unpunished by the authorities.¹⁵⁸

Areas where discrimination against the Ahmadi community is institutionalized reportedly include issuance of passports and national identity cards, voting, property rights, access to education and freedom of expression and press.¹⁵⁹

The Government designates religious affiliation on national identity cards and passports, and requests religious information in national identity card applications. Designation as “Muslim” requires a written denunciation of the founder of the Ahmadi faith as a false prophet. This requirement has a particularly negative impact on Ahmadis and effectively prevents them from participating in the *hajj* or other Islamic pilgrimages.¹⁶⁰ It also affects the distribution of cash assistance for internally

gunned down by unknown assailants. The victims had reportedly asked for police protection after receiving death threats on account of their religious activities. The police simply advised the victims to limit their movements and hire private protection; see Dawn, *Slain Ahmadis had sought police protection*, 3 April 2010, <http://archives.dawn.com/archives/77416>.

¹⁵⁶ See, for example, US Department of State, *2010 Report on International Religious Freedom – Pakistan*, 17 November 2010, <http://www.unhcr.org/refworld/docid/4cf2d07550.html>. On 26 May 2008, the Pasban Khatme Nabuwaat Movement (PKN) organized a conference to mark “the hundred years of successful countering of the menace of Qadiyaniat [Ahmadi teachings] and to expose the conspiracies against Islam”; see The News, *Khatm-e-Nabuwaat conference urges unity among Muslims*, 27 May 2008, http://www.thenews.com.pk/daily_detail.asp?id=114954. The PKN (“guardians of the end of the Prophethood”, also referred to as the “Committee to Secure the Finality of the Prophethood”) is one of the most well-organized anti-Ahmadi groups. An extremist militant Islamic organization based in Multan, with 40 offices throughout the country, the PKN is reportedly led by a militant fundamentalist mulvi, Maulana Aziz Ur Rehman. Its members have been implicated in the harassment and intimidation, and linked to assaults and assassinations, of Ahmadis; see ThePersecution.org, *Persecution of Ahmadis in Pakistan during the Year 2005: A Summary*, <http://www.thepersecution.org/nr/2005/y2005.html>. More recently, on 29 January 2012, a rally of some 5,000 persons organized by Jamaat-e-Islami party was held outside the place of worship of the Ahmadi community in the city of Rawalpindi, Punjab province. The rally was ostensibly held to protest alleged land ‘encroachment’, but the speakers reportedly took the opportunity to demand that Ahmadis stop religious activities such as proselytizing and worshipping, while demonstrators chanted slogans and threats against the Ahmadi community; see Asian Human Rights Commission, *The Ahmadiyya community has once again been targeted by banned terrorist organisations*, 3 February 2012, <http://reliefweb.int/node/474526>.

¹⁵⁷ In June 2011, for example, All Pakistan Students Khatam-e-Nabuwat Federation reportedly distributed pamphlets calling for the killing of 50 prominent Ahmadis and the boycotting of Ahmadi businesses in Faisalabad, Punjab province. The organization later disavowed the flier and the police failed to take any action. One of the six Ahmadis killed in 2011 had been identified in the pamphlet distributed in June in Faisalabad; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; and US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. During 2010, over 1,400 news articles and editorials promoting hate and intolerance against Ahmadis were published in mainstream Urdu newspapers; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, p. 128, <http://www.hrcp-web.org/Publications/AR2010.pdf>.

¹⁵⁸ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 35-36, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, p. 128, <http://www.hrcp-web.org/Publications/AR2010.pdf>; and UK Parliament, House of Commons All-Party Group, *Report of the PHRG Fact Finding Mission to Pakistan to Examine the Human Rights Situation of the Ahmadiyya Community*, 24 September 2010, <http://www.unhcr.org/refworld/docid/4cc7ea9c2.html>. No action was reportedly taken by the Sindh authorities against speakers at a rally on 9 January 2011, who called for the death of anyone showing support for the reform of the blasphemy laws; see Asian Human Rights Commission, *Government must file FIRs for attempted murder against the religious leaders calling for the killing of innocent persons*, 10 January 2011, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAG-001-2011>. Local clerics in Layyah, Punjab, reportedly attempted to incite violence following the arrest of four Ahmadi teenagers and an adult in January 2009; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. In addition to a string of anti-Ahmadi conferences held in Punjab province during 2008 and 2009, a guest on the religious television programme hosted by the former federal minister for religious affairs repeatedly urged Muslims to kill Ahmadi sect members as a religious duty; see Asian Human Rights Commission, *Pakistan’s Persecuted Minority*, 4 October 2009, <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-032-2009>.

¹⁵⁹ See, for example, Freedom House, *Freedom in the World 2011 – Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>; and Jinnah Institute; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 53-54 and 60, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

¹⁶⁰ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and UK Parliament, House of Commons All-Party Group, *Report of the PHRG Fact Finding Mission to Pakistan to Examine the Human Rights Situation of the Ahmadiyya Community*, 24 September 2010, <http://www.unhcr.org/refworld/docid/4cc7ea9c2.html>.

displaced Ahmadis.¹⁶¹ A Government initiative to abolish the religious identification column in Pakistani passports was abandoned in March 2005, allegedly in response to pressure from Islamist religious parties.¹⁶² Pakistani citizens are also required to take an oath denouncing the founder of the Ahmadi movement in order to be listed as “Muslim” on the electoral roll. Ahmadis, who refuse to disavow their claim to being Muslim, are thus effectively disenfranchised from participating in elections.¹⁶³ It is further reported that, pursuant to a scheme to be introduced by the Punjab provincial authorities, Ahmadis may be required to identify themselves as “Qadiani” on the national identification cards, which, if implemented, may put them at greater risk of being targeted.¹⁶⁴

The Constitution prohibits discrimination on religious grounds with regard to admission to State-funded educational institutions.¹⁶⁵ Prospective students must, however, declare their religious affiliation on the application form. Those who identify themselves as Muslim must declare in writing that they believe in the finality of the Prophethood, a requirement that singles out Ahmadis.¹⁶⁶ Furthermore, it is reported that Ahmadis, alongside other religious minorities, continue to face discrimination in access to higher education.¹⁶⁷ Ahmadis also appear to face discriminatory practices in public sector employment. It is reported that some Government departments refuse to hire or retain Ahmadis, who are also unlikely to be promoted in senior positions within the civil service.¹⁶⁸

Although pursuant to section 298B(1) of the Penal Code Ahmadis are forbidden from calling their places of worship mosques, no formal restrictions on establishing places of worship exist. In practice, however, local authorities often refuse Ahmadis permission to build places of worship, and existing ones are at times closed, destroyed, desecrated or illegally expropriated.¹⁶⁹ In addition, Ahmadis have

¹⁶¹ IDP registration, which constitutes the basis for distribution of cash assistance, requires an identity card; see US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

¹⁶² See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and UK Parliament, House of Commons All-Party Group, *Report of the PHRG Fact Finding Mission to Pakistan to Examine the Human Rights Situation of the Ahmadiyya Community*, 24 September 2010, <http://www.unhcr.org/refworld/docid/4cc7ea9c2.html>.

¹⁶³ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>; UK Parliament, House of Commons All-Party Group, *Report of the PHRG Fact Finding Mission to Pakistan to Examine the Human Rights Situation of the Ahmadiyya Community*, 24 September 2010, <http://www.unhcr.org/refworld/docid/4cc7ea9c2.html>; Asian Human Rights Commission, *Pakistan: The electoral process is self-contradictory and denies the Ahmadi minority its right to vote*, 19 March 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-050-2010>; and The Economist, *Pakistan's abused Ahmadis: A mosque by any other name*, 13 January 2010, http://www.economist.com/node/15266768?story_id=15266768.

¹⁶⁴ See US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.

¹⁶⁵ Article 26(a) of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>.

¹⁶⁶ The requirement to declare one's religious affiliation also applies to private schools, including universities; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

¹⁶⁷ In October 2011, ten students were reportedly expelled from a school in Hafizabad, Punjab province, for being Ahmadi; see Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>. See also US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

¹⁶⁸ See, for example, US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. Cases of discrimination in private sector employment have also been reported; see, for example, NPR, *Extremist Intimidation Chills Pakistan Secular Society*, 24 January 2011, <http://www.npr.org/2011/01/24/133116249/extremist-intimidation-chills-pakistan-secular-society>.

¹⁶⁹ The construction of an Ahmadi place of worship in Punjab province was halted and the building eventually torn down after a member of the Lashkar-e-Taiba filed a complaint with the district police office and a local mob rallied to destroy the building; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. In January 2010, the authorities expropriated an Ahmadi mosque and transferred it to the local Muslim community in order to “pre-empt an extreme law and order disturbance”. In the same month, an Ahmadi place of worship in Rabwah was also expropriated and sold at auction. It is reported that Ahmadis and their family members were barred from bidding on the property; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. In 2010, an Ahmadi place of worship constructed on private land in Chiniot district was reportedly handed over to the Muslim community after a local prayer leader claimed that it belonged to Muslims; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, p. 128, <http://www.hrcp-web.org/Publications/AR2010.pdf>. See also US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; UK Parliament, House of Commons All-Party Group, *Report of the PHRG Fact Finding Mission to Pakistan to Examine the Human Rights Situation of the Ahmadiyya Community*, 24 September 2010, <http://www.unhcr.org/refworld/docid/4cc7ea9c2.html>; and Asian Human Rights Commission, *Pakistan: The year 2009 was worst for Ahmadis*, 3 February 2010, <http://www.humanrights.asia/news/forwarded-news/AHRC-FST-009-2010>.

been barred from holding public conferences since 1983.¹⁷⁰ Their publications are banned from public sale,¹⁷¹ and the publishing houses are sometimes closed down and their staff harassed.¹⁷²

Denial of shelter and/or relief aid to forcibly displaced members of the Ahmadi community from Dera Ghazi Khan, Muzaffargarh and Rajanpur districts in the context of massive floods in South Punjab in August 2010 was also reported.¹⁷³

The existence of laws which are discriminatory and/or otherwise in breach of international human rights standards does not, of itself, amount to persecution within the meaning of the 1951 Convention and its 1967 Protocol. An assessment of the implementation of the blasphemy, anti-Ahmadi and other discriminatory provisions and their effect is critical to establishing persecution. In determining whether restrictions on the right to freedom of belief and religion rise to the level of persecution, the breadth of the restrictions and the severity of the punishments incurred must be considered. The importance or centrality of the practice within the religion and/or to the individual concerned is equally relevant.¹⁷⁴

In light of the foregoing, UNHCR considers that members of the Ahmadi community, including those targeted by Islamic extremist elements or charged with criminal offences under the blasphemy or anti-Ahmadi provisions, are likely to be in need of international refugee protection on account of their religion, depending on the individual circumstances of the case.¹⁷⁵

2. Christians

The Christian minority¹⁷⁶ in Pakistan is subject to recurrent discrimination and harassment, as well as acts of religiously motivated violence, at the hands of militant groups and fundamentalist elements.¹⁷⁷

¹⁷⁰ Two weeks after celebrating the Ahmadiyya Jamaat Khalifat Centenary in May 2008, the entire Ahmadi community was charged under the anti-Ahmadi provisions. A copy of the FIR is available on The Persecution.org website at: <http://www.thepersecution.org/nr/2008/y2008.html#a05>. See also US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

¹⁷¹ Ahmadi religious literature can nevertheless be circulated within the Ahmadi community. See, for example, US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and UK Parliament, House of Commons All-Party Group, *Report of the PHRG Fact Finding Mission to Pakistan to Examine the Human Rights Situation of the Ahmadiyya Community*, 24 September 2010, <http://www.unhcr.org/refworld/docid/4cc7ea9c2.html>.

¹⁷² See, for example, Freedom House, *Freedom in the World 2011 – Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>.

¹⁷³ It is reported that some 500 internally displaced families belonging to the Ahmadi community were denied humanitarian relief in the aftermath of the 2010 floods; see Atif Malik, *Denial of flood aid to members of the Ahmadiyya Muslim community in Pakistan*, Health and Human Rights: An International Journal [Online], Volume 13 Number 1, 13 July 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/Full_report_160.pdf. See also UN General Assembly, *Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt - Addendum - Summary of cases transmitted to Governments and replies received*, A/HRC/16/53/Add.1, 14 February 2011, paras. 316-322, <http://www.unhcr.org/refworld/docid/4d74d7162.html>; IRIN, *Pakistan: Minorities test aid impartiality*, 8 September 2010, <http://www.unhcr.org/refworld/docid/4c8df239c.html>; Imtiaz Ahmad, *Minorities Denied Flood Relief in Pakistan*, *Hindustan Times*, 18 August 2010, <http://www.hindustantimes.com/Minorities-denied-flood-relief-in-Pakistan/article1-588673.aspx>; and The Express Tribune, *Pakistan: Ahmedi families are denied shelter in relief camps*, 18 August 2010, <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-044-2010>.

¹⁷⁴ ; UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, paras. 14-18, <http://www.unhcr.org/refworld/docid/4090f9794.html>. It should also be noted that “religious belief, identity, or way of life can be seen as so fundamental to human identity that one should not be compelled to hide, change or renounce this in order to avoid persecution”; see UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, para. 13, <http://www.unhcr.org/refworld/docid/4090f9794.html>. See also *RRT Case No. 0903684* [2009] RRTA 757, (Refugee Review Tribunal of Australia) 17 August 2009, <http://www.unhcr.org/refworld/docid/4ac0d9802.html>, where the Tribunal held: “to require the applicant modify his behaviour by concealing or suppressing his religious or political activities would amount to a persecutory curtailment of his freedom of religious expression. This is particularly so, given that the country information before the Tribunal indicates that there is a high degree of sectarian violence in Pakistan and an intolerance of minority religious groups, such as the Ahmadi who are considered to be blasphemers against Islam.”

¹⁷⁵ For further guidance on religion-based asylum claims, see UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, paras. 17-19, <http://www.unhcr.org/refworld/docid/4090f9794.html>.

¹⁷⁶ According to the 1998 census, 1.59 percent of the country’s populations are Christians; see Population Census Organisation, Government of Pakistan, *1998 Census: Population by Religion*, undated (accessed 20 October 2011), <http://www.census.gov.pk/Religion.htm>. For an in-depth demographic breakdown of the Christian population in Pakistan, see Church World Service Pakistan / Afghanistan, *Christian Population in Pakistan’s four Provinces*, undated (accessed 20 October 2011), <http://www.cwspa.org/download-document/18-christian-population-of-pakistan-by-district>.

¹⁷⁷ See, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular*

Criminal provisions, particularly the blasphemy laws,¹⁷⁸ are reportedly used by militant organizations and members of some Muslim communities to intimidate and harass Christians, as well as to exact revenge or settle personal or business disputes.¹⁷⁹ In a notorious case, a Punjab trial court sentenced Aasia Bibi, a Christian woman, to death on charges of blasphemy in November 2010.¹⁸⁰ The charges were registered in June 2009, after an altercation with fellow farm workers who refused to drink water Ms. Bibi had touched on the ground that it had become unclean because she was a Christian.¹⁸¹ Calls by civil society and the Christian community for a presidential pardon reportedly elicited threats by the Taliban¹⁸² and offers of reward for her killing.¹⁸³ It should be noted that a report by late Minorities Affairs Minister Shahbaz Bhatti concluded that the case against Aasia Bibi had been registered on “grounds of personal enmity” and recommended a pardon.¹⁸⁴ However, on 29 November 2010, amid

Concern: Pakistan, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file; Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>; .

¹⁷⁸ The Pakistan Human Rights Commission reported that at least four new cases were registered against Christians on account of their religious beliefs in 2011; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. According to the National Commission of Justice and Peace, a human rights organization sponsored by the Catholic Church of Pakistan, some 133 Christians were charged under the blasphemy laws between 1986 and 2010; see Inter Press Service News Agency, *Pakistan: Blasphemy Law Carries Over Into New Year*, 1 January 2011, <http://ipsnews.net/news.asp?idnews=54014>. According to the same organization, at least 17 Christians were charged with blasphemy in 2010; see Amnesty International, *Amnesty International Annual Report 2011 - Pakistan*, 13 May 2011, <http://www.unhcr.org/refworld/docid/4dce154bc.html>.

¹⁷⁹ See, for example, US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; Human Rights First, *Blasphemy Laws Exposed: The Consequences of Criminalizing “Defamation of Religions”*, updated March 2011, http://www.humanrightsfirst.org/wp-content/uploads/Blasphemy_Cases.pdf; and Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights - Pakistan*, 21 October 2010, <http://www.unhcr.org/refworld/docid/4d5a7009c.html>. A 8 grade Christian school girl accused of blasphemy for having misspelled a word during an exam was expelled from school although not formally charged; Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. In December 2011, a Christian man was arrested on charges of burning pages of the Holy Quran. His nephew was reportedly taken into custody to ensure his surrender to the authorities. The houses of Christians in the community were reportedly surrounded by a Muslim mob following an announcement of the arrest by various mosques. Furthermore, it was alleged that his girlfriend was threatened with charges of fornication should she refuse conversion to Islam; see Asian Human Rights Commission, *Pakistan: A Christian labourer arrested on blasphemy charges in an attempt to convert his girlfriend to Islam*, 7 December 2011, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-242-2011/>.

¹⁸⁰ The first woman to be sentenced to death on blasphemy charges, Ms. Bibi’s conviction sparked international outcry; see, for example, Asian Human Rights Commission, *Pakistan: Outcry over death sentence for ‘blasphemy’ mother who offered farmhands water*, 12 November 2010, <http://www.humanrights.asia/news/forwarded-news/AHRC-FPR-062-2010>. It should be noted that no death sentence for blasphemy has been carried out in the country; see, for example, US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights - Pakistan*, 21 October 2010, <http://www.unhcr.org/refworld/docid/4d5a7009c.html>.

¹⁸¹ Ms. Bibi was charged under section 295C of the Penal Code for allegedly making derogatory remarks against the Prophet Muhammad. The Court reportedly excluded any possibility of false accusations in the case; see Asian Human Rights Commission, *Pakistan: Outcry over death sentence for ‘blasphemy’ mother who offered farmhands water*, 12 November 2010, <http://www.humanrights.asia/news/forwarded-news/AHRC-FPR-062-2010>. For an in-depth account of the case, see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 4-6 and 42-43, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

¹⁸² See, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. In November 2010, for example, the Islamic Jamat-e-Islami party demanded that Ms. Bibi be hanged as sentenced during a demonstration outside a mosque in Karachi; see Radio Free Europe/Radio Liberty, *Even If Acquitted, Pakistani Blasphemy Suspect Is In Mortal Danger*, 2 December 2010, http://origin.rferl.org/content/pakistan_blasphemy_christian_woman/2237385.html.

¹⁸³ See, for example, Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 4-6 and 42-43, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf. The police reportedly took no action against the mosque leader of Mahabat Khan, who publicly offered a Rs. 500,000 reward to anyone who would kill Aasia Bibi; see Asian Human Rights Commission, *Failure to take action against fundamentalists makes a mockery of the law*, 14 January 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-008-2011>; and Voice of America, *Pakistan Cleric Offers Reward for Killing Christian Woman*, 4 December 2011, <http://www.voanews.com/english/news/asia/Pakistan-Cleric-Offers-Reward-for-Killing-Christian-Woman--111315554.html>.

¹⁸⁴ See, for example, Radio Free Europe/Radio Liberty, *Even If Acquitted, Pakistani Blasphemy Suspect Is In Mortal Danger*, 2 December 2010, http://origin.rferl.org/content/pakistan_blasphemy_christian_woman/2237385.html. The Pakistan National Commission on the Status of Women found gross irregularities in the judicial process, including the fact that a sub-inspector initially investigated the case against Ms. Bibi, contrary to section 156-A of the Criminal Procedure Code which requires that blasphemy cases to be investigated by an officer not less than the rank of Superintendent of Police; see UN General Assembly, *Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt - Addendum - Summary of cases transmitted to Governments and replies received*, A/HRC/16/53/Add.1, 14 February 2011, para. 328, <http://www.unhcr.org/refworld/docid/4d74d7162.html>; and Pakistan National Commission on the Status of Women, *NCSW condemns Death Sentence to Alleged Christian Woman in Nankana Sahib*, 14 November 2010, http://www.ncsw.gov.pk/news_Description.php?news_id=32.

speculation as to the imminence of a presidential pardon, the Lahore High Court issued an order barring President Zardari from exercising his constitutional authority to pardon Aasia Bibi.¹⁸⁵

Partly attributed to the growing influence of Sunni extremist ideology, violent anti-Christians attacks reportedly occur throughout the country.¹⁸⁶ In many instances, the authorities are reportedly unable or unwilling to protect the lives and properties of Christians, or to bring the perpetrators of such violence to justice.¹⁸⁷ Furthermore, minority religious communities, including Christians, claim to be more likely to be abused while in detention¹⁸⁸ and to be afforded poorer facilities than Muslim inmates.¹⁸⁹ Inter-faith marriages may also attract serious reprisals, including acts of violence, from the Muslim community.¹⁹⁰ There are allegations of collusion between law enforcement authorities and Muslim

¹⁸⁵ The Court stated that a pardon would be premature given that the initial verdict was under appeal; see Human Rights Watch, *Pakistan: Allow Pardon for Blasphemy Victim*, 2 December 2010, <http://www.unhcr.org/refworld/docid/4cfde6121e.html>. See also Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 4-6 and 42-43, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

¹⁸⁶ See, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and Freedom House, *Freedom in the World 2011 - Pakistan*, 26 July 2011, <http://www.unhcr.org/refworld/docid/4e2e8b2b37.html>. On 21 March 2011, two Christians were shot dead and two other seriously injured after Muslim youths attacked them outside a church building in Hyderabad, Sindh province; see Compass Direct, *Two Christians Slain in Attack Outside Church in Pakistan*, 22 March 2011, <http://www.christianpost.com/news/two-christians-killed-outside-church-in-pakistan-49536/>. At the end of March 2011, the suspects were still at large; see Asia News, *Two Christians gunned down by armed Muslims outside Church in Pakistan*, 23 March 2011, <http://www.asianews.it/news-en/Two-Christians-gunned-down-by-armed-Muslims-outside-Church-in-Pakistan-21097.html>. Shahbaz Bhatti, a Christian and the federal Minister for Minority Affairs, was assassinated in Islamabad on 2 March 2011 for opposing the country's controversial blasphemy laws; see Reuters, *Militants say killed Pakistani Minister for blasphemy*, 2 March 2011, <http://uk.reuters.com/article/2011/03/02/uk-pakistan-minister-idUKTRE72119020110302>. Several churches were attacked in March 2011, reportedly in response to the burning of a Qur'an in Florida; see US Commission on International Religious Freedom, *USCIRF Annual Report 2011 - Countries of Particular Concern: Pakistan*, 28 April 2011, <http://www.unhcr.org/refworld/docid/4dbe90c1c.html>.

¹⁸⁷ In January 2012, for example, a group of children singing carols was attacked and the church vandalised. The local police did not file a case and the Christian community had to apologize to the assailants. In April 2011, a mob ransacked several houses and a school belonging to the Christian community in the Gujrala district of Punjab after allegation of blasphemy spread in the community. The police intervened and took into protective custody two Christian pastors accused of desecrating the Qur'an and filed blasphemy charges against them. A police investigation found that the charges against the two men were fabricated; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. In January 2011, a sixteen-year old Christian boy from the Akhtar Colony in Karachi was allegedly abducted, raped, tortured and murdered by a local police constable. Police are reported to rarely take investigation into crimes against members of religious minorities seriously; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, p. 31, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf. Also in January 2011, two Christian women were beaten and publicly humiliated by a mob in Lahore over apparently unfounded blasphemy allegations; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. It was reported that on 16 May 2010, some 40 Muslim militants attacked a church in Karachi and threatened to kill the Christians in the area. Informed about the attack by the church pastor, the police reportedly filed a report against four Christians for threatening a Muslim convert from Christianity who led the militant group and formulated the plan to demolish the church and build a mosque; see US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>. In January 2010, Shazia Masih, a Christian girl employed as a domestic servant in Lahore, was allegedly tortured to death by her employer, the former head of the Lahore Bar Association. The latter and his family were eventually acquitted despite the fact that according to the post mortem report there were 18 wounds on Ms. Masih's body; see UK Foreign and Commonwealth Office, *Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Pakistan*, 31 March 2011, <http://www.unhcr.org/refworld/docid/4d99aa805f.html>. A Christian father and daughter who have been acquitted of blasphemy charges in January 2011, had to leave their village for fear of reprisals from the Muslim community; see Inter Press Service News Agency, *Pakistani Christians Under Increasing Threat*, 21 January 2011, <http://ipsnews.net/news.asp?idnews=54195>. See also Asian Human Rights Commission, *Appeal to amend the Blasphemy Laws*, 23 December 2010, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-183-2010/>.

¹⁸⁸ Three Christians, charged with offenses against religion died in detention during 2011; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, p. 40, <http://www.hrcp-web.org/arhrcp.html>. On 15 March 2011, a Christian sentenced to life imprisonment on false blasphemy charges died in Karachi Central Prison. His family claims he died from torture, while conflicting official reports suggest that he died of heart failure; see Compass Direct, *Two Christians Slain in Attack Outside Church in Pakistan*, 22 March 2011, <http://www.christianpost.com/news/two-christians-killed-outside-church-in-pakistan-49536/>. In January 2010, a young Christian who had been beaten and abused repeatedly for failing to pay bribes while in custody died in Karachi prison as a result of his injuries; Asian Human Rights Commission, *Pakistan: A young Christian man has been tortured to death by Karachi police and jail officials for not paying bribes in time for Eid*, 8 January 2010, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-001-2010>. In a separate incident, non-governmental organisations (NGOs) and the family members of Robert Fanish, a Christian detained on blasphemy charges, also claimed that he died as a result of police torture in September 2009; see US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

¹⁸⁹ See, for example, International Crisis Group, *Reforming Pakistan's Prison System*, 12 October 2011, <http://www.unhcr.org/refworld/docid/4e968f382.html>; and US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

¹⁹⁰ In November 2010, a dozen Christian youths were reportedly arrested and tortured, and had their houses searched by their Muslim neighbours in the presence of the police in a village near Karachi following the eloping of a Christian boy with a Muslim girl. In the wake of the arrests, most of the Christian community (about 600) left the village; see Asian Human Rights Commission, *Pakistan: The*

clerics to illegally expropriate land owned by religious minorities, including Christians, by making accusations of blasphemy against them.¹⁹¹ “Land grabbing” is reported to be particularly problematic in rural areas of Punjab province.¹⁹²

In July 2010, two Christian brothers accused of writing a blasphemous pamphlet critical of the Prophet Muhammad were shot dead while in police custody on the premises of a court in Faisalabad, Punjab province.¹⁹³ Following the killings, violent clashes broke out between the local Christian and Muslim communities.¹⁹⁴ In another incident, in August 2009, eight Christians were burnt alive and a church and over 40 houses set ablaze by a Muslim mob in Gojra, Punjab province, after rumours that a Qur’an had been desecrated.¹⁹⁵ In a subsequent fact-finding mission report, the independent Human Rights Commission of Pakistan concluded that the attacks were premeditated and that local officials had been aware of the threat, but failed to prevent the violence.¹⁹⁶ Although several persons were charged, the victims were reportedly pressured to drop the cases; all of the alleged attackers were acquitted or granted bail.¹⁹⁷

Amongst the most marginalized sections of society, Christian women and girls are particularly at risk of sexual and gender based violence, forced conversion to Islam and forced marriage by Muslim men,¹⁹⁸ as well as discrimination and violence, including honour killings, at the hands of their own

Christian community in Karachi needs immediate protection from imminent attacks by extremists, 25 November 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-236-2010>. In a similar incident, 43 members of the Christian community in Okara were detained and threatened with death by a local landlord after his daughter eloped with a Christian boy; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, <http://www.hrcp-web.org/Publications/AR2010.pdf>.

¹⁹¹ For example, on 16 February 2011, a Christian woman was reportedly arrested on blasphemy charges as a result of a dispute among the Muslim and Christian communities regarding a residential plot in Faisalabad, Punjab province; see Pakistan Christian Post, *Another Christian woman arrested on Blasphemy accusation in Pakistan*, 21 February 2011, <http://www.pakistanchristianpost.com/headlinenews.php?hnewsid=2633>. See also Asian Human Rights Commission, *Appeal to amend the Blasphemy Laws*, 23 December 2010, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-183-2010/>. Observers consider the situation in Punjab province particularly worrying after the formation of the Muslim League (PML-N) government, which has a record of intolerant policies against Christians and Ahmadis in particular; see Asian Human Rights Commission, *Appeal to amend the Blasphemy Laws*, 23 December 2010, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-183-2010/>.

¹⁹² See, for example, Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, p. 31, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

¹⁹³ In the days prior to the killings, several Muslim processions were held locally demanding for the brothers’ deaths. An investigation was reportedly undertaken and a suspect was arrested and remanded in August 2010; see UN General Assembly, *Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt - Addendum - Summary of cases transmitted to Governments and replies received*, A/HRC/16/53/Add.1, 14 February 2011, paras. 301-307, <http://www.unhcr.org/refworld/docid/4d74d7162.html>. On 18 April 2011, an anti-terrorism court found the individual accused of the brothers’ killing guilty and sentenced him to death; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.

¹⁹⁴ No action was reportedly taken against those instigating violence through mosques loudspeakers; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, p. 128, <http://www.hrcp-web.org/Publications/AR2010.pdf>.

¹⁹⁵ See, for example, Minority Rights Group International, *State of the World’s Minorities and Indigenous Peoples 2010 - Pakistan*, 1 July 2010, <http://www.unhcr.org/refworld/docid/4c33310cc.html>.

¹⁹⁶ Human Rights Commission of Pakistan, *Violence against Christian community in Gojra after allegations of defiling of Holy Quran*, August 2009, <http://www.hrcp-web.org/showfact.asp?id=12>. See also UN Human Rights Council, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Githu Muigai, on the manifestations of defamation of religions, and in particular on the ongoing serious implications of Islamophobia, on the enjoyment of all rights by their followers*, A/HRC/15/53, 12 July 2010, para. 8, <http://www.unhcr.org/refworld/docid/4ca194082.html>.

¹⁹⁷ See US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. Most of the houses and the church destroyed in the attacks were rebuilt by the provincial authorities, but only one third of the promised monetary compensation was given to families whose properties had been completely destroyed; see Human Rights Commission of Pakistan, *An Uncertain Peace Gojra – One Year On: Report of Human Rights Commission of Pakistan (HRCP) fact finding*, 30 July 2010, <http://www.hrcp-web.org/showfact.asp?id=14>.

¹⁹⁸ Forced and coerced conversions of religious minorities, particularly Christians and Hindus to Islam, are reportedly on the rise. Catholic NGOs estimate that at least 700 Christian girls are kidnapped and forced to convert every year; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. According to the Asian Human Rights Commission, in 2011 alone, some 1800 women belonging to the Christian and Hindu communities were forced to convert to Islam by different methods, including through abduction and rape; see Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file. For example, a 12 year old Christian girl was allegedly gang raped for eight months, forcibly converted to Islam and then married to one of the perpetrators; see Asian Human Rights Commission, *Pakistan: A 12 year-old Christian is gang raped for eight months, forcibly converted and then 'married' to her Muslim attacker*, 10 October 2011, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-199-2011/>. For other recent example of forced marriage of Christian women and girls following sexual violence, see Asian Human Rights Commission, *Pakistan: The forced marriages of religious minority women must be annulled and the victims returned to their families and communities*, 25 October 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-159-2011/>. In March 2011, a 10-year-old Catholic girl was allegedly raped in Punjab province; a suspect was reportedly arrested. In another rape case, in July 2010, extremists have reportedly prevented any investigation and prosecution by pressuring the local police not to file a FIR; see US Commission on International Religious Freedom, *USCIRF Annual Report 2011 - Countries of Particular Concern: Pakistan*, 28 April 2011,

communities.¹⁹⁹ Law enforcement authorities are reportedly unable or unwilling to protect victims of forced marriage and other forms of sexual and gender based violence.²⁰⁰ In a positive development, on 15 November 2011, the National Assembly passed the Prevention of Anti-Women Practices (Criminal Law Amendment Act) 2011,²⁰¹ which renders forced marriages a criminal offence punishable by imprisonment for up to 10 years.²⁰² It is however, too early to ascertain the effect of the law.

The phenomenon of bonded labour is also present among lower socio-economic level Christians, mostly employed in the agriculture and in the brick, glass, carpet, and fishing industries.²⁰³ In some cases bonded labourers are subject to ill-treatment, sold to other employers for the price of their debt or restricted in their movement.²⁰⁴ Although the law prohibits slavery and all forms of forced labour,²⁰⁵ it is reported that in practice the authorities do not enforce these provisions effectively and

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- <http://www.unhcr.org/refworld/docid/4dbe901c.html>. See also, Asian Human Rights Commission, *Pakistan: Institutionalized discrimination against religious minorities*, 10 December 2010, <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-064-2010>. On 27 September 2010, a 12-year old Christian girl was kidnapped, raped and murdered in a Muslim cemetery in Rawalpindi; see AsiaNews, *Violence against women & attacks against religious minorities are on the rise*, 22 October 2010, <http://www.asianews.it/news-en/Violence-against-women-and-attacks-on-religious-minorities-on-the-rise-in-Pakistan-19725.html>. In June 2010, an 11-year old Christian boy was kidnapped and forced to work to offset his family debts by a Muslim landowner. The landowner reportedly offered to cancel the debt if the boy would convert to Islam; see Asian Human Rights Commission, *Pakistan: Christian Child Abducted, Forced into Bonded Labor in Pakistan*, 23 June 2010, <http://www.humanrights.asia/news/forwarded-news/AHRC-FST-049-2010>. The National Commission for Justice and Peace reported that during 2009, 20 Christians and 21 Hindus were forced to convert to Islam. For example a Christian girl, who was kidnapped and forced to convert to Islam by a family friend and marry one of their relatives, was reunited with her family after three years; see US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.
- ¹⁹⁹ During 2011, at least seven victims of honour killings out of the 943 recorded were Christian; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. According to the Human Rights Commission of Pakistan, 11 out of the 17 reported honour killings during 2010 involved Christian girls and women; see Human Rights Commission of Pakistan, *Report of Human Rights Commission of Pakistan (HRCP) fact finding*, 30 July 2010, <http://www.hrcp-web.org/showfact.asp?id=14>.
- ²⁰⁰ In September 2011, for example, a Christian women who was gang-raped was reportedly pressured by the police not to press any charges; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. In August 2011, a 13 year old Christian girl was allegedly raped at gunpoint by her father's employer. She was then forced to put her fingerprints on marriage papers. The victim's parents filed a case with the local police station, but no action was taken, allegedly due to threats by a Muslim group that Christian homes would be burnt if any case is filed; see Asian Human Rights Commission, *Pakistan: The forced marriages of religious minority women must be annulled and the victims returned to their families and communities*, 25 October 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-159-2011/>. In April 2011, a young Christian woman from Faisalabad, Punjab province, was abducted and raped for several days by a self-identified senior officer in the security services. When released, she was threaten that if she reported the rape, her parents would be charged in a bomb explosion case; see Asian Human Rights Commission, *Pakistan: A Christian woman was raped for four days; the rapist identified himself as a senior officer in the Inter Services Intelligence Agency*, 28 April 2011, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-085-2011/>. See also Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>; and Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file.
- ²⁰¹ See, for example, The Express Tribune, *National Assembly passes landmark women's rights bill*, 15 November 2011, <http://tribune.com.pk/story/292165/prevention-of-anti-women-practices-bill-unanimously-approved-by-na/>; and Radio Free Europe/Radio Liberty, *Finally An End To Bartered Brides?*, 27 November 2011, <http://reliefweb.int/node/461506>.
- ²⁰² The Prevention of Anti-Women Practices (Criminal Law Amendment Act) 2011 amends the Penal Code by introducing several offences against women. The Act makes it unlawful to, *inter alia*, deprive a women of her rightful inheritance through "deceitful or illegal means", to give or compel a woman into marriage, including for the purposes of settling a civil or criminal dispute, and to compel or facilitate a woman's marriage to the Holy Quran; the text of the adopted Bill is available at http://www.na.gov.pk/uploads/documents/1321415693_161.pdf.
- ²⁰³ Hindus and lower socio-economic level Muslim are also affected; see, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, p. 31, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; and US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>. For further details, see Section IV(A)(3) below.
- ²⁰⁴ Instances of torture and detention of brick-kiln workers was frequently reported during 2011; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. In February 2011, Imran Masih, a 24-year old Christian and a resident of Ghakkar Mandi Gujranwala, was reportedly killed by his employers, who claim he committed suicide. The source claims that there have been over 35 similar incidents of ill-treatment in the last three years in central Punjab, which have mostly gone unreported because of influence exerted by the landlords in the area; see AsiaNews, *Pakistani Priest warns Christians are at risk. A young man tortured and killed*, 11 February 2011, <http://www.asianews.it/news-en/Pakistani-Priest-warns-Christians-are-at-risk.-A-young-man-tortured-and-killed-20750.html>. Accord-ing to reports, there is a growing trend in which bonded labourers sell organs, particularly kidneys, to repay debts or escape their servitude; see Freedom House, *The Global State of Workers' Rights - Pakistan*, 31 August 2010, <http://www.unhcr.org/refworld/docid/4d4fc7f71e.html>. A Christian factory worker reportedly had his kidney forcibly removed and sold by his employer; see ASSIST News Service, *Rise in Kidnapping and Selling Kidneys of Poor Christian Workers in Pakistan*, 24 February 2011, <http://www.assistnews.net/Stories/2011/s11020169.htm>. Cases of bonded labourers selling their children to offset debts have also been reported; see, for example, IRIN, *Pakistan: Selling children to pay off a debt*, 6 June 2011, <http://www.unhcr.org/refworld/docid/4dedf2db2.html>.
- ²⁰⁵ Article 11 of the Constitution. The Bonded Labor System (Abolition) Act of 1992 prohibits bonded labour, with prescribed penalties ranging from two to five years imprisonment, a fine, or both, and cancels *inter alia* all existing debts, forbidding lawsuits for the

that no legal conviction has been recorded.²⁰⁶ Bonded labourers, as well as their family members, have been kidnapped or held hostage by their employers in order to prevent them from seeking legal redress.²⁰⁷ Furthermore, police bribery in the context of bonded labour allegations occurs, while landlords affiliated with political parties or those in position of authority reportedly use their social, financial and political influence to protect their involvement in bonded labour.²⁰⁸ Discrimination in the employment context has also been reported,²⁰⁹ and Christians displaced by the summer 2010 floods in Punjab complained about discrimination in the distribution of relief goods.²¹⁰

In light of the foregoing, UNHCR considers that members of the Christian community, including those targeted by Islamic extremist elements or charged with criminal offences under the blasphemy provisions, victims of bonded labour, severe discrimination, forced conversion and forced marriage, as well as Christians perceived as contravening social mores, may, depending on the individual circumstances of the case, be in need of international refugee protection on account of their religion²¹¹ or membership of a particular social group.²¹²

3. Hindus

Hindus are the largest non-Muslim religious minority in Pakistan and make up over 1.8 percent of the country's population.²¹³ The vast majority of the Hindu population is concentrated in the southern

recovery of such debts. See Bonded Labour System (Abolition) Act, 1992, 11 March 1992, <http://www.unhcr.org/refworld/docid/4e2d81c02.html>; and Bonded Labour System (Abolition) Rules, 1995, 20 July 1995, <http://www.unhcr.org/refworld/docid/4e2d82252.html>. See also Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; US Department of State, *2011 Trafficking in Persons Report - Pakistan*, 27 June 2011, <http://www.unhcr.org/refworld/docid/4e12ee5626.html>; and US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

²⁰⁶ US Department of State, *2011 Trafficking in Persons Report - Pakistan*, 27 June 2011, <http://www.unhcr.org/refworld/docid/4e12ee5626.html>; and US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

²⁰⁷ See, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; and US Department of State, *2011 Trafficking in Persons Report - Pakistan*, 27 June 2011, <http://www.unhcr.org/refworld/docid/4e12ee5626.html>.

²⁰⁸ US Department of State, *2011 Trafficking in Persons Report - Pakistan*, 27 June 2011, <http://www.unhcr.org/refworld/docid/4e12ee5626.html>.

²⁰⁹ See, for example, Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 50-51, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

²¹⁰ See, for example, US Department of State, July-December, *2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; Atif Malik, *Denial of flood aid to members of the Ahmadiyya Muslim community in Pakistan*, Health and Human Rights: An International Journal [Online], Volume 13 Number 1, 13 July 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/Full_report_160.pdf; and Human Rights Commission of Pakistan, *Report of Human Rights Commission of Pakistan (HRCP) fact finding*, 30 July 2010, <http://www.hrcp-web.org/showfact.asp?id=14>.

²¹¹ Forced conversion is a serious violation of the fundamental right to freedom of thought, conscience and religion, and will generally amount to persecution. The applicant will, however, still need to demonstrate a subjective fear that the conversion is persecutory to him or her. This element will generally be satisfied where the applicant already holds different religious beliefs or has chosen to dissociate himself or herself from any religious denomination or community; see UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, para. 20, <http://www.unhcr.org/refworld/docid/4090f9794.html>.

²¹² Sexual and gender based violence may amount to persecution, particularly where the State is unwilling or unable to provide effective protection. For further guidance see UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/02/01, 7 May 2002, <http://www.unhcr.org/refworld/docid/3d36f1c64.html>; and UNHCR, *Guidelines on International Protection No. 2: "Membership of a Particular Social Group" Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/02/02, 7 May 2002, <http://www.unhcr.org/refworld/docid/3d36f23f4.html>. According to the UN Committee against Torture, the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of gender-based violence, such as rape, domestic violence and trafficking, facilitates and enables non-State actors to commit such acts with impunity. The State's indifference or inaction provides a form of encouragement and/or de facto permission; see UN Committee Against Torture, *General Comment No. 2: Implementation of Article 2 by States Parties*, CAT/C/GC/2, 24 January 2008, <http://www.unhcr.org/refworld/docid/47ac78ce2.html>.

²¹³ According to official figures compiled during the 1998 census, 1.6 percent of the population were Hindus and "scheduled castes"/lower castes represented 0.25 percent, i.e. circa 330,000 persons; see Population Census Organisation, Government of Pakistan, *1998 Census: Population by Religion*, undated (accessed 20 October 2011), <http://www.census.gov.pk/Religion.htm>. Official figures for "scheduled castes" have been widely contested as an attempt to understate the societal discrimination faced by this population. The population of "scheduled castes" Hindus is estimated by their representatives at about two million; see Thardeep Rural Development Programme and others, *The Choice of Reforms: The human rights situation of ethnic, linguistic, religious minorities, scheduled castes Hindus and indigenous people in Pakistan*, 2009, p. 9, http://www2.ohchr.org/english/bodies/cerd/docs/ngo/Alternative_report_TRDP_NCJP_PILER_IDSN_Justice_and_Peace_Netherlands.pdf.

province of Sindh,²¹⁴ as well as in the south-western province of Balochistan, where they constitute the largest religious minority.²¹⁵

Anti-Hindu sentiment and violence date back to the partition of India in 1947. Acts of violence against Hindus are reportedly on the rise and hate speech against the community is reported to be tolerated with impunity.²¹⁶ In Balochistan and Sindh provinces, for example, it is reported that Hindus from the Brahmin and higher castes²¹⁷ are increasingly at risk of violence and abduction for ransom, and the authorities are allegedly unable or unwilling to provide effective protection.²¹⁸ Some 150 Hindu families reportedly migrated to India in 2011 due to threats to their security.²¹⁹ Hindu property and temples have also come under attack from the local Muslim community, or been subject to unlawful expropriation.²²⁰ The authorities are reportedly not taking adequate measures to protect Hindus from illegal evictions or to bring the perpetrators of violence to justice.²²¹ Moreover,

²¹⁴ It is reported that about 95 percent of the Hindu population lives in the province of Sindh; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 32-35, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; and IRIN, *Pakistan: Hindu minority lives in mounting fear*, 6 January 2011, <http://www.unhcr.org/refworld/docid/4d2c16f42.html>.

²¹⁵ US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.

²¹⁶ In November 2011, for example, four Hindu were reportedly killed by religious extremists in the town of Shikarpur, Sindh province; see Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>. It is reported that the police failed to take any action to prevent the killings despite having been informed that threats had been made against the victims; see International Federation for Human Rights, *Pakistan: Government must do more to protect minorities - HRCP*, 9 November 2011, <http://www.unhcr.org/refworld/docid/4ec11663c.html>. See also Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 32-35, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; and WRITENET, *Pakistan: The Situation of Religious Minorities*, May 2009, <http://www.unhcr.org/refworld/docid/4b01856e2.html>.

²¹⁷ It is reported that about 20 percent of the Hindu population in Sindh province is from the Brahmin and higher castes, while the remaining 80 percent are members of lower castes, such as Meghwaar, Kohli and Bheel; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 32-35, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

²¹⁸ Members of the Hindu community in Balochistan have reportedly held several rallies to condemn the targeting of Hindus for kidnapping. Some 93 kidnappings were recorded in 2011 by the local authorities, although the numbers are believed to be much higher; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. In December 2011, for example, a Hindu lawyer and a Hindu businessman were kidnapped in Sindh province; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. Lakki Chand Garji, a revered Hindu spiritual leader from Kalat town in Balochistan province, was reportedly kidnapped on 21 December 2010 and is yet to be found; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 32-35, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf.

²¹⁹ See, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>.

²²⁰ On 23 August 2010, members of the Hindu community in Sindh province were forced to vacate their houses following an attack in which three houses were burnt. It is reported that in the wake of the attack Hindu men were arrested on allegedly fabricated charges of blasphemy. No measures to protect the Hindu community were reportedly taken by the authorities; see Asian Human Rights Commission, *Pakistan: A Hindu community is attacked and evicted on fabricated Blasphemy charges, houses burned causing death of a person by firing*, 25 August 2010, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-119-2010>. In June 2010, Hindu community leaders publicly protested an attack on the Nainu Ram Ashram Temple in Mithi, Tharparkar, and other recent similar attacks; see The Express Tribune, *Hindus demand inquiry into attack on temple in Mithi*, 10 June 2010, <http://tribune.com.pk/story/20101/hindus-demand-inquiry-into-attack-on-temple-in-mithi/>. Also in June 2010, a Hindu temple adjacent to a Shamshan Ghat in Rawalpindi was demolished. The land had reportedly been illegally leased by the local administration to a person for commercial exploitation; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, p. 131, <http://www.hrcp-web.org/Publications/AR2010.pdf>.

²²¹ In August 2010, the Hindu Meghwar community at Bheemo Mal Meghwar Colony in Mirwah Gorchani, Mirpurkhas, reportedly came under attack over conflicting claims of ownership of land between the Meghwars and the Muslim Rajput community. The attack was reportedly spurred by allegations of blasphemy against a member of the Hindu community. A mob led by local clerics burnt down their houses, beat women, children and the elderly, and asked them to leave the area. Dozens of women and children were seriously injured as a result. Police failed to protect the property and lives of the minorities and security forces had to intervene. Law enforcement authorities subsequently relocated 100 Hindu families from the area. The community returned after three weeks, reportedly after a settlement brokered by local influential people. Further, illegal evictions of Hindus in Tharparkar, Sindh, by criminal elements are allegedly supported by local officials; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, pp. 133 and 373, <http://www.hrcp-web.org/Publications/AR2010.pdf>.

blasphemy allegations,²²² which are often motivated by personal gain, have resulted in the lengthy detention of, and occasional violence against, Hindus.²²³

Pervasive throughout the country, sexual and gender-based violence also affects Hindu women.²²⁴ Hindu women and girls are reportedly subject to abductions for the purposes of forced conversion at the hands of Muslim men, particularly in Sindh province. Such abductions are often accompanied by sexual violence and may result in the forced marriage of the victim to her abductor.²²⁵ Even in cases of genuine conversion, underage marriages remain of concern. Under the 1961 Pakistan Muslim Family Law Ordinance, the legal age for marriage is 16 for girls and 18 for boys. Police are required to investigate the ages of those entering a marriage upon the complaint of a parent.²²⁶ According to reports, however, law enforcement authorities are generally reluctant to register or investigate allegations of abduction, forced conversion and marriage.²²⁷ Moreover, members of the Hindu community are reportedly often coerced into not reporting cases of sexual violence and abductions with threats of groundless criminal accusations.²²⁸ It is also reported that in abduction cases the courts

²²² In 2011, the Pakistan Human Rights Commission reported five new blasphemy cases registered against six members of the Hindu community; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>.

²²³ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. Jagdish Kumar, a Hindu factory worker was beaten to death in April 2008 by co-workers who alleged that he had made blasphemous remarks about the Prophet Muhammad; see Dawn, *Factory Worker Lynched for 'Blasphemy'*, 9 April 2008, <http://archives.dawn.com/2008/04/09/top8.htm>. Police were summoned but reportedly did little to intervene or protect Kumar. The three leaders of the attack were arrested – not for murder, but for failing to report a case of blasphemy; see AsiaNews, *Killed for 'Blasphemy,' Now His Family Is at Risk*, 28 April 2008, <http://www.asianews.it/index.php?l=en&art=12121&geo=2&size=A>. In 2009, Hindus reportedly came under attack in the town of Umerkot following another charge of blasphemy; see IRIN, *Pakistan: Hindu minority lives in mounting fear*, 6 January 2011, <http://www.unhcr.org/refworld/docid/4d2c16f42.html>.

²²⁴ See, for example, US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

²²⁵ According to the Hindu Council in Karachi, at least 15-20 forced abductions and conversions of young Hindu girls from Karachi occur each month, mainly from the multi-ethnic Lyari area. In February 2012, for example, a Hindu girl was kidnapped and forced to convert to Islam in the Ghotki district of Sindh province; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and IRIN, *Pakistan: Abducted and forced into a Muslim marriage*, 27 February 2012, <http://www.unhcr.org/refworld/docid/4f4cce452.html>. See also Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; BBC News, *Pakistani Hindus fear forced conversion of young girls*, 17 January 2012, <http://www.bbc.co.uk/news/world-asia-16599534>; Asian Human Rights Commission, *Pakistan: The courts were complicit in the forced conversion to Islam of a young Hindu woman*, 11 November 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-176-2011/>; and Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, pp. 50-57, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf. According to the Asian Human Rights Commission, in 2011 alone, some 1800 women belonging to the Christian and Hindu communities were forced to convert to Islam by different methods, including through abduction and rape; see Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file. According to the Society for the Protection of the Rights of the Child, a Pakistani NGO, 23 Hindu children were kidnapped between January 2008 and December 2010. Other local human rights monitors report, however, much higher incidence of abduction, estimating the numbers of abducted and forcibly converted Hindu girls at 20 to 25 per month; Asian Human Rights Commission, *Pakistan: Religious minority women, the forgotten victims of a fragmented society*, 2 May 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-ART-041-2010>.

²²⁶ See, for example, Asian Human Rights Commission, *Institutionalized discrimination against religious minorities*, 10 December 2010, <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-064-2010>.

²²⁷ See, for example, Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file. On 26 January 2011, for example, the police reportedly refused to register a FIR in relation to an alleged abduction and rape by a local politician of a Hindu girl. Members of a jirga – a tribal court – held on 9 February with the knowledge of the police, reportedly tried to pressure the family of the victim into accepting a marriage to the perpetrator and their daughter's conversion to Islam. A FIR was registered following an order from the Sindh High Court. However, the family had to eventually abandon pursuing the case following threats of arrest on false charges and death; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, p. 57, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf. It is also reported that charges of abduction and rape of a 13-year old girl against two lawyers from a forum associated with the ruling PPP were dropped, due to pressure from the ruling party and a member of the Sindh Provincial Assembly. In another case, the Sindh High Court had to order the police to register a FIR in the case of a 17-year old Hindu girl from Nagarparkar who had been kidnapped and gang-raped by an influential landlord on 24 January 2010. Four persons were charged as a result, but no arrests had been made by the end of 2010; see US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

²²⁸ Forced conversion of Hindu girls often go unreported for fear of repercussions; see Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file. For example, 71 Hindu families were forced to leave their village in protest against the abduction, forced conversion and marriage of a 15-year old Hindu girl to an influential Muslim; see Asian Human Rights Commission, *Pakistan: Religious minority women, the forgotten victims of a fragmented society*, 2 May 2010, <http://www.humanrights.asia/news/ahrc-news/AHRC-ART-041-2010>. The community was reportedly threatened by the abductors not to report the case or seek any remedy in order to avoid more girls being abducted. In another case, in March 2010, the family of a 17-year old Hindu girl who was abducted by three influential Muslim brothers and raped by one of them was reportedly pressured into accepting her conversion to Islam and

rarely decide custody in favour of the girl's family, often due to pressure and influence by local Muslim communities and religious figures.²²⁹ Other forms of gender-based violence affecting Hindu women include honour killings (*Karo Kari*).²³⁰

According to reports, more than 1.8 million persons are in bondage in agriculture and in the brick, glass, carpet, and fishing industries, mostly in Sindh and Punjab provinces.²³¹ Low-caste Hindus, such as Meghwaars, Kohli and Bheel, represent a large proportion of the bonded labourers in the country.²³² Although slavery and bonded labour are prohibited,²³³ the authorities reportedly fail to provide adequate protection and redress.²³⁴ Debt bondage, particularly in the agricultural sector and in

marriage to the rapist. Pressure from local ruling party members and landlords reportedly resulted in the subsequent arrest of the victim's father on spurious charges; see Asian Human Rights Commission, *Pakistan: A Hindu teenager is told to marry her alleged rapist by jirga members; police and courts fail to act*, 19 March 2010, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-027-2010>. In December 2009, a 15-year old Hindu girl was kidnapped by a neighbour and forcibly converted to Islam by the local madrasa. The police reportedly refused to register a case against the neighbour and the madrasa on the ground that they had no jurisdiction in matters of conversion; see Asian Human Rights Commission, *Pakistan: A young Hindu girl is detained and forcibly converted by a Madrasa; police refuse to act*, 22 April 2010, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-051-2010>. See also, IRIN, *Pakistan: Hindu minority lives in mounting fear*, 6 January 2011, <http://www.unhcr.org/refworld/docid/4d2c16f42.html>; Asian Human Rights Commission, *Institutionalized discrimination against religious minorities*, 10 December 2010, <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-064-2010>; and Asian Human Rights Commission, *Pakistan: A Hindu girl has been abducted by a landlord and forcibly converted to Islam; the authorities have refused to intervene*, 17 April 2010, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-047-2010>.

²²⁹ In addition, it is reported that courts often allow a subsequent marriage to a Muslim in cases where the victim is already married; see Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file. In April 2011, for example, a young Hindu mother of two was abducted while her husband was not at home. The Sindh High Court refused the *habeas corpus* petition filed by the Hindu community following the abduction on the ground that the victim had embraced Islam by marrying a Muslim man: see Asian Human Rights Commission, *Pakistan: The courts were complicit in the forced conversion to Islam of a young Hindu woman*, 11 November 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-176-2011>. In another reported case, a magistrate registered the statement of a 12-years old girl that she voluntarily converted to Islam despite objections from her family's lawyer that she was still a minor; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, pp. 137-138, <http://www.hrcp-web.org/Publications/AR2010.pdf>.

²³⁰ "Karo kari" is a Sindh term literally meaning "disreputable man-disreputable woman" (who have brought disgrace to the family or clan); see Aurat Foundation, *Annual Report January-December 2010 - Violence Against Women in Pakistan: A qualitative review of statistics 2010*, June 2011, <http://www.af.org.pk/PDF/VAW%20Reports%20AND%20PR/Annual%20Report%202010%20-%20VAW.pdf>. Karo Kari is a traditional, feudal custom which still continues whereby couples found in, or often merely suspected of, adulterous relationship are killed by family members. During 2011, at least two victims of honour killings out of the 943 recorded were Hindu; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; and US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>. Although not providing a breakdown by religious groups, the Asian Human Rights Commission reports that more than 1,000 women and girls are victims of honour killings every year in the country; see Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file. Furthermore, the Aurat Foundation, reported that 266 persons out of a total of 557 persons killed in the name of 'honour' in Pakistan during 2010 were from Sindh province; see Aurat Foundation, *Annual Report January-December 2010 - Violence Against Women in Pakistan: A qualitative review of statistics 2010*, June 2011, <http://www.af.org.pk/PDF/VAW%20Reports%20AND%20PR/Annual%20Report%202010%20-%20VAW.pdf>. It is reported that during the first four months of 2011, at least seven cases of honour killings were reported in Sindh province, in which six women and five men were killed. By May 2011, six cases had been registered with the police; see Asian Human Rights Commission, *Pakistan: Eleven persons were killed in the name of honour during the first four months of 2011 in Sindh province*, 12 May 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-ART-029-2011>.

²³¹ According to estimates by the Asia Development Bank; see US Department of State, *2011 Trafficking in Persons Report - Pakistan*, 27 June 2011, <http://www.unhcr.org/refworld/docid/4e12ee5626.html>. See also Freedom House, *The Global State of Workers' Rights - Pakistan*, 31 August 2010, <http://www.unhcr.org/refworld/docid/4d4fc7f71e.html>.

²³² See, for example, US Department of State, *July-December, 2010 International Religious Freedom Report - Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; and US Department of State, *2010 Report on International Religious Freedom - Pakistan*, 17 November 2010, <http://www.unhcr.org/refworld/docid/4cf2d07550.html>.

²³³ Article 11 of the Constitution. The Bonded Labor System (Abolition) Act of 1992 prohibits bonded labour, with prescribed penalties ranging from two to five years imprisonment, a fine, or both, and cancels *inter alia* all existing debts, forbidding lawsuits for the recovery of such debts. See Bonded Labour System (Abolition) Act, 1992, 11 March 1992, <http://www.unhcr.org/refworld/docid/4e2d81c02.html>; and Bonded Labour System (Abolition) Rules, 1995, 20 July 1995, <http://www.unhcr.org/refworld/docid/4e2d82252.html>. See also US Department of State, *2011 Trafficking in Persons Report - Pakistan*, 27 June 2011, <http://www.unhcr.org/refworld/docid/4e12ee5626.html>; and US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>. No legal convictions have been registered.

²³⁴ For example, in November 2010, a lower-caste Hindu agricultural labourer died of burns suffered after he was tortured and set on fire by his employer, allegedly to elicit a confession for stealing cotton. It is reported that the perpetrator, a well-connected local landlord, had not been arrested by the end of 2010; see Jinnah Institute, *A Question of Faith: A Report on the Status of Religious Minorities in Pakistan*, 7 June 2011, p. 33, http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf; and US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>. It was reported that in 2009-2010, the Sindh provincial police freed over 1,500 bonded labourers, a majority of whom were Hindu; see US

brick kilns, reportedly remains endemic in Sindh and Punjab despite over 3,400 bonded labourers being released during 2011 on the order of courts.²³⁵ Bonded labourers' freedom of movement is severely restricted; they are reportedly often prevented to leave or seek employment elsewhere by armed guards or because their families are kept hostage.²³⁶

Like other religious minorities, Hindus are also subject to discrimination in admission to higher education institutions. Furthermore, it is reported that public school textbooks include derogatory remarks against minority religious groups, particularly Hindus, and religious intolerance in the education system is still widespread.²³⁷ Some efforts have been made by the Government to revise the public schools curriculum with a view to removing Islamic overtones from secular subjects, and in some instances, ethics is offered as an alternative to Islamic studies classes.²³⁸ Although there are no official restrictions on the display of religious symbols, Hindus reportedly face some difficulty in importing religious literature from India.²³⁹ Moreover, members of the Hindu community displaced by the massive floods of 2010 were also reportedly subject to discrimination in the context of access to aid or relief, including during food distribution.²⁴⁰ According to reports, "scheduled caste" Hindus (Dalits) affected by the August 2011 floods have been denied humanitarian assistance and even access to relief camps for being "untouchable".²⁴¹

Given the lack of codification of personal laws of some religious minorities, including Hindus, family matters, such as marriage, divorce and inheritance, are in fact governed by customary law.²⁴² As such, no mechanism for the registration of Hindu marriages currently exists. This has particularly detrimental consequences for Hindu women, who, in the absence of proof of valid marriage, cannot obtain passports and are likely to face difficulties in matrimonial or inheritance matters, property transactions, voting, and in accessing health care services.²⁴³

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- Department of State, *2010 Report on International Religious Freedom - Pakistan*, 17 November 2010, <http://www.unhcr.org/refworld/docid/4cf2d07550.html>. In February 2010, thousands of peasants from Sindh province went on a 14-day march to demand amendments to the Sindh Tenancy Act, 1950 which allows landlords to take large portions of their tenants' harvest in part repayment of original loans and the related interest, thereby reportedly keeping peasants in a state of perpetual debt akin to bonded labour; see International Trade Union Confederation, *2010 Annual Survey of violations of trade union rights - Pakistan*, 9 June 2010, <http://www.unhcr.org/refworld/docid/4c4fec61c.html>.
- ²³⁵ See Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>.
- ²³⁶ See Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>.
- ²³⁷ Under international human rights law, States have an obligation to respect freedom of religion or belief, as well as to protect such freedom against undue interference from third parties. In the context of education, States have the obligation to eliminate religious stereotypes and prejudices; see UN Human Rights Council, *Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt*, A/HRC/16/53, 15 December 2010, paras. 27-40, <http://www.unhcr.org/refworld/docid/4dd3938c597.html>. See also Article 5(3) of the UN General Assembly, *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, A/RES/36/55, 25 November 1981, <http://www.unhcr.org/refworld/docid/3b00f02e40.html>.
- ²³⁸ Hindu beliefs are reportedly negatively contrasted with Islam; see, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 - Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and US Department of State, *July-December, 2010 International Religious Freedom Report - Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.
- ²³⁹ US Department of State, *July-December, 2010 International Religious Freedom Report - Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.
- ²⁴⁰ District officials in Sukkur reported that Sikhs and Hindus were being pushed away from food distribution points. In Karachi, nearly 600 Hindu flood victims staged a protest over being given beef - a meat forbidden them on religious grounds; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, pp. 137-138, <http://www.hrcp-web.org/Publications/AR2010.pdf>; and IRIN, *Pakistan: Minorities test aid impartiality*, 8 September 2010, <http://www.unhcr.org/refworld/docid/4c8df239c.html>.
- ²⁴¹ President Zardari has reportedly demanded a report from the Sindh government on these allegations; see The Express Tribune, *Flood relief for minorities: Zardari seeks report from Sindh over discrimination*, 24 September 2011, <http://tribune.com.pk/story/259337/flood-relief-for-minorities-zardari-seeks-report-from-sindh-over-discrimination/>. See also, US Department of State, *July-December, 2010 International Religious Freedom Report - Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and The Express Tribune, *Minorities 'pay extra': Rains for all, relief for some*, 14 September 2011, <http://tribune.com.pk/story/252029/minorities-pay-extra-rains-for-all-relief-for-some/>.
- ²⁴² Pursuant to the Constitution of Pakistan, all communities are entitled to follow their "personal laws". See, for example, Article 227 of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>.
- ²⁴³ A Minority Protection Bill, aimed at addressing the family law of Hindus, Sikhs and Baha'is, was presented before the National Assembly at the end of 2010. The law failed to materialize because of lack of official interest; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; and US Department of State, *July-December, 2010 International Religious Freedom Report - Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. For a further analysis of the personal laws of religious minorities in Pakistan, see Pakistan National Commission on the Status of Women, *The Impact of Family Laws on the Rights of Divorced Women in Pakistan*, undated (accessed 20 October 2011), http://www.ncsw.gov.pk/apanel/upload_file/Impact_Family_Laws.pdf; and Pakistan National Commission on the Status of Women, *Women's Rights of Inheritance and its Implementation*, undated (accessed 20 October 2011), http://www.ncsw.gov.pk/apanel/upload_file/Right_of_Inheritance.pdf.

In light of the foregoing, UNHCR considers that members of the Hindu community, including victims of bonded labour, forced conversion and forced marriage, as well as those perceived as contravening social mores, may, depending on the individual circumstances of the case, be in need of international refugee protection on account of their religion²⁴⁴ or membership of a particular social group.²⁴⁵

4. Sikhs

According to the Ministry for Minorities Affairs, approximately 30,000 Sikhs currently live in Pakistan,²⁴⁶ mostly in the Peshawar region of the Khyber Pakhtunkhwa (previously known as the North-West Frontier Province), and several agencies (tribal districts) of the Federally Administered Tribal Areas (FATA).²⁴⁷ The growing influence and control by Afghan Taliban aligned groups²⁴⁸ in FATA and adjoining areas of the Khyber Pakhtunkhwa Province since 2004 has particularly affected indigenous Sikh communities and members of other religious minorities.²⁴⁹ Sikhs are reportedly subject to harassment, abductions for ransom and killings by militants in the North-West of the country, and the State authorities are reportedly unable or unwilling to provide effective protection.²⁵⁰ Sikhs have also been reportedly forced to pay *jizya* – a tax levied on non-Muslims living under Islamic rule – in Taliban-controlled areas.²⁵¹

²⁴⁴ Forced conversion is a serious violation of the fundamental right to freedom of thought, conscience and religion, and will generally amount to persecution. The claimant will, however, still need to demonstrate a subjective fear that the conversion is persecutory to him or her. This element will generally be satisfied where the claimant already holds different religious beliefs or has chosen to dissociate himself or herself from any religious denomination or community; see UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, para. 20, <http://www.unhcr.org/refworld/docid/4090f9794.html>.

²⁴⁵ Sexual and gender-based violence may amount to persecution, particularly where the State is unwilling or unable to provide effective protection. For further guidance see UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/02/01, 7 May 2002, <http://www.unhcr.org/refworld/docid/3d36f1c64.html>; and UNHCR, *Guidelines on International Protection No. 2: "Membership of a Particular Social Group" Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/02/02, 7 May 2002, <http://www.unhcr.org/refworld/docid/3d36f23f4.html>. According to the UN Committee against Torture, the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of gender-based violence, such as rape, domestic violence and trafficking, facilitates and enables non-State actors to commit such acts with impunity. The State's indifference or inaction provides a form of encouragement and/or de facto permission; see UN Committee Against Torture, *General Comment No. 2: Implementation of Article 2 by States Parties*, CAT/C/GC/2, 24 January 2008, <http://www.unhcr.org/refworld/docid/47ac78ce2.html>.

²⁴⁶ As reported in the US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

²⁴⁷ See, for example, US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; US Department of State, *2010 Report on International Religious Freedom - Pakistan*, 17 November 2010, <http://www.unhcr.org/refworld/docid/4cf2d07550.html>; Minority Rights Group International, *Religious minorities targeted by rise in nationalist and extremist groups in South Asia – new report*, 1 July 2010, <http://www.minorityrights.org/10073/press-releases/religious-minorities-targeted-by-rise-in-nationalist-and-extremist-groups-in-south-asia-new-report.html>; and WRITENET, *Pakistan: The Situation of Religious Minorities*, May 2009, <http://www.unhcr.org/refworld/docid/4b01856e2.html>.

²⁴⁸ Hereafter collectively referred to as the "Taliban".

²⁴⁹ See, for example, Amnesty International, *'As if Hell Fell on Me': The Human Rights Crisis in Northwest Pakistan*, 10 June 2010, <http://www.unhcr.org/refworld/docid/4c108a552.html>; Minority Rights Group International, *Pakistan: Minorities at Risk in the North-West*, 11 August 2009, p. 5, <http://www.unhcr.org/refworld/docid/4a8538702.html>; and WRITENET, *Pakistan: The Situation of Religious Minorities*, May 2009, <http://www.unhcr.org/refworld/docid/4b01856e2.html>.

²⁵⁰ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file. A sharp rise in kidnappings for ransom of members of religious minorities, including Sikhs, has been reported in Peshawar, the capital of the Khyber-Pakhtunkhwa; see Channel 4, *Family appeals for Sikh kidnapped in Pakistan*, 26 February 2010, <http://www.channel4.com/news/articles/uk/family+appeals+for+sikh+kidnapped+in+pakistan/3563957.html>. In January 2010, militants in the Orakzai Agency, FATA, kidnapped three Sikhs and demanded a ransom of 30 million rupees. According to some reports, the militants killed one of the three, Jaspal Singh, on 21 February 2010 when the ransom was not paid by the deadline. The other two were reportedly released by security forces; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. See also *The Economic Times*, *Three Sikhs beheaded by Taliban in Pakistan*, 22 February 2010, http://articles.economictimes.indiatimes.com/2010-02-22/news/28419930_1_aurakzai-agency-taliban-jizya-or-religious-tax; and BBC News, *Kidnapped Pakistani Sikh beheaded in Khyber region*, 22 February 2010, http://news.bbc.co.uk/2/hi/south_asia/8527614.stm.

²⁵¹ It is reported, for example, that the Sikh community in Orakzai Agency, FATA had to pay *jizya* amounting to six million rupees to the militants in return for security; see Dawn, *Terror-hit Sikhs seek compensation*, 6 February 2011, <http://www.dawn.com/2011/02/07/terror-hit-sikhs-seek-compensation.html>. See also Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2010 - Pakistan*, 1 July 2010, <http://www.unhcr.org/refworld/docid/4c33310cc.html>; and Amnesty International, *Amnesty International Report 2010 - Pakistan*, 28 May 2010, <http://www.unhcr.org/refworld/docid/4c03a80cc.html>.

Since 2009, increased Taliban pressure, combined with the climate of insecurity caused by the sustained military offensives against militants in FATA, has led thousands of persons, including hundreds of Sikh families, to flee to other parts of the country.²⁵² Although some Sikh families have since returned to their area of origin, many internally displaced still fear to return to contested areas in the North-West of the country given the continuing capacity of militants to launch attacks against civilians and military personnel.²⁵³ The loss of property or livelihood in the area of origin also reportedly results in reluctance to return.²⁵⁴

According to the Human Rights Commission of Pakistan, attacks against religious minorities, including Sikhs, appear to be on the rise.²⁵⁵ Furthermore, members of the Sikh community reportedly continue to be subject to discrimination, including in the context of employment in senior positions in the public sector, including the armed forces,²⁵⁶ and in the context of admission to higher education.²⁵⁷ There have also been reports of discrimination in accessing relief aid against members of religious minorities, including Sikhs, displaced by the floods of 2010.²⁵⁸

As for Hindus and other religious minorities, no mechanism for the registration of Sikh marriages currently exists. This has particularly detrimental consequences for Sikh women, who, in the absence of proof of valid marriage, cannot obtain passports and are likely to face difficulties in matrimonial or inheritance matters, property transactions, voting, and accessing health care services.²⁵⁹ Illegal expropriations of Sikh religious sites, sometimes for the purposes of commercial exploitation, have also been reported.²⁶⁰

²⁵² See, for example, US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, <http://www.hrcp-web.org/Publications/AR2010.pdf>; and Minority Rights Group International, *Religious minorities targeted by rise in nationalist and extremist groups in South Asia – new report*, 1 July 2010, <http://www.minorityrights.org/10073/press-releases/religious-minorities-targeted-by-rise-in-nationalist-and-extremist-groups-in-south-asia-new-report.html>. Most of them have reportedly moved to Peshawar, and further east to cities in Punjab province; see BBC News, *Kidnapped Pakistani Sikh beheaded in Khyber region*, 22 February 2010, http://news.bbc.co.uk/2/hi/south_asia/8527614.stm; and The Economic Times, *Three Sikhs beheaded by Taliban in Pakistan*, 22 February 2010, http://articles.economicstimes.indiatimes.com/2010-02-22/news/28419930_1_aurakzai-agency-taliban-jiziya-or-religious-tax.

²⁵³ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; .

²⁵⁴ The Sikh community of Orakzai Agency, FATA, has reportedly demanded compensation for the losses they suffered during the counter-terrorism campaigns against militants. It is reported that at least 26 houses, 18 shops and some factories belonging to the Sikh community in the Orakzai agency were destroyed by the militants; see Dawn, *Terror-hit Sikhs seek compensation*, 6 February 2011, <http://www.dawn.com/2011/02/07/terror-hit-sikhs-seek-compensation.html>.

²⁵⁵ Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>.

²⁵⁶ See, for example, WRITENET, *Pakistan: The Situation of Religious Minorities*, May 2009, <http://www.unhcr.org/refworld/docid/4b01856e2.html>.

²⁵⁷ Members of the Sikh community reportedly face obstacles in securing admissions at college and university level as they are required to obtain a certificate of permission from the Evacuee Trust Property Board, allegedly a lengthy process that discouraged Sikhs from pursuing higher education; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

²⁵⁸ See, for example, Atif Malik, *Denial of flood aid to members of the Ahmadiyya Muslim community in Pakistan*, Health and Human Rights: An International Journal [Online], Volume 13 Number 1, 13 July 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/Full_report_160.pdf; Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, <http://www.hrcp-web.org/Publications/AR2010.pdf>; and IRIN, *Pakistan: Minorities test aid impartiality*, 8 September 2010, <http://www.unhcr.org/refworld/docid/4c8df239c.html>.

²⁵⁹ According to the Constitution of Pakistan, all communities are entitled to follow their personal law. Given the lack of codification of personal laws of some religious minorities, family matters, such as marriage, divorce, inheritance, are in reality governed by customary law. A Minority Protection Bill, addressing the family law of Hindus, Sikhs and Baha'is, was presented before the National Assembly at the end of 2010. The law failed to materialized because of lack of official interest; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; and US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. However, the federal Government has reportedly directed the National Database and Registration Authority to register Sikh marriages; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>.

²⁶⁰ On 24 March 2011, members of the Sikh community staged a protest in Lahore, Punjab, against the Evacuee Trust Property Board (ETPB) administration for allegedly having failed to stop the construction of a commercial centre over Gurdwara Deewan Khana land; see Pakistan Hindu Post, *Sikhs protest against plaza construction on gurdwara land in Pakistan*, 24 March 2011, <http://pakistanhindupost.blogspot.com/2011/03/sikhs-protest-against-plaza.html>. Gurdwaras are Sikh temples or places of worship. See also US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. It should be noted that the sale of gurdwara land is prohibited under Section 138 of the 1925 Sikh Gurdwaras Act, http://www.mha.nic.in/pdfs/Sikh_Gurdwara_Act1925.pdf.

In light of the foregoing, UNHCR considers that members of the Sikh community, particularly in areas where Taliban-affiliated groups are active, may, depending on the individual circumstances of the case, be in need of international refugee protection on account of their religion.²⁶¹

5. *Baha'is*

Officially considered a non-Muslim religious minority,²⁶² the number of followers of the Baha'i faith in Pakistan is currently estimated at 30,000, living mainly in Karachi and Lahore.²⁶³ Although the Constitutional guarantees against interference in the management of religious institutions are generally respected,²⁶⁴ observers note that Baha'is, like Ahmadis, are consistently refused permission to build places of worship by district level authorities, who claim such measures are necessary to maintain public order.²⁶⁵

Like other religious minorities in Pakistan, such as Hindus and Sikhs, Baha'is are not afforded a means to register their marriages.²⁶⁶ The lack of a marriage registration mechanism can have serious repercussions on the ability of Baha'i women to obtain passports or to exercise other civil rights²⁶⁷ and affect legal recourse in matrimonial disputes.²⁶⁸

In light of the foregoing, UNHCR considers that members of the Baha'i community may, depending on the individual circumstances of the case, be in need of international refugee protection on account of their religion.²⁶⁹

6. *Shias*

The largest Muslim minority in Pakistan,²⁷⁰ Shias, are the target of violent attacks by Sunni fundamentalist groups throughout the country.²⁷¹ Sectarian violence between Sunni (Deobandi) and

²⁶¹ For further guidance on religion-based asylum claims, see UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, paras. 17-19, <http://www.unhcr.org/refworld/docid/4090f9794.html>.

²⁶² Baha'is are defined as "non-Muslim" pursuant to Article 260(3)(b) of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>. According to some sources, Baha'is are harassed by mainstream Muslims due to ideological differences. Baha'is believe their founder is the most recent in the line of Messengers of God, contrary to mainstream Muslims who believe Muhammad to be the last and the greatest of the prophets; see WRITENET, *Pakistan: The Situation of Religious Minorities*, May 2009, pp. 32-33, <http://www.unhcr.org/refworld/docid/4b01856e2.html>.

²⁶³ US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>. See also, WRITENET, *Pakistan: The Situation of Religious Minorities*, May 2009, pp. 2 and 32, <http://www.unhcr.org/refworld/docid/4b01856e2.html>.

²⁶⁴ Article 20 of the Constitution of the Islamic Republic of Pakistan (as amended up to 31 July 2004), 10 April 1973, <http://www.unhcr.org/refworld/docid/47558c422.html>.

²⁶⁵ US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

²⁶⁶ According to the Constitution of Pakistan, all communities are entitled to follow their personal law. Given the lack of codification of personal laws of some religious minorities, family matters, such as marriage, divorce, inheritance, are in reality governed by customary law. A Minority Protection Bill, aimed at addressing the family law of Hindus, Sikhs and Baha'is, was presented before the National Assembly at the end of 2010. The law failed to materialize because of lack of official interest; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; and US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

²⁶⁷ It is reported that a Baha'i marriage can however be registered upon an individual petition before the courts; see Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, p. 136, <http://www.hrcp-web.org/Publications/AR2010.pdf>.

²⁶⁸ Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, p. 136, <http://www.hrcp-web.org/Publications/AR2010.pdf>.

²⁶⁹ For further guidance on religion-based asylum claims, see UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, paras. 17-19, <http://www.unhcr.org/refworld/docid/4090f9794.html>.

²⁷⁰ Shias reportedly account for 25 percent of the Muslim population, itself representing 95 percent of the entire population of Pakistan; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

²⁷¹ According to the Pakistan Human Rights Commission, nearly 400 persons were killed and 600 injured in incidents of violence against various Muslim sects in 2011. 77 persons were killed and 179 injured in five suicide attacks believed to have sectarian motives. The most devastating sectarian attacks were conducted in Karachi, Lahore, Quetta, Hangu and Nowshera districts of Khyber Pakhtunkhwa, and Mastung in Balochistan; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. During last year, Human Rights Watch has recorded at least 18 sectarian attacks on Shia. Hundreds of Shia have reportedly been killed across Pakistan by alleged Sunni extremists in the last few years, at least 275 Shias, mostly of Hazara ethnicity, in the southwestern province of Balochistan alone since 2008; see Human Rights Watch, *Pakistan: Protect Shia Muslims - Hold Accountable Extremist Groups Responsible for Killings*, 3 December 2011,

Shia Muslims is long-standing in Pakistan, dating from the mid-1980s.²⁷² Until the mid-1990s, the majority of the sectarian-motivated attacks took place in Punjab, but violence has since spread to the rest of the country.²⁷³ Although both Sunni²⁷⁴ and Shia militant groups²⁷⁵ have engaged in acts of violence against each other over the years, according to analysts the majority of recent violent attacks were committed by Sunni militants inspired by al-Qaeda's ideology.²⁷⁶

In the last year sectarian violence targeting the Shia minority, including through attacks on Shia processions and religious gatherings and sites, reportedly continued.²⁷⁷ Such attacks were carried out predominantly in the North-West of the country – including in Dera Ismail Khan, Hangu,²⁷⁸ Kohat and Tank districts of Khyber Pakhtunkhwa province, and Kurram²⁷⁹ and Orakzai Agencies in FATA – as well as in urban centres throughout the country – including Gilgit (Northern Areas), Lahore

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- <http://www.hrw.org/news/2011/12/03/pakistan-protect-shia-muslims>. See also US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; and Jamestown Foundation, *Sectarian Violence Escalates in Balochistan as Shi'a Holy Month Approaches*, 21 October 2011, *Terrorism Monitor* Volume: 9 Issue: 38, <http://www.unhcr.org/refworld/docid/4ea548dd2.html>.
- ²⁷² See, for example, Jamestown Foundation, *Pakistani Taliban Widen the Civil War – Against Fellow Deobandis*, *Terrorism Monitor*, 14 April 2011, <http://www.unhcr.org/refworld/docid/4dad7e982.html>; and Lionel Baixas, *Thematic Chronology of Mass Violence in Pakistan, 1947-2007*, *Online Encyclopedia of Mass Violence*, 24 June 2008, http://www.massviolence.org/IMG/article_PDF/Thematic-Chronology-of-Mass-Violence-in-Pakistan-1947-2007.pdf. Several factors reportedly contributed to the increase in the sectarian violence in the 1980s and 1990s, including the formation of Shia and Sunni militant organizations, factionalism within religious parties and militant groups, as well as the Shia-Sunni economic, social and political relations, particularly in Punjab; see Suba Chandran, *Sectarian Violence in Pakistan*, *IPCS Issue Brief No. 9*, August 2003, http://www.ipcs.org/pdf_file/issue/1614934887IB09-SubaChandran-SectarianViolencePak.pdf. For the history and root causes of sectarian violence in Pakistan, see also Muhammad Q. Zaman, *Sectarianism in Pakistan: The Radicalization of Shi'i and Sunni Identities*, *Modern Asian Studies* 32, 3 (1998), pp. 689-716, www.zmo.de/dietrich/Sectarianism.pdf.
- ²⁷³ Lionel Baixas, *Thematic Chronology of Mass Violence in Pakistan, 1947-2007*, *Online Encyclopedia of Mass Violence*, 24 June 2008, http://www.massviolence.org/IMG/article_PDF/Thematic-Chronology-of-Mass-Violence-in-Pakistan-1947-2007.pdf.
- ²⁷⁴ Lashkar-e-Jhangvi and Sipah-e-Sahaba Pakistan are amongst the major militant groups targeting Shias; see BBC News, *Pakistani militants return to roots with Lahore attack*, 2 July 2010, <http://www.bbc.co.uk/news/10491799>; and IRIN, *Pakistan: A guide to main militant groups*, 13 October 2010, <http://www.unhcr.org/refworld/docid/4cb826a512.html>.
- ²⁷⁵ Sipah-e-Muhammad Pakistan (SMP) is a Shia militant group formed in the early 1990s as a response to sectarian violence against Pakistani Shia by militant Sunni movements such as Sipah-e-Sahaba Pakistan (SSP) and Lashkar-e-Jhangvi (LeJ). A splinter group of the Tehreek-Nifaz-i-Fiqh-e-Jafaria (TNFJ), the main politico-religious Shia party in Pakistan and later renamed Tehreek-e-Jafaria Pakistan (TJP), the SMP is attributed with a number of massacres and targeted killings. The SMP was banned by President Pervez Musharraf as a "terrorist" organisation on 14 August 2001; see South Asia Terrorism Portal, *Sipah-e-Mohammed Pakistan*, undated (accessed 20 October 2011), <http://www.satp.org/satporgt/p/countries/pakistan/terroristoutfits/SMP.htm>; Kiran Firdous, *Militancy in Pakistan*, *Institute of Strategic Studies Islamabad*, 2009, http://www.issi.org.pk/publication-files/1299825170_97247252.pdf; and Lionel Baixas, *Thematic Chronology of Mass Violence in Pakistan, 1947-2007*, *Online Encyclopedia of Mass Violence*, 24 June 2008, http://www.massviolence.org/IMG/article_PDF/Thematic-Chronology-of-Mass-Violence-in-Pakistan-1947-2007.pdf.
- ²⁷⁶ See, for example, BBC News, *Pakistan's evolving sectarian schism*, 25 January 2011, <http://www.bbc.co.uk/news/world-south-asia-12278919>.
- ²⁷⁷ For examples of attacks, see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>; US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; BBC News, *Pakistan's evolving sectarian schism*, 25 January 2011, <http://www.bbc.co.uk/news/world-south-asia-12278919>; and Refugee Review Tribunal of Australia, *Are there any examples of members of the Turi tribe being targeted for harm in Pakistan's major cities? Please provide recent, relevant information concerning the relocation of Shi'ite Pashtuns from FATA/NWFP to other parts of Pakistan*, 14 January 2011, <http://www.mrt-rrt.gov.au/ArticleDocuments/100/PAK37775.pdf.aspx>.
- ²⁷⁸ In mid-January 2011, an explosion killed 11 and injured at least 10 persons travelling on a bus in Hangu district, Khyber Pakhtunkhwa Province. Six of the passengers were allegedly going to the High Court in Peshawar to testify in a bombing case in which a Shia gathering was targeted in 2010. Orakzai Agency is reportedly a Taliban stronghold, while Kurram Agency has a predominantly Shia population. Hangu, which serves as the base camp for Pakistani troops conducting operations in Orakzai region, has a large Shia Muslim population and has been the scene of numerous sectarian clashes between Shia and Sunni Muslims over several years; see BBC News, *Bus bombing kills 11 in Pakistan*, 17 January 2011, <http://www.bbc.co.uk/news/world-south-asia-12203804>.
- ²⁷⁹ On 28 February 2012 an attack on a bus in Kohistan in northern Pakistan, allegedly by militants disguised in military fatigues, left at least 18 Shia Muslims dead, while on 17 February, more than 30 people were killed or wounded in a suicide bomb attack on a mosque in a mainly Shia neighbourhood in the Kurram tribal region; see UN News Service, *UN rights experts urge Pakistan to end sectarian violence, protect minorities*, 2 March 2012, <http://www.unhcr.org/refworld/docid/4f5725c82.html>; and Agence France Presse, *18 dead in Pakistan sectarian bus ambush*, 28 February 2012, <http://reliefweb.int/node/479382>. In early 2011, gunmen from the North Waziristan tribal region kidnapped 20 Shia residents of Kurram; see BBC News, *Convoy in Pakistan Kurram agency ambushed by gunmen*, 25 March 2011, <http://www.bbc.co.uk/news/world-south-asia-12664454>. In July 2010, at least 16 Shia died following an attack on a civilian convoy in the Kurram Agency, FATA; see BBC News, *Militants kill 16 in Pakistan convoy ambush*, 17 July 2010, <http://www.bbc.co.uk/news/world-south-asia-10671312>. Also in July 2010, 11 Shia travelling on a bus from Kurram to Peshawar were killed following an attack; see BBC News, *Pakistani tribesmen killed on 'safe' Afghan diversion*, 10 July, 2010, <http://www.bbc.co.uk/news/10586534>.

(Punjab province),²⁸⁰ Karachi (Sindh province)²⁸¹ and Quetta (Balochistan province).²⁸² Sectarian violence has resulted in hundreds of deaths and large-scale displacements from Kurram.²⁸³ Tensions and clashes between Shia and Sunni tribes in Kurram Agency kept the main road linking the region to the rest of the country blocked throughout 2010 and 2011 (with the exception of a brief reopening in February 2011),²⁸⁴ thereby impeding access to provisions as well as healthcare services.²⁸⁵ Incidents of violence against the Shia minority continued in 2011 in Pakistan's Kurram tribal agency,²⁸⁶ despite an alleged peace deal between the Taliban and Shia tribes in the area brokered by Pakistani security forces in February 2011.²⁸⁷ By October 2011, over 100 Hazara Shias were reportedly killed in targeted attacks in Balochistan province alone and large numbers were reported to be fleeing the province.²⁸⁸

²⁸⁰ On 23 January 2012, a blast which occurred near a Shiite religious procession in Lahore, reportedly killed three and injured five; see Reuters, *FACTBOX-Security developments in Pakistan, Jan 23*, 23 January 2012, <http://reliefweb.int/node/472129>. A week earlier, on 15 January 2012, 16 participants in a Shiite procession were killed and 20 injured in a bomb explosion; see Agence France-Presse, *Pakistan bomb kills 16 in Shiite procession*, 15 January 2012, <http://reliefweb.int/node/470486>; see also BBC News, *Pakistan blast: Shias killed in Khanpur procession*, 15 January 2012, <http://www.bbc.co.uk/news/world-asia-16567052>. On 25 January 2011, twin bomb blasts targeting Shia processions in Lahore and Karachi, killed at least 14 people and injuring more than 50. The Taliban claimed responsibility for the attacks, seen as retaliation for military operations in northwest Pakistan; Voice of America, *Twin Bomb Blasts Kill 14 In Pakistan*, 25 January 2011, <http://www.voanews.com/english/news/-Twin-Bomb-Blasts-Kill-14-In-Pakistan-114574194.html>; and BBC News, *Pakistan: Lahore and Karachi bombings toll rises*, 26 January 2011, <http://www.bbc.co.uk/news/world-south-asia-12287239>.

²⁸¹ In January 2012, three Shia lawyers were reportedly killed in the vicinity of the Karachi city court; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. In November 2011, two persons were reportedly killed and two wounded in an exchange of fire between Shia and Sunni militant groups; see Reuters, *FACTBOX-Security developments in Pakistan, Nov 27*, 27 November 2011, <http://reliefweb.int/node/461523>. In February 2010, suspected Sunni militants carried out a double bomb attack on Shia pilgrims in the city of Karachi. The militants reportedly hit a bus carrying the pilgrims and then targeted a hospital treating the victims of the first attack, killing 33 persons and injuring dozens more; see BBC News, *Thousands mourn Karachi bomb dead*, 6 February 2010, http://news.bbc.co.uk/2/hi/south_asia/8501607.stm.

²⁸² On 29 November 2011, a Shia university professor was killed in an alleged sectarian attack by unidentified men in Quetta; see Human Rights Watch, *Pakistan: Protect Shia Muslims - Hold Accountable Extremist Groups Responsible for Killings*, 3 December 2011, <http://www.hrw.org/news/2011/12/03/pakistan-protect-shia-muslims>. Three Shia Muslims reportedly gunned down in a suspected sectarian attack in Balochistan province in December 2011; see Reuters, *FACTBOX-Security developments in Pakistan, Dec 15*, 15 December 2012, <http://reliefweb.int/node/465278>. On 4 October 2011, at least 12 persons were killed and six wounded in an attack on a bus carrying mostly Hazara Shia Muslims on the outskirts of Quetta. The attackers forced the passengers off the bus, made them stand in a row, and opened fire, killing 13 and wounding six others. Two weeks earlier, on 19 September, near the town of Mastung in Balochistan, gunmen forced about 40 Hazara Shia who had been traveling by bus to Iran to visit Shia holy sites to disembark, shot 26 dead, and wounded six. Three others were killed as they tried to bring victims to a hospital in Quetta. Lashkar-e Jhangvi claimed responsibility for the 19 September attack; see Human Rights Watch, *Pakistan: Prevent Targeted Killings of Shia Muslims*, 4 October 2011, <http://www.unhcr.org/refworld/docid/4e8ea0602.html>; Radio Free Europe/Radio Liberty, *Gunmen kill 12 Shi'ite Muslims in Pakistan*, 4 October 2011, <http://www.unhcr.org/refworld/docid/4e9ea77f26.html>; and Radio Free Europe/Radio Liberty, *Shi'a shot dead in Pakistan en route to Iran*, 22 September 2011, <http://www.unhcr.org/refworld/docid/4e8973fb23.html>. While the authorities claimed to have arrested dozens of persons, no one has reportedly been charged in connection with these attacks; see Human Rights Watch, *Pakistan: Protect Shia Muslims - Hold Accountable Extremist Groups Responsible for Killings*, 3 December 2011, <http://www.hrw.org/news/2011/12/03/pakistan-protect-shia-muslims>. On 23 September 2011, three Shia Hazaras were killed outside Quetta after their car was stopped by Sunni extremists; see Jamestown Foundation, *Sectarian Violence Escalates in Balochistan as Shi'a Holy Month Approaches*, 21 October 2011, *Terrorism Monitor* Volume: 9 Issue: 38, <http://www.unhcr.org/refworld/docid/4ea548dd2.html>. At least eight persons were reportedly killed and 10 wounded in a shooting attack on a Shia group in the city of Quetta on 5 May 2011; see BBC News, *Pakistan: Eight killed in Quetta explosion*, 6 May 2011, <http://www.bbc.co.uk/news/world-south-asia-13305726>; and Radio Free Europe/Radio Liberty, *Deaths Reported In Attack On Shia In Pakistan's Quetta*, 6 May 2011, http://www.rferl.org/content/at_least_five_dead_in_attack_in_pakistan_quetta/24093011.html. In early September 2010, the Pakistani Taliban claimed responsibility for two attacks on Shia processions in Quetta and Lahore that left more than 100 dead and hundreds of injured. See also BBC News, *Pakistan mourns as Lahore bombing toll rises to 31*, 2 September 2010, <http://www.bbc.co.uk/news/world-south-asia-11161486>; and BBC News, *Quetta rally suicide bomb kills dozens*, 3 September 2010, <http://www.bbc.co.uk/news/world-south-asia-11182475>. In April 2010, 10 persons were killed and 35 injured in a suicide attack at a hospital in the city of Quetta. The police suspected the incident was the result of sectarian violence against the Shia minority; see BBC News, *Bomb blast hits hospital in Quetta, Pakistan*, 16 April 2010, http://news.bbc.co.uk/2/hi/south_asia/8624854.stm.

²⁸³ See, for example, IRIN, *Pakistan: Driven out of Kurram Agency by violence*, 17 May 2011, <http://www.unhcr.org/refworld/docid/4dd5f7f05.html>.

²⁸⁴ See, for example, IRIN, *Pakistan: Driven out of Kurram Agency by violence*, 17 May 2011, <http://www.unhcr.org/refworld/docid/4dd5f7f05.html>.

²⁸⁵ See, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, <http://www.hrcp-web.org/Publications/AR2010.pdf>.

²⁸⁶ For example, on 25 March 2011, at least seven bus passengers, all Shia, were gunned down by unknown assailants in Kurram Agency. Also, in mid-March gunmen attacked a passenger bus travelling along the same road but in the neighbouring Hangu district, killing 11 persons; BBC News, *Convoy in Pakistan Kurram agency ambushed by gunmen*, 25 March 2011, <http://www.bbc.co.uk/news/world-south-asia-12664454>; and Radio Free Europe/Radio Liberty, *Shi'a Killed In Bus Attack In Pakistan's Kurram Agency*, 26 March 2011, www.rferl.org/content/pakistan_bus_attack/3538003.html.

²⁸⁷ It is reported that militant groups in other tribal areas have carried out a number of attacks in an effort to undermine the peace deal; see BBC News, *Convoy in Pakistan Kurram agency ambushed by gunmen*, 25 March 2011, <http://www.bbc.co.uk/news/world-south-asia-12664454>.

²⁸⁸ For example, in May 2011, a targeted gun-and-rocket attack resulted in the death of six Hazaras in Quetta; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>. It is reported that over

Law enforcement authorities are reportedly unable or unwilling to protect members of religious minorities, including Shias.²⁸⁹ 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.²⁹⁰

In light of the foregoing, UNHCR considers that members of the Shia community, particularly those in areas where Taliban-affiliated groups are active, such as the northwest of Pakistan and in urban centres, may, depending on the individual circumstances of the case, be in need of international refugee protection on account of their religion and/or (imputed) political opinion.²⁹¹

7. Sufis / Barelvis

The Barelvi movement²⁹² is the prevailing form of Sunni Islam among the non-Pashtun population in Pakistan.²⁹³ Barelvis follow many Sufi²⁹⁴ rites and practices, including veneration of saints / shrine-worshipping, and devotional singing and dancing.²⁹⁵ The Deobandi school of Islam, to which the Taliban and other Sunni fundamentalist groups subscribe, consider Sufi practices and ritual as un-Islamic and against the tenets of the religion.²⁹⁶

Since the late 2000s, Sufi followers²⁹⁷ and their religious sites have increasingly come under attack by Taliban-aligned militants. This is compounded by the reported inability of the State to provide effective protection against such attacks.²⁹⁸ On 3 April 2011, a double suicide attack by the Tehrik-e-Taliban Pakistan (Taliban) outside a Sufi shrine in Dera Ghazi district of Punjab province, left over 40

600 Hazaras, mostly Shia Muslims, have been killed in Balochistan province since 2000. Widespread fear of harassment, discrimination and killings has driven some Hazara community members living in Quetta to leave the country; see IRIN, *Quetta's Hazara community living in fear*, 7 February 2012, <http://reliefweb.int/node/475157>.

²⁸⁹ In Balochistan, where local militants challenge government authority, but also elsewhere across Pakistan, law enforcement officials are reportedly unwilling or unable to provide protection against attacks on Shia and other vulnerable groups; see, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>; International Federation for Human Rights, *Pakistan: HRCP demands end to growing killings, impunity*, 10 October 2011, <http://www.unhcr.org/refworld/docid/4e9c2a51c.html>; Human Rights Watch, *Pakistan: Prevent Targeted Killings of Shia Muslims*, 4 October 2011, <http://www.unhcr.org/refworld/docid/4e8ea0602.html>; and US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>.

²⁹⁰ In July 2011, the Pakistan Supreme Court released Malik Ishaq, the leader of Lashkar-e Jhangvi, for lack of evidence of his involvement in some 70 murders of Shia Muslims. He was soon re-arrested under public order laws after giving speeches inciting to violence against Shia, but was released again in January 2012 by a Punjab provincial review board; see US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>. See also Human Rights Watch, *World Report 2012 - Pakistan*, 22 January 2012, <http://www.unhcr.org/refworld/docid/4f2007cac.html>.

²⁹¹ For further guidance on religion-based asylum claims, see UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, <http://www.unhcr.org/refworld/docid/4090f9794.html>.

²⁹² The Deobandis and Barelvis are the two major groups of Sunni Muslims in the Indian Subcontinent; see Global Security, *Barelvi Islam*, last updated 7 May 2011, <http://www.globalsecurity.org/military/intro/islam-barelvi.htm>.

²⁹³ Punjab is the stronghold of the Barelvi movement; see Time, *Taliban Targets, Pakistan's Sufi Muslims Fight Back*, 10 November 2010, <http://www.time.com/time/world/article/0,8599,2030741,00.html>; and Global Security, *Barelvi Islam*, last updated 7 May 2011, <http://www.globalsecurity.org/military/intro/islam-barelvi.htm>.

²⁹⁴ Sufism is a mystical Islamic movement encompassing Sunni, Shia and other Islamic groups. It aims at nurturing the spirituality of its followers and others and spreads its message through music, poetry and dancing; see Jamestown Foundation, *Pakistani Taliban Continue Their Campaign against Sufi Shrines*, 22 April 2011, <http://www.unhcr.org/refworld/docid/4db6bf722.html>; Radio Free Europe/Radio Liberty, *Lahore on high alert after shrine attack kills more than 40*, 2 July 2010, <http://www.unhcr.org/refworld/docid/4c56d29328.html>; BBC, *Sufism*, last updated 8 September 2009, http://www.bbc.co.uk/religion/religions/islam/subdivisions/sufism_1.shtml.

²⁹⁵ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Time, *Taliban Targets, Pakistan's Sufi Muslims Fight Back*, 10 November 2010, <http://www.time.com/time/world/article/0,8599,2030741,00.html>; and Global Security, *Barelvi Islam*, last updated 7 May 2011, <http://www.globalsecurity.org/military/intro/islam-barelvi.htm>.

²⁹⁶ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Jamestown Foundation, *Pakistani Taliban Continue Their Campaign against Sufi Shrines*, 22 April 2011, <http://www.unhcr.org/refworld/docid/4db6bf722.html>; and Radio Free Europe/Radio Liberty, *Lahore on high alert after shrine attack kills more than 40*, 2 July 2010, <http://www.unhcr.org/refworld/docid/4c56d29328.html>.

²⁹⁷ For ease of reference, groups adhering to Sufi practices and rituals, including the Barelvis, are referred to collectively as “Sufis”, unless otherwise specified.

²⁹⁸ See, for example, Jamestown Foundation, *Pakistani Taliban Widen the Civil War – Against Fellow Deobandis*, Terrorism Monitor, 14 April 2011, <http://www.unhcr.org/refworld/docid/4dad7e982.html>; and Reuters, *Suicide blasts at Sufi shrine in Pakistan kill 41*, 3 April 2011, <http://uk.reuters.com/article/2011/04/03/uk-pakistan-blast-idUKTRE73218020110403>.

persons dead, including women and children, and more than 100 injured.²⁹⁹ Similarly, on 5 March 2011, nearly ten persons were killed and over 40 injured in an attack at a mosque located in the compound of a Sufi shrine in Nowshera district of the Khyber Pakhtunkhwa province.³⁰⁰ These incidents were the latest in a string of violent attacks targeting Sufi followers and religious sites in the country.³⁰¹ In 2010 alone, major attacks against Sufi sacred sites took place in Lahore (Punjab province),³⁰² Pakpattan (Punjab province),³⁰³ Peshawar (Khyber Pakhtunkhwa province),³⁰⁴ and Karachi (Sindh province)³⁰⁵ resulting in hundreds of civilian casualties.

In light of the foregoing, UNHCR considers that Sufi followers (including Barelvis), particularly those in areas where Taliban-affiliated groups are active, may, depending on the individual circumstances of the case, be in need of international refugee protection on account of their religion or (imputed) political opinion.³⁰⁶

B. Internal Flight or Relocation Alternative

A detailed analytical framework for assessing the availability of an internal flight or relocation alternative (IFA/IRA) is contained in the UNHCR *Guidelines on International Protection No. 4:*

²⁹⁹ See, for example, US Commission on International Religious Freedom, *USCIRF Annual Report 2012 – Countries of Particular Concern: Pakistan*, 20 March 2012, <http://www.unhcr.org/refworld/docid/4f71a674c.html>; Jamestown Foundation, *Pakistani Taliban Continue Their Campaign against Sufi Shrines*, 22 April 2011, <http://www.unhcr.org/refworld/docid/4db6bf722.html>; Radio Free Europe/Radio Liberty, *41 Reported Killed in Pakistan Shrine Suicide Attack*, 4 April 2011, http://www.rferl.org/content/pakistan_bomb_attack/3545541.html. A Taliban spokesman, said that the attack was in retaliation for Government military operations against militants in the northwest of the country; see BBC, *Pakistan Sufi shrine suicide attack kills 41*, 3 April 2011, <http://www.bbc.co.uk/news/world-south-asia-12951923>; and Reuters, *Suicide blasts at Sufi shrine in Pakistan kill 41*, 3 April 2011, <http://uk.reuters.com/article/2011/04/03/uk-pakistan-blast-idUKTRE73218020110403>.

³⁰⁰ See, for example, Jamestown Foundation, *Pakistani Taliban Continue Their Campaign against Sufi Shrines*, 22 April 2011, <http://www.unhcr.org/refworld/docid/4db6bf722.html>.

³⁰¹ For example, in February 2010, gunmen opened fire on a Sufi rally celebrating Eid in Paharpur, Dera Ismail Khan district of the Khyber Pakhtunkhwa Province, killing one person and prompting a mob attack on a seminary of the Deobandi sect; see Daily Times, *7 killed, 44 injured in DI Khan, Faisalabad sectarian violence*, 1 March 2010, http://www.dailytimes.com.pk/default.asp?page=2010%5C03%5C01%5Cstory_1-3-2010_pg1_4; and Agence France Presse, *Sectarian clashes kill seven in Pakistan*, 28 February 2010, <http://news.smh.com.au/breaking-news-world/sectarian-clashes-kill-seven-in-pakistan-20100228-pb2y.html>. A month earlier, in January 2010, Taliban militants blew up six Sufi shrines and exhumed the body of Anwarul Haq, a Sufi spiritual leader in Stori Khel area of Orakzai Agency; see US Department of State, *2010 Report on International Religious Freedom - Pakistan*, 17 November 2010, <http://www.unhcr.org/refworld/docid/4cf2d07550.html>; and Central Asia Online, *Militants blow up shrines, destroy school in tribal areas*, 6 January 2010, http://www.centralasiaonline.com/cocoon/caii/xhtml/en_GB/newsbriefs/caii/newsbriefs/2010/01/06/newsbrief-04. Between March 2009 and July 2010, some 265 persons, mostly from Muslim sects branded as heretical by militant groups (including Sufi followers), were killed in nine attacks in Lahore alone; see Radio Free Europe/Radio Liberty, *Lahore on high alert after shrine attack kills more than 40*, 2 July 2010, <http://www.unhcr.org/refworld/docid/4c56d29328.html>. One of the biggest attacks on religious minorities in the last decade was carried out on a Barelvi conference in Karachi in April 2006. Over 70 people died in the attack, which was allegedly carried out by the Lashkar-e-Jhangvi; see BBC News, *Pakistani militants return to roots with Lahore attack*, 2 July 2010, <http://www.bbc.co.uk/news/10491799>.

³⁰² A double suicide bombing at Pakistan's most important Sufi shrine in Lahore killed over 40 and injured at least 175 persons on 1 July 2010. The Pakistani Taliban claimed responsibility for the bombing; see US Commission on International Religious Freedom, *USCIRF Annual Report 2011 - Countries of Particular Concern: Pakistan*, 28 April 2011, <http://www.unhcr.org/refworld/docid/4dbe90c1c.html>; Radio Free Europe/Radio Liberty, *Lahore on high alert after shrine attack kills more than 40*, 2 July 2010, <http://www.unhcr.org/refworld/docid/4c56d29328.html>; and BBC News, *Deadly blasts hit Sufi shrine in Lahore*, 2 July 2010, <http://www.bbc.co.uk/news/10483453>.

³⁰³ On 25 October 2010, six persons were killed and at least 15 injured in a bomb attack on a famous Sufi shrine in Pakpattan, 190 kilometres south of Lahore, in the province of Punjab; see UPI, *Pakistan condemns fatal Sufi shrine blast*, 26 October 2010, http://www.upi.com/Top_News/Special/2010/10/26/Pakistan-condemns-fatal-Sufi-shrine-blast/UPI-61311288090320/; BBC News, *Milk churn blast at Pakistan shrine*, 25 October 2010, <http://www.bbc.co.uk/news/world-south-asia-11617910>; and The Times of India, *Bomb blast at Sufi shrine in Pakistan kills 6, injures 16*, 25 October 2010, http://articles.timesofindia.indiatimes.com/2010-10-25/pakistan/28254457_1_pakpattan-shrine-abdullah-shah-ghazi.

³⁰⁴ On 22 June 2010, Taliban militants blew up a Sufi shrine in Peshawar. There were no fatalities. Between 2007 and 2009, four other Sufi shrines were targeted in Peshawar; see US Department of State, *July-December, 2010 International Religious Freedom Report – Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>; and Jamestown Foundation, *Pakistani Taliban Continue Their Campaign against Sufi Shrines*, 22 April 2011, <http://www.unhcr.org/refworld/docid/4db6bf722.html>.

³⁰⁵ On 7 October 2010, suicide attacks killed at least nine persons and injured 55 at another Sufi shrine in the city of Karachi; see BBC News, *Deadly blasts hit Sufi shrine in Pakistani city Karachi*, 7 October 2010, <http://www.bbc.co.uk/news/world-south-asia-11495500>. According to later reports, 14 were killed and 60 wounded; see US Commission on International Religious Freedom, *USCIRF Annual Report 2011 - Countries of Particular Concern: Pakistan*, 28 April 2011, <http://www.unhcr.org/refworld/docid/4dbe90c1c.html>.

³⁰⁶ For further guidance on religion-based asylum claims, see UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, <http://www.unhcr.org/refworld/docid/4090f9794.html>.

*“Internal Flight or Relocation Alternative” Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees.*³⁰⁷

In order for an IFA/IRA to be a **relevant** consideration in any given case, the area must be determined to be practically, safely and legally accessible and without factors that would expose the asylum-seeker to a new risk of serious harm, including a serious risk to life, safety, liberty or health, or one of serious discrimination.³⁰⁸

In the context of Pakistan, an IFA/IRA will generally not be available in areas of FATA, Khyber Pakhtunkhwa, as well as Balochistan province, which are currently affected by sustained security and military counter-insurgency operations and retaliatory militant attacks. The availability of an IFA/IRA outside these areas needs to be assessed individually, on the basis of the framework detailed in these Guidelines. Areas considered relatively stable may, nevertheless, be inaccessible in instances where access roads to and from such areas are considered insecure.

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

An IFA/IRA will generally not be relevant where there is a reasonable likelihood that the individual concerned would be subject to criminal prosecution under Pakistan’s blasphemy and/or anti-Ahmadi laws.

For categories of individuals who fear harm as a result of religious norms of a persecutory nature or harmful traditional practices – such as victims of or individuals at risk of forced marriage, forced conversion or honour crimes – and for whom an internal relocation to another part of the country may be relevant, the endorsement of such norms by large segments of society and powerful conservative elements in the local administration needs to be taken into account.

Whether an IFA/IRA is **reasonable** must be determined on a case-by-case basis, taking fully into account the security, human rights and humanitarian environment in the prospective area of relocation at the time of the decision. To this effect, the following elements need to be taken into account: (i) the availability of basic infrastructure, access to essential services, such as sanitation, health care and education, as well as food security in the prospective area of relocation; (ii) the availability of traditional support mechanisms, such as relatives and friends, in the area of prospective relocation;

³⁰⁷ The assessment of the availability of an IFA/IRA requires two main sets of analysis, namely its (i) **relevance** and its (ii) **reasonableness**. In cases where a well-founded fear of persecution has been established in some localized part of the country of origin, the determination of whether the proposed internal flight or relocation area is an appropriate alternative for the individual concerned requires an assessment over time, taking into account not only the circumstances that gave rise to the risk feared, and that prompted flight from the area of origin, but also whether the proposed area provides a safe and meaningful alternative in the future. The personal circumstances of the individual applicant and the conditions in the area of relocation need to be considered; see UNHCR, *Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative” Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, <http://www.unhcr.org/refworld/docid/3f2791a4.html>.

³⁰⁸ See UNHCR, *Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative” Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, paras. 7 and 18-21, <http://www.unhcr.org/refworld/docid/3f2791a4.html>.

³⁰⁹ For further information regarding the structure, organisation, operational capacity and geographical reach of such groups, see South Asia Terrorism Portal, *Terrorist and Extremist Groups of Pakistan*, undated (accessed 20 October 2011), http://www.satp.org/satporgetp/countries/pakistan/terroristoutfits/group_List.htm; IRIN, *Pakistan: Backgrounder on Khyber Agency militancy*, 30 May 2011, <http://www.unhcr.org/refworld/docid/4de499562.html>; and IRIN, *Pakistan: A guide to main militant groups*, 13 October 2010, <http://www.unhcr.org/refworld/docid/4cb826a512.html>.

³¹⁰ See, for example, Asian Human Rights Commission, *The State of Human Rights in Pakistan in 2011*, December 2011, http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-008-2011/at_download/file; Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, <http://www.hrcp-web.org/Publications/AR2010.pdf>; US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>; and International Crisis Group, *Reforming Pakistan’s Broken Judiciary*, 6 December 2010, <http://www.unhcr.org/refworld/docid/4d00dee42.html>.

(iii) the ability of the displaced individuals to sustain themselves, including livelihood opportunities; (iv) the presence of landmines and unexploded ordnance;³¹¹ (v) the criminality rate and resultant insecurity, particularly in urban areas; as well as (vi) the scale of displacement in the area of prospective relocation.³¹² In urban centres, the growing pace of rural-urban migration is reportedly placing increased pressure on basic facilities and services, including access to education, employment, housing, clean drinking water and sanitation. This is accompanied by increasing crime rates.³¹³

For Ahmadis who practice their faith openly or who have been the target of threats and/or attacks by fundamentalist Sunni groups, such as the Pasban Khatme-Nabuwat, there is no viable IFA/IRA given the countrywide reach of such groups, compounded by the reported lack of effective State protection. An IFA/IRA may exceptionally be available for Ahmadis targeted by non-State actors, such as local community or family members, who are unlikely to pursue them outside a particular area in the country. Whether the targeted individual would be readily identifiable in the area of prospective relocation needs to be given careful consideration. An applicant cannot be required or expected to suppress his or her religious beliefs in order to avoid persecution in the prospective relocation area.³¹⁴

Relocation to Rabwah, the spiritual centre of the Ahmadi community and a predominantly Ahmadi-inhabited city, may exceptionally be a viable alternative for Ahmadis with low level profiles. The scarcity of housing and employment opportunities, as well as the fact that the city administration is mainly non-Ahmadi, need to be taken into consideration when assessing the reasonableness of the relocation.³¹⁵ Whether relocation to other urban centres, such as Karachi or Islamabad, may constitute a viable alternative, should be considered on a case-by-case basis.

C. Exclusion from International Refugee Protection

In light of Pakistan's long history of sectarian violence, militancy, and record of serious human rights violations, exclusion considerations under Article 1F of the 1951 Convention may arise in individual asylum claims by members of religious minorities from Pakistan. Exclusion considerations may be triggered if there are elements in the applicant's claim that suggest that he or she may have been associated with or involved in the commission of criminal acts that fall within the scope of Article 1F. Given the potentially serious consequences of exclusion from international refugee protection, exclusion clauses need to be applied on the basis of a full assessment of the circumstances of the individual case.³¹⁶

³¹¹ Pakistan is affected by landmines and other ordnance from the Soviet occupation of Afghanistan (1979–1989) and three wars with India. Districts bordering Afghanistan are also affected by unexploded ordnance (UXO) and improvised explosive devices (IEDs) from more recent conflicts. It is reported that the army conducted demining operations in the area of Chamalang in Balochistan in 2009, in FATA and the Swat Valley the same year. No accurate data exists on the extent of residual contamination, but increasing conflict between the Government and non-State armed groups in 2009 and 2010 has reportedly resulted in new mine use; see Landmine and Cluster Monitor, *Pakistan – Mine Action*, last updated 30 July 2010, http://www.the-monitor.org/custom/index.php/region_profiles/print_theme/366. See also Electronic Mine Information Network, *Pakistan*, undated (accessed 20 October 2011), <http://www.mineaction.org/country.asp?c=137>.

³¹² According to the Pakistan Human Rights Commission, 1.5 million houses in Sindh and over 7,000 houses in Balochistan were destroyed or damaged in the 2011 floods; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>.

³¹³ See, for example, Shair and Rehman, *Economic and Social Dimensions of Rural-Urban Migration in Pakistan: Results from a Recent Survey in the North West Pakistan*, *International Journal of Business and Social Science* Vol. 2 No. 3 [Special Issue - January 2011], pp. 119-126, http://www.ijbssnet.com/journals/Vol.2_No.3_%5BSpecial_Issue_-_January_2011%5D/13.pdf. Over half of the country urban population reportedly lives in slums; see Human Rights Commission of Pakistan, *State of Human Rights in 2011*, 18 March 2012, <http://www.hrcp-web.org/arhrcp.html>.

³¹⁴ UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, para. 19, <http://www.unhcr.org/refworld/docid/3f2791a44.html>.

³¹⁵ Several national jurisdictions have held that Rabwah did not constitute a safe haven for Ahmadis, and that relocation to the city would be a viable alternative in limited circumstances. See, for instance, *RRT Case No. 0903684* [2009] RRTA 757, (Refugee Review Tribunal of Australia) 17 August 2009, <http://www.unhcr.org/refworld/docid/4ac0d9802.html>; *Secretary of State for the Home Department v. IA (Pakistan)* [2008] EWCA Civ 580, (England and Wales Court of Appeal) 22 May 2008, <http://www.unhcr.org/refworld/docid/4836d7682.html>; *RRT Case No. 0800834* [2008] RRTA 165, (Refugee Review Tribunal of Australia) 12 May 2008, <http://www.unhcr.org/refworld/docid/4ac0c0782.html>; and *MJ and ZM (Ahmadis - Risk) Pakistan* CG [2008] UKAIT 00033, (UK Asylum and Immigration Tribunal) 4 April 2008, <http://www.unhcr.org/refworld/docid/4810420d2.html>.

³¹⁶ Detailed guidance on the interpretation and application of Article 1F of the 1951 Convention can be found in UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, HCR/GIP/03/05, 4 September 2003, <http://www.unhcr.org/refworld/docid/3f5857684.html>; and *Background Note on the*

In the context of Pakistan, exclusion considerations may be raised in the cases of members of religious minorities with certain backgrounds and profiles. Careful consideration needs to be given in particular to the following profiles: (i) members of military, police, security and intelligence forces, particularly those involved in counter-terrorism campaigns;³¹⁷ (ii) members of Islamic militant groups,³¹⁸ including Sipah-e-Muhammad Pakistan,³¹⁹ or persons otherwise involved in sectarian violence; (iii) officials in the local and federal administrations; and (iv) members of the judiciary.³²⁰

Potential exclusion due to involvement in the commission of war crimes and serious violations of human rights is of particular relevance.³²¹ Acts reportedly committed by the parties to the various armed conflicts in Pakistan³²² which may give rise to exclusion pursuant to Article 1F(a) include, *inter alia*, abductions and enforced disappearances, indiscriminate attacks on civilians, forced displacement, torture and other cruel, inhuman and degrading treatment, mass killings, extrajudicial

Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees, 4 September 2003, <http://www.unhcr.org/refworld/docid/3f5857d24.html>.

³¹⁷ For further information on violations of international human rights and humanitarian law by all parties to the conflicts in the northwest of Pakistan and Balochistan, see, for example, South Asia Terrorism Portal, *Pakistan Assessment 2011*, undated (accessed 20 October 2011), <http://www.satp.org/satporgtp/countries/pakistan/index.htm>; Amnesty International, *Victims of reported disappearances and alleged extrajudicial and unlawful killings in Balochistan*, 24 October 2010 - 20 February 2011, 23 February 2011, <http://www.unhcr.org/refworld/docid/4d6f527f2.html>; Amnesty International, 'As if Hell Fell on Me': *The Human Rights Crisis in Northwest Pakistan*, 10 June 2010, <http://www.unhcr.org/refworld/docid/4c108a552.html>; International Crisis Group, *Pakistan: Countering Militancy in FATA*, 21 October 2009, <http://www.unhcr.org/refworld/docid/4ae009712.html>; Amnesty International, *Pakistan: Denying the undeniable: Enforced disappearances in Pakistan*, 23 July 2008, <http://www.unhcr.org/refworld/docid/48887e912.html>; International Crisis Group, *Pakistan: The Forgotten Conflict in Balochistan*, 22 October 2007, <http://www.unhcr.org/refworld/docid/471cb7df2.html>; Amnesty International, *Pakistan: Working to Stop Human Rights Violations in the "War on Terror"*, 8 December 2006, <http://www.unhcr.org/refworld/docid/45a2530e2.html>.

³¹⁸ For further information on the main Islamic militant groups in Pakistan and their activities, see South Asia Terrorism Portal, *Terrorist and Extremist Groups of Pakistan*, undated (accessed 20 October 2011), http://www.satp.org/satporgtp/countries/pakistan/terroristoutfits/group_list.htm; Jamestown Foundation, *Sufi Militants Struggle with Deobandi Jihadists in Pakistan*, Terrorism Monitor Volume: 9 Issue: 8, 24 February 2011, <http://www.unhcr.org/refworld/docid/4d67513f2.html>; IRIN, *Pakistan: A guide to main militant groups*, 13 October 2010, <http://www.unhcr.org/refworld/docid/4cb826a512.html>; Amnesty International, 'As if Hell Fell on Me': *The Human Rights Crisis in Northwest Pakistan*, 10 June 2010, <http://www.unhcr.org/refworld/docid/4c108a552.html>; and International Crisis Group, *Pakistan: The Militant Jihadi Challenge*, 13 March 2009, <http://www.unhcr.org/refworld/docid/49be0b242.html>.

³¹⁹ A Shia militant group formed in the early 1990s as a response to sectarian violence against Pakistani Shia by militant Sunni movements, Sipah-e-Muhammad Pakistan (SMP) reportedly directed most of its attacks against militant Sunnis, but also resorted to other tactics, such as reprisal bombings. Banned by President Pervez Musharraf as a "terrorist" organisation on 14 August 2001, the SMP is believed to have lost support and weakened since; see International Crisis Group, *Islamic Parties in Pakistan*, 12 December 2011, <http://www.unhcr.org/refworld/docid/4ee6f6fc2.html>; South Asia Terrorism Portal, *Sipah-e-Mohammed Pakistan*, undated (accessed 20 October 2011), <http://www.satp.org/satporgtp/countries/pakistan/terroristoutfits/SMP.htm>; Kiran Firdous, *Militancy in Pakistan*, Institute of Strategic Studies Islamabad, 2009, http://www.issi.org.pk/publication-files/1299825170_97247252.pdf; and Lionel Baixas, *Thematic Chronology of Mass Violence in Pakistan, 1947-2007*, *Online Encyclopedia of Mass Violence*, 24 June 2008, http://www.massviolence.org/IMG/article_PDF/Thematic-Chronology-of-Mass-Violence-in-Pakistan-1947-2007.pdf. According to some reports, however, the SMP is reorganizing itself to respond to threats from Sunni groups in Karachi; see Dawn, *Karachi's sectarian time bomb*, 8 January 2011, <http://www.dawn.com/2011/01/08/karachi%e2%80%99s-sectarian-time-bomb.html>; as well as carrying out targeted killings of Deobandi clergy; see US Department of State, *July-December, 2010 International Religious Freedom Report - Pakistan*, 13 September 2011, <http://www.unhcr.org/refworld/docid/4e734c75b.html>.

³²⁰ For more information on the lack of independence of the judiciary, see, for example, Human Rights Commission of Pakistan, *State of Human Rights in 2010*, April 2011, <http://www.hrcp-web.org/Publications/AR2010.pdf>; US Department of State, *2010 Country Reports on Human Rights Practices - Pakistan*, 8 April 2011, <http://www.unhcr.org/refworld/docid/4da56d9c8e.html>; and International Crisis Group, *Reforming Pakistan's Broken Judiciary*, 6 December 2010, <http://www.unhcr.org/refworld/docid/4d00dee42.html>.

³²¹ War crimes are serious violations of international humanitarian law (IHL) which entail individual criminal responsibility directly under international law (customary or conventional). Although war crimes were originally considered to arise only in the context of an international armed conflict, it is now generally accepted that war crimes may be committed in non-international armed conflict as well. The International Criminal Tribunal for the former Yugoslavia (ICTY) examined State practice and *opinio juris* on this question and confirmed that customary international law imposes criminal liability for serious violations of common Article 3 of the 1949 Conventions, as well as relevant provisions of Additional Protocol II and rules of customary international law; see *Prosecutor v. Dusho Tadic aka "Dule"*, Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction, IT-94-1, 2 October 1995, para. 134, <http://www.unhcr.org/refworld/docid/47fd520.html>.

³²² Since independence, Pakistan has fought three wars against India, several border disputes with Afghanistan, and an extended border skirmish with India in 1999 and is currently conducting military operations against armed groups along the border areas of Afghanistan. In the past few years, Pakistan has reportedly been engaged in three armed conflicts of a non-international character, i.e. between the military and rebels seeking autonomy in the province of Baluchistan; between the military and Islamic militants along the porous Afghan border; and between the military and suspected Taliban militants in the SWAT valley region; see, for example, Geneva Academy of International Humanitarian Law and Human Rights, *Rule of Law in Armed Conflict, Pakistan: Current conflicts*, last updated 14 April 2011, http://www.adh-geneva.ch/RULAC/current_conflict.php?id_state=166. As of spring 2011, however, Pakistan disagrees with the qualification of the situation in the northern part of the country as a non-international armed conflict; see The Lex Specialis, *Pakistan Denies it is Involved in a Non-international Armed Conflict (NIAC)*, 10 April 2011, <http://lexspecialis.wordpress.com/2011/04/10/pakistan-denies-it-is-involved-in-a-non-international-armed-conflict-niac/>.

and summary executions and forced recruitment for military service and/or labour, including recruitment of children.

Some members of the military, police, security/intelligence services, as well as officials, especially if they have occupied positions of authority, may have been involved in various acts which could give rise to the application of Article 1F of the 1951 Convention. These acts include, but are not limited to, arbitrary arrest, *incommunicado* detention and detention without charge, torture and other cruel, inhuman or degrading treatment, disappearances, politically motivated killings and extrajudicial executions.

For exclusion to be justified, individual responsibility must be established in relation to a crime within the scope of Article 1F. Such responsibility flows from a person having committed or participated in the commission of a criminal act, or on the basis of command/superior responsibility for persons in positions of authority. Defences to criminal responsibility, if any, as well as considerations related to proportionality, apply. It is necessary to consider whether the individual concerned was personally involved in acts of violence or other excludable acts, or knowingly contributed in a substantial manner to such acts. A credible explanation regarding the individual's non-involvement with, or disassociation from, any excludable acts should, absent reliable evidence to the contrary, remove the individual from the scope of the exclusion clauses.