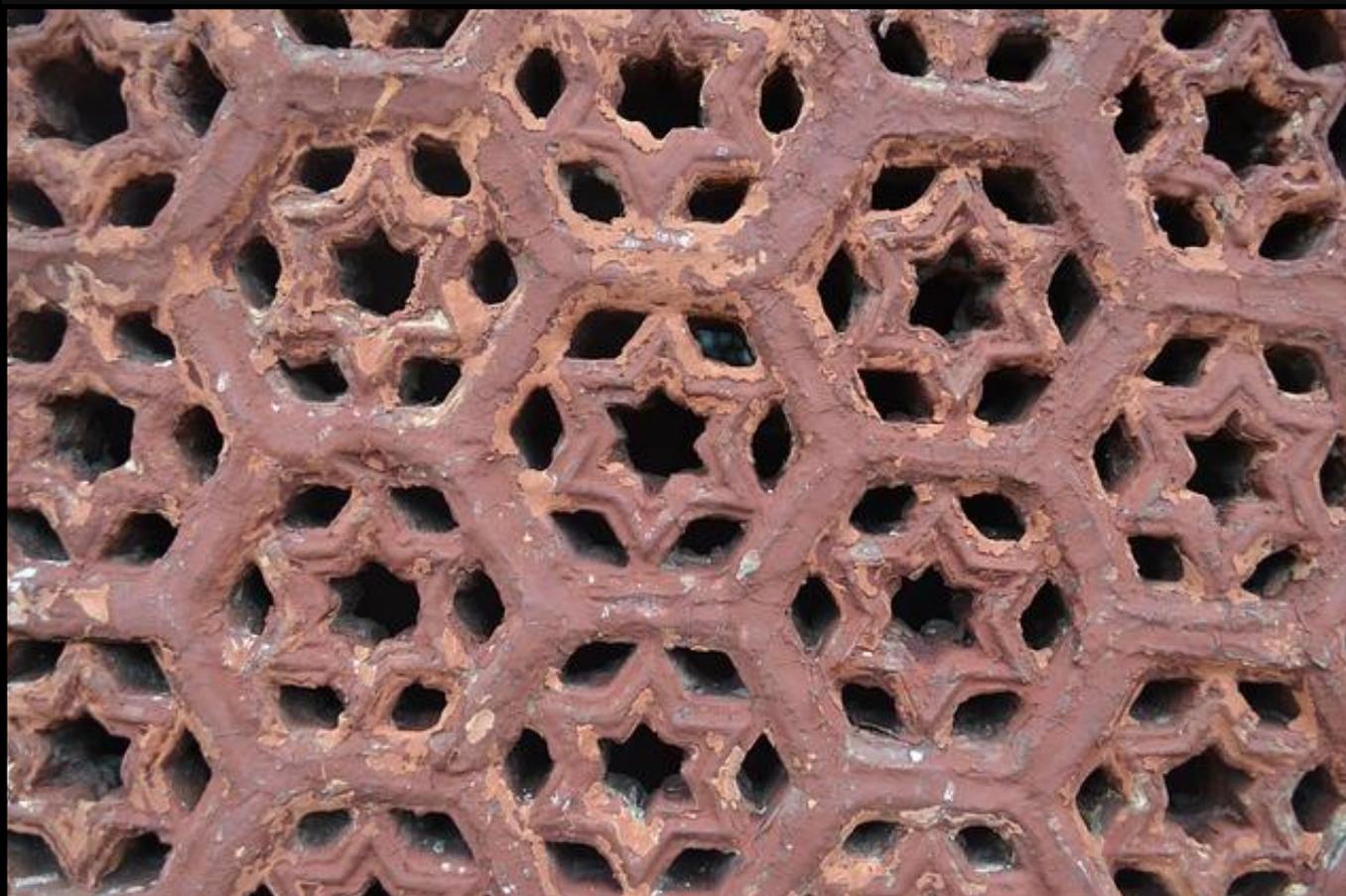


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**Freedom of Religion or Belief in Pakistan & UK
Government Policy: APPG for International
Freedom of Religion or Belief Parliamentary
Inquiry Full Report**



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All Party Parliamentary
Group for International
Freedom of Religion or Belief



**This report is published in tribute to Eric Lubbock, 4th Baron Avebury
(29 September 1928 – 14 February 2016).**

Lord Avebury's unflagging campaigning for human rights for over the last 50-60 years is unparalleled. He was consistently available for the down-trodden and forgotten, assiduously documenting their cases, fearlessly raising his voice on their behalf and tirelessly campaigning to right injustices.

This is a report of the All-Party Parliamentary Group for International Freedom of Religion or Belief (hereafter APPG). It is not been produced by a Select Committee or any other Committee appointed by the House.

This report was published in February 2016. It has been written and edited by: Katharine Thane (Operations Director of the APPG for International Freedom of Religion or Belief), Gurinder Jhans (Research and Events Co-ordinator for the APPG for International Freedom of Religion or Belief) and Prof. Javaid Rehman (Professor of Law, Brunel University London).

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The written submissions made by these individuals can be viewed on the APPG's website at the web link provided in the additional document attached to this abridged report.

The conclusions made in this report, if not directly referenced as stemming from a specific individual or organisation, are those solely of the APPG. The APPG takes full responsibility for its conclusions made in this report.

The report has been made possible by financial support from the APPG's Stakeholders, whose names can be found on the APPG's website at the following web link:
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FOREWORD

I recently saw the portrait of Muhammad Ali Jinnah, the founder of Pakistan, hanging at Lincoln's Inn, where he was called to the Bar, and in the office of the Pakistan High Commissioner in London. The respect in which Jinnah continues to be held is a useful reminder of the shared history of our two countries; the presence of a significant Pakistan diaspora in the UK; and the ideals which influenced Jinnah and his hopes for the new nation created in 1947. As you read the report which follows, think carefully about Jinnah's beliefs and the struggle which will now determine Pakistan's future.

Jinnah did not believe in a theocratic or intolerant ideology: "Make no mistake: Pakistan is not a theocracy or anything like it" he said. It was to be a democracy: "Democracy is in the blood of the Muslims", a place where there would be "complete equality of mankind... fraternity, equality, and liberty". Women were to be treated as equals with men: "Our women are shut up within the four walls of the houses as prisoners. There is no sanction anywhere for the deplorable condition in which our women have to live". And Pakistan was to be a place where people would be free to follow their religious beliefs in freedom and equality: "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 this State of Pakistan. You may belong to any religion, caste or creed—that has nothing to do with the business of the State".

The importance of religious pluralism and freedom of religion or belief – which was about to be incorporated in Article 18 of the 1948 Universal Declaration of Human Rights – was anticipated in a hugely important speech which, in 1947, Muhammad Ali Jinnah gave to the New Delhi Press Club. In his address he set out the basis on which the new State of Pakistan was to be founded. In particular he forcefully defended the right of minorities to be protected and to have their beliefs respected:

"Minorities, to whichever community they may belong, will be safeguarded. Their religion, faith or belief will be secure. There will be no interference of any kind with their freedom of worship. They will have their protection with regard to their religion, faith, their life and their culture. They will be, in all respects, the citizens of Pakistan without any distinction of caste and creed".

It is not only that a society is enriched by difference, and judged by its ability to live and to let live; a society is also liable to become economically impoverished and castrated in its ability to develop when it crushes the human spirit by an insistence on uniformity of belief. Pursuing homogeneity has not led to stability in Pakistan. Grim's research shows that religious freedom is a key ingredient to peace and stability, as measured by the absence of violent religious persecution and conflict. This is 'particularly important for business and, in turn, economic prosperity because stability leads to more opportunity to invest and conduct normal and predictable business operations, especially in emerging and new markets.'¹

Sadly, Jinnah's noble aspirations have been trampled on by men who despise difference and who can find no place in their hearts for those who enliven and enrich communal life. This report catalogues

¹ Grim, B., 'If Policy Makers Cared About Data, They'd Care About Freedom of Religion or Belief (FoRB)', (29 Sept. 2014), available at: <<http://berkeleycenter.georgetown.edu/cornerstone/if-policy-makers-cared-about-data-they-d-care-about-freedom-of-religion-or-belief-forb>>, (accessed: 02/02/16)

how, in today's Pakistan, minorities, ranging from Ahmadis to Sikhs, from Christians to Hindus, Buddhists and Muslims from a Shia tradition, face relentless violence, profound discrimination, and in some cases, outright persecution. The report also highlights the story brought to us at the evidence-hearing sessions of the alleged last self-identifying Jew in Pakistan; a poignant indication of what years of systematic discrimination and alienation of individuals adhering to minority religious beliefs in Pakistan can lead to if such discriminatory or persecutory treatment is not brought to an end.

Jinnah rightly declared that the Government of Pakistan has a duty to protect all of its citizens, regardless of their beliefs or origins. The international community ought to be asking how the State today honours that pledge. The UK needs to ask how it treats those fleeing persecution and what contribution an aid programme, of over £1 billion in the last couple of years alone, has made to fostering a society where difference is respected.

Take the Ahmadis. They have suffered numerous attacks while attending Friday prayers. The vicious brutality of these attacks is magnified when considering the Ahmadis' belief: "love for all and hatred for none". Sadly, too few share the same passion for tolerance. While the Ahmadis consider themselves Muslim and follow all Islamic rituals, in 1974 the State declared them to be non-Muslim and, in 1984, they were legally barred from proselytising or identifying themselves as Muslims. Ali Dayan Hassan of Human Rights Watch believes that Ahmadis have thus become "easy targets" for militant Sunni groups, who behave with impunity believing they have the full authority of the State in declaring Ahmadis to be infidels. Despite repeated attacks on the Ahmadis how many prosecutions of perpetrators have there been?

There is a link here with security issues too. Terrorism Monitor warns that: "As the Pakistani Taliban are trying to spread their war on the Pakistani State, they are likely to continue to target minorities like the Ahmadis in their efforts to create instability".

That threat was brutally (and graphically) underlined by the murder of Pakistan's Minister for Minority Affairs, Mr Shahbaz Bhatti. An advocate of reform of the country's Blasphemy Law - the cause of many bogus prosecutions against non-Muslims and Muslims alike - he was gunned down by self-described Taliban assassins as he left his Islamabad home. His murderers scattered pamphlets, signed 'Taliban al-Qaida Punjab', describing him as a "Christian infidel". The then Foreign Secretary, William Hague, said that Bhatti's death was "a tragic loss for Pakistan and for all people who believe in human rights and freedom of speech". Minister Bhatti's death has not been an isolated incident.

Meanwhile, forced conversions to Islam, rape, and forced marriage remain commonplace. Such intolerance and such virulent attacks pose a grave threat not only to Pakistan, and the region, but also to the UK, where around 1.2 million British-born Pakistani people now reside.

Unlike the authorities who have such a lamentable record in protecting their citizens, Pakistan's own citizens clearly understand from where the threat to their security originates. In an independent 2012 survey, c.87% of those interviewed were dissatisfied with the country's direction and overwhelming

majorities rated terrorism and corruption as a very big problems, which is why we have a duty to speak out for vulnerable and targeted minorities in Pakistan.²

William Hague's predecessor as Foreign Secretary, David Miliband, rightly insisted that: "It is when the international community has taken its eye off the ball in Pakistan that instability has increased... internally, Pakistan has a duty to protect minority groups and needs the support of its allies to do so".

Since he and William Hague made those remarks, the situation has got no better – even within the last two months, reports have reached me of Churches being burnt,³ a 35-year old Christian man dying in prison⁴ and a young girl and boy, in separate incidents, being kidnapped and stripped and gang-raped and murdered respectively due to their perceived religious beliefs.⁵ As this report describes, such treatment of individuals based on their beliefs has led to some of those most persecuted fleeing the country. This fleeing, in turn, has led to some being incarcerated in detention centres or having to live below the radar in locations including Bangkok, constantly in fear of arrest. I have seen this situation first-hand and the lamentable failure of the United Nations High Commission for Refugees to resource the assessment and relocation of these persecuted and vulnerable people, which is a stain on the international community.

In commending this report to those who read it, I would like to pay tribute to Katharine Thane and Gurinder Jhans of the All-Party Group for Freedom of Religion or Belief for their tireless efforts in assembling evidence, organizing witness hearings at Westminster, and drafting this admirable report. Prof. I also pay tribute to Prof. Javaid Rehman who has gone out of his way to make time, in between travels to Pakistan, to ensure the accuracy of the legal and historic contexts within this report. Let me also commend the brave men and women who have been caught in the crossfire of this violence and who have been willing to speak out.

Jinnah would recognize in them the conscience and the best of the Pakistan he worked so hard to create. His 1947 Declaration, promising tolerance, respect and security for the new country's minorities is a vision that needs to be re-inserted into the political mainstream. The grievous plight of Pakistan's minorities is inextricably bound to its destiny as a nation, which is why this report is so timely and so important.

David Alton

(Professor the Lord Alton of Liverpool – Independent Crossbench Member of the House of Lords and Vice Chairman of the All-Party Group on Freedom of Religion or Belief)

² Pew Research Center, 'Pakistani Public Opinion Ever More Critical of U.S.', (27 June 2012), available at: <<http://www.pewglobal.org/files/2012/06/Pew-Global-Attitudes-Project-Pakistan-Report-FINAL-Wednesday-June-27-2012.pdf>>, (accessed: 14/02/16)

³ Saeed, N., 'New Year's Horrific Beginning for Pakistani Christians', (22 Jan. 2016), available at: <<https://www.the-newshub.com/international/new-years-horrific-beginning-for-pakistani-christians>>, (accessed: 01/02/16)

⁴ Christian Solidarity Worldwide, 'Pakistan CSW Calls for Inquiry', (28 Jan. 2016), available at: <<http://www.csw.org.uk/2016/01/28/news/2964/article.htm>>, (Accessed: 01/02/16)

⁵ Saeed, N., 'New Year's Horrific Beginning for Pakistani Christians', (22 Jan. 2016), available at: <<https://www.the-newshub.com/international/new-years-horrific-beginning-for-pakistani-christians>>, (accessed: 01/02/16)

KEY RECOMMENDATIONS

1. In light of the shortcomings and narrow focus of the *AK and SK* Upper Tribunal (Asylum and Immigration Chamber) country guidance case - as outlined in the executive summary below - a new country guidance case regarding Pakistani Christians is urgently required to provide sufficient guidance for Pakistani Christian asylum cases, including for guidance contained in the Home Office Country Information and Guidance (CIG) report on Pakistani Christians and Christian converts. A new country guidance case requires looking closely at different Christian denominations and manifestations of being Christian, including the distinct experiences of Evangelical Christians, Catholic Christians and Christian women, not using findings in relation to one of these groups to provide guidance on the experiences of all Christians in Pakistan.
2. Should the previous recommendation not be immediately viable, the APPG urges the Home Office to limit the conclusions drawn from the *AK and SK* case to providing guidance on its own facts – i.e. only providing guidance for the consideration of asylum cases regarding Pakistani Evangelical Christians facing blasphemy charges lodged by non-State actors.
3. The UK Home Office should note and reflect in its Country Information and Guidance the conclusions drawn in this report that the members of Ahmadiyya, Christian and Hindu communities in Pakistan face very similar real risks of persecution, the likelihood of which depends on the individual's encounters with and actions amongst people of other/different faiths or beliefs. Just as the *MN and Others* country guidance case and the Home Office Country Information and Guidance Report on Ahmadis recognise that Ahmadis, dependent on their individual circumstances, do face a real risk of persecution, the same understanding should be applied in guidance on Pakistani Christians and Hindus. (See Sections 4-5 of the full report.)
4. To avoid statements that are sweeping in nature, not representative of the summary guidance and not supported by either the background evidence contained in UK Home Office Country Information and Guidance reports (CIGs) or in the wider range of independent sources that report on conditions in Pakistan, policy summaries in CIGs should not be used.
5. The UK Home Office should take account of judicial findings and objective information on the safety of internal relocation of religious minorities, including Ahmadis, Christians and Hindus in Pakistan. Developments in communications technologies, enabling information to be quickly passed on about individuals targeted by extremist groups, even if they move across the country, as well as strong evidence outlining Pakistani authorities' failure to protect minority religious communities from attack, should be noted by the UK Home Office and its CIGs amended accordingly. (See Sections 7-8 of the full report.)
6. The UK Home Office should ensure that all Home Office staff involved in asylum cases, including interviewers, interpreters, case workers and presenting officers, are sufficiently sensitised to and trained in the different religious doctrines and terminologies of religious denominations in Pakistan, as well as the cultural contexts which have enabled and supported the persecution of members of Pakistan's minority religious communities. This

depth of understanding is particularly needed so that the religious and cultural contextual meaning behind the asylum applicant's words can be clearly conveyed and understood.

7. In cases where individuals have been granted asylum on grounds of religious persecution, the UK Home Office should fast-track dependents' applications and visas for them to join the successful applicant. While it is of course welcome that dependents are permitted to settle outside Pakistan, the current 3 – 6 month processing period of dependents' applications is a time during which the applicants may also be at real risk of persecution.
8. As a party to the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT), the Pakistani Government should be supported in maintaining its international obligations that include protecting against violations of freedom of religion or belief and repealing punishments (including those for blasphemy convictions) that are inhuman and degrading or amount to torture. The APPG urges the UK Department for International Development, in line with its strategic objectives outlined in the executive summary, to ensure that overseas development aid is provided only to organisations and government departments in Pakistan that can demonstrably prove their understanding of and commitment to upholding Pakistan's international human rights' obligations.
9. The Governments of the UK and Pakistan (in conjunction with the relevant national regulatory bodies) must ensure compliance with the provisions of Article 20 (2) of the International Covenant on Civil and Political Rights both in the UK and Pakistan. In particular, the full force of criminal sanctions need to be deployed in instances of advocacy or support religious hatred amounting to incitement to violence, hostility or discrimination against religious minorities of Pakistan. Such instances include advocacy or support of incitement to violence towards Pakistani religious minorities broadcast on Pakistani media channels in the UK.



INTRODUCTION

Pakistan presents a particularly bleak environment for individuals wishing to manifest their right to freedom of religion or belief. Across the country there are individual and communal cases of discrimination and oppression towards those perceived as not adhering to the ‘orthodox’ religion, which, in some cases, amount to systematic discrimination and persecution. Besieged by allegedly religiously-inspired extremists and religiously-driven terrorism, religious minorities have been the focus of State-sanctioned persecution as well as violent acts perpetuated by non-State actors. Oppressive policies and laws imposed by Pakistani officials at the federal and provincial levels, in conjunction with systematic impunity for violent mob attacks on religious minorities and their properties, provides a dangerous environment for any adherent of a religious belief not deemed ‘orthodox’ by those around them to practise their right to manifest their beliefs.

According to unofficial figures available in 2016, the State has a population of c.191 million, being the world’s sixth most populous country.⁷ Of this population, 96% are Muslims. The remaining 4% are non-Muslims, which includes Christians, Hindus, Buddhists, Sikhs, Jains, Parsis and atheists. Hindus

⁶ Map sourced from: AK & SK (Christians: risk) Pakistan (CG), [2014], UKUT 569 (IAC) (15 December 2014), available at: <<http://www.bailii.org/uk/cases/UKUT/IAC/2014/569.html>>, (accessed: 12/12/15)

⁷ Worldometers, ‘Pakistan Population (live)’, available at: ><http://www.worldometers.info/world-population/pakistan-population/>>, (accessed: 12/12/15)

make up 1.85% of the population,⁸ whilst Christians represent 1.59%.⁹ Members of these religious minorities within Pakistan, regardless of education, wealth and location are discriminated against with some at real risk of serious harm or even acts amounting to persecution, the likelihood of which depends on factors such as their encounters with and actions amongst people of other/different faiths or beliefs. These factors are not exhaustive. With regard to those who have left Pakistan as asylum seekers on the grounds of their faith, UN Special Rapporteur on Minority Issues, Rita Izsák, advances that such individuals ‘*from Pakistan belonging to religious minorities ... [have been] subjected to persecution, discrimination and violence in Pakistan*’.¹⁰

While evidence submitted to the APPG for International Freedom of Religion or Belief at the evidence-hearing sessions suggests that members of the Ahmadiyya community in Pakistan (Ahmadis) are persecuted, not least brought about by the discriminatory laws declaring them to be non-Muslim, this does not inherently diminish the dangers – to the point at which one’s life is at risk – faced by other individuals due to their religious beliefs, including Christians. The APPG recommends that all cases in which an individual is seeking asylum outside Pakistan on the grounds of a well-founded fear of persecution for his or her religious beliefs, should be analysed and judged on a case-by-case basis with the knowledge that such fear, dependent on the case, could be well-founded. Information submitted to the APPG indicates a frequent failure on the part of law enforcers - lawyers, judges and police etc. acting on behalf of the federal or provincial State - to protect members of different religious communities from human rights’ violations perpetrated on the basis of the victim’s faith. This information immediately highlights the inability of such adherents to live safely and without fear of their being persecuted at some point.

⁸ Approximately 3.5 million. Statistic sourced from: AK & SK (*Christians: risk*) Pakistan (CG), [2014], UKUT 569 (IAC) (15 December 2014), para.20, available at: <<http://www.bailii.org/uk/cases/UKUT/IAC/2014/569.html>>, (accessed: 12/12/15)

⁹ Unofficial figures suggest the Christian population to be between 3–5 million. Statistic sourced from: AK & SK (*Christians: risk*) Pakistan (CG), [2014], UKUT 569 (IAC) (15 December 2014), para.216, available at: <<http://www.bailii.org/uk/cases/UKUT/IAC/2014/569.html>>, (accessed: 12/12/15)

¹⁰ Wn.com (2014), ‘UN rights experts urge halt to Sri Lanka’s deportations of Pakistani asylum seekers’, (14 August 2014), accessed at: <http://article.wn.com/view/2014/08/14/UN_rights_experts_urge_halt_to_Sri_Lankas_deportations_of_Pa/>, (accessed: 12/12/15).

EXECUTIVE SUMMARY

This extensive report from the All-Party Parliamentary Group for International Freedom of Religion or Belief (hereafter APPG) on the treatment of different religious groups in Pakistan has been compiled using the evidence of over 20 organisations, lawyers and academics working on the right to freedom of religion or belief in Pakistan. In two evidence sessions on 10-11 November 2015, the APPG heard from organisations and individuals working on the right of Pakistani Ahmadis, Christian, Hindu, Sikh and Jewish communities, constitutionally recognised as ‘non-Muslim’ religious minorities, as well as the Shia Muslim community, to have and practise their religion or belief.¹¹

The Right to Freedom of Religion or Belief & Pakistan’s Obligations

Article 18 of the legally-binding International Covenant on Civil and Political Rights (ICCPR) states:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No-one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Pakistan is a party to the international bill of human rights (consisting of the Universal Declaration of Human Rights (UDHR),¹² International Covenant on Civil and Political Rights (ICCPR)¹³ and International Covenant on Economic, Social and Cultural Rights (ICESCR)¹⁴) as well as several

¹¹ The 1973 Constitution makes a number of references to the term ‘minority’. No definition of this term ‘minority’ has been provided, although Pakistan’s official and constitutional practices have vigorously adopted the position that minorities within Pakistan are essentially religious minorities. (For substantiation on Pakistan’s position see ‘Chapter 5 – Interpretation’ (Art. 260 (3c)) of *The Constitution of the Islamic Republic of Pakistan 1973* (as amended) and the proceedings of Committee on Elimination of All Forms of Racial Discrimination which operates under the auspices of the Convention on the Elimination of All Forms of Racial Discrimination (1965): Pakistan’s Fourth Periodic Report before the Committee (CERD/C/R.90/Add.22) (July 1976), para. 3; Pakistan’s Fifth Periodic Report (CERD/C/20/Add.15) (March 1978), para. 1; Pakistan’s Fourteenth (Consolidated) Report (CERD/C/299/Add.6) (June 1996), para. 12; S Ali, ‘The Rights of Ethnic Minorities in Pakistan: A Legal Analysis’, in S Tierney, (ed.), *Accommodating National Identity: New Approaches to International and Domestic Law*, Kluwer Law International, The Hague, 2000, pp. 189–210.)

¹² 10 December, 1948, UN GA Res. 217 A(III), UN Doc. A/810 at 71 (1948).

¹³ Adopted at New York, 16 December, 1966. Entered into force 23 March 1976. GA Res. 2200A (XXI) UN Doc. A/6316 (1966) 999 U.N.T.S. 171; 6 I.L.M. (1967) 368. (ratified 23 June 2010)

¹⁴ Adopted at New York, 16 December, 1966. 993 U.N.T.S. 3; 6 I.L.M. (1967) 360. (ratified 17 April 2008).

international treaties with provisions relating to the right to religious freedom and religious non-discrimination. While Pakistan initially entered a reservation to ICCPR Article.18 upon ratifying this Covenant in 2010, stating that Article.18 ‘shall only be applied to the extent that it is not repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws’, Prime Minister, Syed Yousaf Raza Gilani, withdrew the reservation to this Article in September 2011.¹⁵ Although the withdrawal of reservations to Article 18 brings the incorporated international treaty in line with the fundamental rights’ provisions in the Constitution of Pakistan 1973, which include upholding the right to equality and non-discrimination and the right to freedom of religion or belief, as subsequently examined in this report, there are considerable impediments in the practical implementation of this right within the domestic framework and in addressing rights-violating actions of non-State actors.

Conclusions Regarding the Treatment of Ahmadis, Christians & Hindus in Pakistan

The APPG concludes that through the substantial volume of information provided to it both orally and in writing, there is a real risk of persecution for members of the Ahmadiyya, Christian and Hindu communities in Pakistan, who are perceived as not adhering to the ‘orthodox’ ideology. Stating that members of these religious communities are at real risk of persecution is not to say that all these individuals inherently have been or will be persecuted during their lifetime; the likelihood of persecution depends on factors such as their encounters with and actions amongst people of other/different faiths or beliefs. These factors are not exhaustive.

As this report details, members of Pakistani Ahmadiyya, Christian and Hindu communities face violations of fundamental human rights, including the right to life and the right to liberty and security. The real risk of persecution is evident from existing national and provincial laws in Pakistan, such as the blasphemy laws under Section 295-C of the Penal Code as well as from practices of law enforcement agencies and judicial officers. The over-arching threat of terrorist violence is particularly acute for the above-mentioned communities since they remain a primary target of non-State actors.

Under the United Kingdom law, that an individual has been persecuted can be established if an act is committed for reasons including the individual’s religion and if it is:

(a) sufficiently serious by its nature or repetition as to constitute a severe violation of a basic human right, in particular a right from which derogation cannot be made under Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms(6); or

(b) an accumulation of various measures, including a violation of a human right which is sufficiently severe as to affect an individual in a similar manner as specified in (a).

And if such an act takes, for example, the form of:

(a) an act of physical or mental violence, including an act of sexual violence;

¹⁵ Pakistan Decides to Withdraw Most of the Reservations on ICCPR, UNCAT, NATION (Pak.) (June 23, 2011), available at: <<http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/national/23-Jun-2011/Pakistan-decides-to-withdraw-most-of-reservations-on-ICCPR-UNCAT>>, (accessed:12/12/5).

- (b) a legal, administrative, police, or judicial measure which in itself is discriminatory or which is implemented in a discriminatory manner;
- (c) prosecution or punishment, which is disproportionate or discriminatory;
- (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment...¹⁶

The APPG submits that Pakistani Christian, Ahmadiyya and Hindu communities are subject to treatment that requires their protection as provided within the UK'S 2006 Qualification Regulations on Refugees of Persons in Need of International Protection.¹⁷ The APPG recommends that cases in which members of these communities seek asylum on the grounds of religious persecution should, in line with UNHCR guidelines, be analysed and judged on a case-by-case basis.¹⁸ The UNHCR has suggested that persecution can be established on 'cumulative grounds'; whereas a single act of discrimination in itself may not be sufficient to establish persecution and claim refugee status, where this is combined with 'other adverse factors (e.g. a general atmosphere of insecurity in the country of origin)' or 'where a person has been the victim of a number of discriminatory measures', this may be enough to cross the threshold for and establish persecution.¹⁹ See Section 1 for the definition of 'refugee' and full analysis of what constitutes 'persecution' under international law.

Conclusions Regarding the Treatment of Sikhs, Jews & Shias in Pakistan

The APPG was also disturbed by the evidence it received from individuals and organisations that highlighted the discrimination, oppression and what was suggested, in some cases, to amount to persecution of Jewish and Sikh communities in Pakistan. Due to the very small size of the Jewish community in Pakistan, the APPG does not believe that it has been able to gather sufficient evidence to conclude whether members of this community are currently at real risk of persecution. Similarly for the Pakistani Sikh community, the APPG does not believe that it currently has sufficient up-to-date evidence to determine whether this community continues to be at real risk of persecution. The APPG recommends that further evidence be gathered on these communities and that all Jewish and Sikh asylum cases being claimed on the grounds of religious persecution be analysed on a case-by-case basis with the cumulative grounds for establishing persecution, as outlined above, being taken into account.²⁰

The APPG was additionally troubled by the evidence submitted by the International Imam Hussein Council, which, according to their findings, suggests that Pakistani Shia Muslims face systematic persecution due to their beliefs. Notwithstanding that Shia Muslims in Pakistan are not, under

¹⁶ *The Refugee or Person in Need of International Protection (Qualification) Regulations 2006* [United Kingdom of Great Britain and Northern Ireland], Statutory Instrument 2006 No. 2525, (18 September 2006).

¹⁷ See Annex 1

¹⁸ UN High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan*, (14 May 2012), HCR/EG/PAK/12/02

¹⁹ UN High Commissioner for Refugees (UNHCR), *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV. 3, paras.52-3

²⁰ *ibid*

Pakistan's Constitution, viewed as a 'religious minority',²¹ as well as in light of the different opinions amongst the Shia communities in Pakistan and around the world regarding their treatment, the APPG believes that it has insufficient evidence to make a considered judgement as to whether Shias in Pakistan are currently at a real risk of persecution. The APPG recommends that, not least in light of the conflict between Sunni and Shia Muslims in many countries across the world, an urgent inquiry be launched by the UK Government to assess the extent of the alleged persecution of Pakistani Shia Muslims and update the Home Office's Country Information and Guidance (CIG) on Pakistani Shias accordingly. The APPG further submits that the current UK Home Office CIG on Pakistani Shias gives rise to a number of issues, including that its 'Policy Summary' makes statements that are sweeping in nature, not representative of the summary guidance and not supported by either the background evidence contained in the CIG or in the wider range of independent sources that report on conditions in Pakistan. See Section 7 for the APPG's full analysis of this CIG. The International Imam Hussein Council's full report, in conjunction with Khudi, can be found on the APPG website at the web link provided

While not being able to provide a conclusion regarding these faith communities, the APPG has nevertheless drawn on the evidence brought to it by organisations including Harif, Justice Upheld, and the International Imam Hussein Council, to inform Section 4 of this report which outlines some of the thematic issues faced by different Pakistani religious groups and Section 5 which builds a picture of the particular difficulties experienced by Hindu, Sikh and Jewish communities in Pakistan.

UNHCR & UK Policy Regarding Pakistan's Religious Minorities

The second half of this APPG report analyses policy regarding members of Pakistan's religious minority groups' seeking asylum abroad on the grounds of persecution for their religion or belief. The APPG commends guidance in the UNHCR's and UK's guidance documents relating to different Pakistani religious communities, which suggest analysis of asylum cases on a case-by-case basis.²² The APPG remains concerned, however, with some of the UNHCR's unofficial policy in the Bangkok detention camp in which Pakistani Christian asylum seekers are detained as well as some of the guidance given in the UK Home Office Information and Country Guidance on Ahmadis, Shias²³ and Pakistani Christians and Christian converts. Likewise, certain procedural aspects of the process that Pakistani asylum seekers must undergo in the UK give the APPG cause for concern. Regarding UK policy, the APPG is, in particular, concerned that the current policy, guidance and procedures, including that found in Home Office CIG reports on Pakistani religious groups, insufficiently reflects the situation faced by members of religious minority communities in Pakistan.

²¹ NB. That the use of the phrase 'religious minority' here refers to communities that have different religious identities from and that are numerically fewer than the Sunni Muslim population, which comprises c.96% of individuals in Pakistan.

²² See e.g. UNHCR, *supra* n.17; UK Home Office, Country Information and Guidance: Pakistan: Christians and Christian converts, (Feb. 2015), para.2.2.3., available at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/402591/cig_pakistan_christians_and_christian_converters_v1_0_2015_02_10.pdf>, (accessed: 15/12/15)

²³ Please refer to Section 7 of the full report for analysis of the UK Home Office Country Information and Guidance report on Pakistani Shia Muslims which can be accessed via the web link provided by the APPG on the document attached to this report.

While the APPG commends the Home Office CIG on Pakistani Ahmadis for recognising the ‘real risk of persecution’ faced by Ahmadis in Pakistan (in line with the *MN and Others*²⁴ Country Guidance case), issues remain with this Home Office CIG. These issues include the assessment that, despite the advancement of communication technologies and the easy transfer of information on the whereabouts of targeted individuals, internal relocation in Pakistan is feasible and safe for members of the Pakistani Ahmadiyya community. The Home Office should take account of guidance provided by the UNHCR in its ‘Eligibility Guidelines for Assessing The International Protection Needs of Members of Religious Minorities from Pakistan’, by international NGOs as well as in the *MN and Others* Country Guidance case, which recognises that Rabwah, the city in which the Ahmadiyya community have their headquarters, does not provide any greater level of safety than anywhere else in Pakistan, and amend the CIG accordingly.²⁵ See Section 7 for further analysis and recommendations relating to the CIG on Pakistani Ahmadis.

The APPG has deep concerns about the Home Office CIG on Pakistani Christians and Christian converts, which has been used by the UNHCR in Bangkok detention camp to justify unduly delaying the granting of asylum to Christians fleeing Pakistan.²⁶ This CIG’s findings rest on the *AK and SK* country guidance case and the judgements contained within this case.²⁷ Unlike *AK and SK*’s findings, and thus those outlined in the Home Office CIG on Christians and Christian Converts, the APPG submits that, like Pakistani Ahmadis, members of Pakistan’s Christian communities are at ‘real risk of persecution’. In light of the evidence heard at the 10-11 November 2015 evidence sessions in Parliament alongside additional research and legal guidance, the APPG adopts the position that following that the findings in the *AK & SK* case, which are reflected in the Home Office CIG on Pakistani Christians and Christian converts, need to be reviewed:

- *That ‘Christians in Pakistan are a religious minority and, in general, suffer discrimination but this is not sufficient to amount to a real risk of persecution’ (AK and SK, Summary, para.1; para.240)*

The APPG submits that the UK Upper Tribunal (Immigration and Asylum Chamber) has misconstrued the meaning of ‘real risk of persecution’ as provided in the guidelines and jurisprudence of the UNHCR. Christians in Pakistan face real threats of persecution in the form of physical violence and psychological torture at the hands of State- and non-State actors. The APPG further submits that in light of the UNHCR guidelines, persistent ‘cumulative grounds’ of discrimination such as those faced by Christians in Pakistan (and detailed in Section of the full online report), amount to ‘persecution’. See Sections 1 and 5 of the full online report.

- *‘Unlike the position of Ahmadis, Christians in general are permitted to practise the faith, can attend church, participate in religious activities and have their own schools and hospitals’ (AK and SK, Summary para.2; para.241)*

²⁴ *MN and others (Ahmadis - country conditions - risk) Pakistan Pakistan v. the Secretary of State for the Home Department*, CG [2012] UKUT 00389(IAC), United Kingdom: Upper Tribunal (Immigration and Asylum Chamber), 13 November 2012.

²⁵ *MN and others*, *supra* n.23, para. 7; UNHCR, *supra* n.17

²⁶ See Section 6 of the full online report for full details regarding Lord Alton’s findings with the unofficial policy used in Bangkok’s Detention camp.

²⁷ *AK and SK*, *supra* n.9

Based on the evidence presented at the hearings, the APPG is of the opinion that the Upper Tribunal erred in its assessment of the prevailing circumstances in Pakistan. Christians are unable to practise their faith in public or to manifest their religion or belief in teaching, practice, worship and observance as guaranteed by the UDHR and ICCPR. See Section 5 of the full online report.

- *Evangelism by its very nature involves some obligation to proselytise. Someone who seeks to broadcast their faith to strangers so as to encourage them to convert may find themselves facing a charge of blasphemy. In that way, evangelical Christians face a greater risk than those Christians who are not publicly active. It will be for the judicial fact-finder to assess on a case-by-case basis whether, notwithstanding attendance at an evangelical church, it is important to the individual to behave in evangelical ways that may lead to a real risk of persecution (AK and SK, Summary para.3; para.242)*

The APPG believes that the Upper Tribunal focused too narrowly on the persecution of evangelical Christians in Pakistan whereas most cases relate to either Christian Catholics or various other denominations of Christians. Based on evidence received during the hearings, the APPG submits that the Upper Tribunal constructed an overly narrow paradigm of assessment of risk in its judgement. The Tribunal has done so, firstly, by focusing on limited aspects of religious practice - i.e. 'behav[ing] in evangelical ways' (para 242) - as encapsulating what it is to be an adherent of the Christian faith, rather than the wider concept of 'being' a Christian, i.e. faith as religious observance rather than as a core component of identity. Such a focus may be inconsistent with case law regarding, for example, the recognition of sexuality as a part of core identity and recognition of sexual identity as a protected characteristic. From such a starting point, any interference, or inability to realise such a characteristic is prohibited and potentially persecutory. It is submitted that this leads to a false dichotomy between those adherents who are 'evangelical' or 'active' and those who are considered not to be and fails to recognise that faith, as it informs identity, permeates and is exhibited in all aspects of individual and communal life. The APPG further submits on this point that the understanding of 'proselytism' has been misconstrued as an action that primarily involves aggressive conversion and not that it may also constitute part of individuals' everyday expression of their beliefs. See Section 5 of the full online report.

- *The risk of interpreting the AK & SK case as only applying in blasphemy cases*

The APPG submits that it is far too narrow a reading of AK & SK to suggest that Christians are only at risk from extremist groups through blasphemy charges, although there is a probability that it will be taken as such. On its facts, AK & SK may appear to be almost exclusively concerned with the consequences to Christians of accusations of blasphemy brought by a militant Islamic group and is thus not concerned with persecution by the State (through persecutory laws enacted by the government). In addition, the Court did not address direct and violent persecution of Christians outside the sphere of Blasphemy; such violence and persecution by non-State actors/extremist groups carries a real and substantial threat to Christians and should have been considered on a factual basis by the Court. See Sections 4-5 of the full online report.

- *Along with Christians, Sunnis, Shias, Ahmadis, and Hindus may all potentially be charged with blasphemy. Those citizens who are more marginalised and occupy low*

standing social positions, may be less able to deal with the consequences of such proceedings (AK and SK, para.243)

The APPG submits that *AK and SK's* (para. 214, 243) statement regarding the differences in treatment of affluent and poor Christians is unfounded. While the higher wealth of the individual may allow some immediate protection, their apparent wealth may even draw attention to them and cause them to be charged with blasphemy, to which the rules after such a charge remain the same for all Christians. See Sections 4-5 of the full online report.

- *The apparent lack of understanding of the reality of practices within Pakistan (AK and SK, para.61)*

The APPG submits that *AK and SK* misconstrued the law and judicial practices of Pakistan. The fact that 'Pakistani law strictly forbids forced conversions' and the Pakistani Supreme Court has supported this might be sufficient to believe that forced conversions are not condoned in Pakistan, demonstrates a lack of reflection of the reality. This is especially evident for individuals involved in the vast majority of cases in lower courts relating to forced conversion, whose judges have and can be intimidated or manipulated. See Sections 4-5 of the full online report.

- *That relocation is normally a viable option unless an individual is accused of blasphemy which is being seriously pursued; in that situation there is, in general, no internal relocation alternative (AK and SK, Summary para.8; para.247)*

Based on the evidence presented, the APPG submits that the Home Office presenters have continued to erroneously suggest that relocation is the option that immigration judges should offer to asylum seekers when their appeals are rejected. Evidence received by the APPG establishes that internal relocation is an unsafe option, especially given new communication technologies developments, which allow information on those targeted by extremist groups to be passed on even if they move across the country. See Sections 7-8 of the full online report.

- *'Like other women in Pakistan, Christian women, in general, face discrimination and may be at a heightened risk but this falls short of a generalised risk. The need for a fact-sensitive analysis is critical in their case. Facts such as their age, place of residence and socio-economic milieu are all relevant factors when assessing the risk of abduction, conversion and forced marriages (AK and SK, para.246)*

The APPG submits that Christian women face persecution and discrimination because they are Christian. Christian women, alongside women of other religious minorities, face a real risk of abduction and are a target of conversion and forced marriage because of their faith. Radical sections of the society, often with impunity from State officials, view conversions of Christian women and their forced marriage to Muslim men as a positive and righteous action. The risk and dangers which women from non-Muslim faiths face are much more direct and substantial. See Sections 4-5 of the full online report.

In light of the above findings and given that the appellants in *AK and SK* have exhausted their right of appeal, the UK Home Office should initiate the process for bringing forward a new country

guidance case that can be used to reassess the situation for all Christians and Christian converts in Pakistan. At the very least, the APPG urges the Home Office to limit the use of the AK and SK case's conclusions to providing guidance on its facts – i.e. only providing guidance for the consideration of asylum cases regarding Pakistani Evangelical Christians facing blasphemy charges lodged by non-State actors.

Implementing Muhammad Ali Jinnah's Vision of a Multi-religious Pakistan

Enabling Pakistan to flourish in the way that Muhammad Ali Jinnah desired requires the above findings, predicated on the research and evidence outlined in the full online report, to be noted and used to inform Home Office and other UK Government departments' policy and action. Change is also required within current national and provincial legislation in Pakistan as well as within the deeply-embedded cultural norms that have given rise to suspicion and hatred of those with different religious beliefs. Both State and non-State actors' pursuit of homogeneity in religious and ideological thought via the suppression of alternative beliefs in Pakistan have not only failed to realise Jinnah's vision for the country, but have enabled a persistent state of insecurity. Grim & Finke's research finds that religious freedom is a key ingredient to peace and stability, as measured by the absence of violent religious persecution and conflict.²⁸ When religious freedom is denied through the regulation of religious profession or practice, Grim and Finke find that "violent religious persecution and conflict will increase.

Conversely, the lifting of restrictions on religious profession or practice should result in less persecution and conflict and consequently more peace and security" – which naturally leads to stability in a state.²⁹ As the Institute for Global Engagement's Dr Chris Seiple finds, by "introducing religious freedom into a society, religious institutions, communities, and individuals are permitted to grow openly in a healthy and constructive manner, which reinforces engagement with governance and the legitimacy of the state. In other words, there is a link between religious freedom and the degree of broader political liberalization and stability within a nation."³⁰

In their November 2015 New Aid Strategy - 'UK Aid: Tackling Global Challenges in the National Interest' - DfID and HM Treasury set four strategic objectives that include 'Strengthening global peace, security and governance' and 'Promoting global prosperity'.³¹ In light of the above research undertaken by Grim, Finke and Seiple, the APPG argues that promoting freedom of religion or belief, and thus religious plurality – in line with Pakistan's international legal obligations - should be prioritised by DfID when engaging with Pakistan. Indeed, Pakistan is one of the main recipients of DfID's financial aid, with the operational plan budget in Pakistan set at £324 million for 2015/16.³² In

²⁸ Grim, B. & Finke, R., *The Price of Freedom Denied: Religious Persecution and Conflict in the 21st Century*, (Cambridge: CUP, 2011), p.217

²⁹ *ibid*, p.6

³⁰ Hertzke, A.D., *The Future of Religious Freedom: Global Challenges*, (Oxford: OUP, 2013), p.324

³¹ HM Treasury, Department for International Development, *UK Aid: Tackling Global Challenges in the National Interest*, (Nov. 2015), p.3, available at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478834/ODA_strategy_fina_l_web_0905.pdf>, (accessed: 12/12/15)

³² UK Aid, 'Development Tracker: Pakistan', available at: <<https://devtracker.dfid.gov.uk/countries/PK>>, (accessed: 12/12/15)

order to fill its strategic objectives, the APPG calls on DfID to ensure that where aid is provided or contracts awarded in Pakistan, it is channelled to civil-society organisations and government programmes that can demonstrate a sophisticated understanding of freedom of religion or belief, and can show how their work will have a positive rather than negative impact in this area.

The APPG further submits that, due to its role in enabling stability, advancing freedom of religion or belief is also necessary within a nation for achieving DfID's strategic objective of 'promoting global prosperity' as well as Sustainable Development Goals 8 and 16.³³ As Georgetown and Brigham Young Universities' research finds, stability is particularly important for business and, in turn, economic prosperity because stability leads to more opportunity to invest and conduct normal and predictable business operations, especially in emerging and new markets.³⁴ The research, which looked at GDP growth for 173 countries in 2011 and controlled for two dozen different financial, social and regulatory influences, found a positive correlation between religious freedom and global competitiveness, as measured by the World Economic Forum's Global Competitiveness Index. One mechanism for this, according to the study, is that entrepreneurs are pushed to take their talents elsewhere because limited religious freedom is also associated with more conflict, less stability, higher overall restrictions on intellectual property rights and other important freedoms. Religious hostilities and restrictions create climates that can drive away local and foreign investment, undermine sustainable development, and disrupt huge sectors of economies. Without pursuing and establishing freedom of religion or belief in Pakistan, which happily helps meet DfID's New Aid Strategy's strategic objectives, the APPG believes that Jinnah's vision of Pakistan will never be realised.

³³ United Nations Development Programme, 'Goal 8: Decent Work and Economic Growth – Promote Inclusive and Sustainable Economic Growth, employment and Decent Work for All', available at: <<http://www.undp.org/content/undp/en/home/sdgooverview/post-2015-development-agenda/goal-8.html>>, (accessed: 02/02/16); United Nations Development Programme, 'Goal 16: Peace, Justice and Strong Institutions - Promote Just, Peaceful and Inclusive Societies', available at: <<http://www.undp.org/content/undp/en/home/sdgooverview/post-2015-development-agenda/goal-16.html>>, (accessed: 02/02/16)

³⁴ Grim, B., *supra* n.1

PART A

LEGAL, POLITICAL & HISTORICAL CONTEXT

SECTION 1

CONCEPTUALISING THE MEANING OF 'PERSECUTION' & THE DEFINITION OF 'REFUGEE'

The legal determination of 'refugee' status and conceptualisation of the meaning of 'persecution' in United Kingdom law is based on international legal obligations undertaken by the United Kingdom as incorporated within domestic laws and practices. These international legal obligations are reflected principally through the UN Convention Relating to the Status of Refugees 1951 (as amended by the 1967 Protocol Relating to Status of Refugees),³⁵ the EU Council Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted³⁶ and existing European human rights standards. The EU Directive commonly referred to as the 'Qualification Directive' is transposed in the United Kingdom through the Refugee and Persons in Need of International Protection (Qualification) Regulations 2006 (SI 2006/2525) and modifications to asylum provisions.³⁷ The European Convention on Human Rights³⁸ provisions are incorporated domestically through the Human Rights Act (1998).³⁹

The UN Convention Relating to the Status of Refugees 1951 (as amended by the 1967 Protocol Relating to Status of Refugees)

According to Article 1 A(2) of the 1951 Refugee Convention (as amended by the 1967 Protocol) a 'refugee' is a person who:

'... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

As provided in the aforementioned definition, a claim for refugee status must be based upon the claimant's 'well-founded fear of persecution' and on the basis of one of the grounds enumerated within Article 1A. The Refugee Convention does not provide a meaning or definition of 'well found fear' or 'persecution'. However, the UNHCR has provided guidelines in the assessment of what constitutes 'well-founded fear' and 'persecution'. Both 'well-founded fear' and 'persecution' have to be assessed on a factual and case-by-case basis. That said, while the decision-makers are required to address whether the claimant's beliefs are reasonable and justified, 'well-founded fear' is nonetheless a subjective concept based on mental state of the

³⁵ 1951 Convention Relating to the Status of Refugees 189 U.N.T.S. 150, entered into force April 22, 1954. 1967 Protocol Relating to the Status of Refugees, 606 U.N.T.S. 267, entered into force Oct. 4, 1967.

³⁶ Council Directive 2004/83/EC of 29 April (2004). OJEU L 304/12 (30.9.2004).

³⁷ See Annex 1.

³⁸ ETS No. 005 213 U.N.T.S. 222, entered into force Sept. 3, 1953, as amended by Protocols.

³⁹ Human Rights Act (1998) 1998 CHAPTER 42, available at: <<http://www.legislation.gov.uk/ukpga/1998/42/>>, (accessed 1 February 2016).

claimant herself and himself. In attempting to provide guidance on ‘well-founded fear’, the UNHCR Handbook suggests that attention should also be paid to the credibility of the claimant’s fear and his or her ability to cope with the persecution suffered. Thus ‘[a]n evaluation of the *subjective element* is inseparable from the assessment of the personality of the applicant, since psychological reactions of different individuals may not be the same in identical conditions.’⁴⁰ This approach is necessary when dealing with such a subjective element of the right. The UNHCR suggests evaluating whether the fear of suffering persecution is reasonable, ‘[e]xaggerated fear, however, may be well-founded if, in all the circumstances of the case, such a state of mind can be regarded as justified’.⁴¹ Whether, the claimant has already been the victim of persecution may also aid him or her in proving that his or her fear of persecution is ‘well- founded’; this, on the other hand, is not a requirement.⁴²

Thus, evaluating whether a claimant’s fear of persecution is justified is subject to a number of conditions, ranging from the physical and psychological health of the claimant to the situation in the country of origin. In light of the substantial evidence accumulated at the hearing and in light of the above guidelines, the APPG recommends a review of the *AK and SK country guidance case* and an amendment in the Home Office Country Information and Guidance Report on Christians and Christian Converts. See the key recommendations (above) for the full recommendations.

As noted above, the 1951 Convention does not define ‘persecution’, thus ensuring that, ‘the elasticity of the definition of persecution depends upon the political will of member States implementing the Convention’.⁴³ Persecution is frequently associated with torture and may also incorporate ‘cruel, inhuman or degrading treatment or punishment’.⁴⁴ The counters of cruel, inhuman and degrading treatment or punishment are malleable and yet to be firmly established. Again, the UNHCR suggests that ‘due to variations in the psychological make-up of individuals and in the circumstance of each case, interpretations of what amounts to persecution are bound to vary’.⁴⁵

Particularly where discrimination is involved the UNHCR has suggested that persecution can be claimed on ‘cumulative grounds’. Whereas an act of discrimination in itself may not be sufficient to claim refugee status, where this is combined with ‘other adverse factors (e.g. a general atmosphere of insecurity in the country of origin)’⁴⁶ or ‘where a person has been the victim of a number of discriminatory measures’,⁴⁷ this may be enough to establish persecution. The two days of hearing provide a plethora of evidence of persistent, sustained and targeted gross acts of overt discrimination towards constitutionally-recognised religious minority groups including Ahmadis, Christians and Hindus. This is reflected in the continuing threats to the lives and wellbeing of religious minorities, physical and violent attacks by non-State actors, attacks,

⁴⁰ UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, HCR/IP/4/Eng REV.I.para. 40. (emphasis provided).

⁴¹ Ibid., para. 41.

⁴² Ibid., para. 45.

⁴³ J Fitzpatrick, ‘Revitalizing the 1951 Convention’ 9 *Harvard Human Rights Journal* (1996) 229 at p. 240.

⁴⁴ Goodwin-Gill and McAdam, *The Refugee in International Law* (Oxford University Press, 2007) at pp.90–91.

⁴⁵ UNHCR Handbook, *supra* n.39, para. 52.

⁴⁶ Ibid., para.53.

⁴⁷ Ibid., para.55.

burnings and forcible exclusion from their homes as well as persistent and real threat of the application of blasphemy laws (should minorities exercise their fundamental human rights of manifestation of their religion or belief as enshrined in Article 18 of the UDHR and Article 18 of the ICCPR).

While refugee status cannot be used as a means to avoid punishment for an offence in the country of origin, there are circumstances where the prosecution of criminal laws by the State or the punishment imposed can amount to 'persecution'. Such a case can be established where e.g. the criminal law offences target a particular religious or racial community. S298-A and S98-B of the Pakistan Penal Code 1860 (as amended) against Ahmaddiyyas present clear examples of the application of criminal laws targeting at a community because of its religion or belief. Furthermore, persecution can also be evidenced inter alia through the procedural application of vague and arbitrary criminal laws or through application of principles contrary to natural justice or in cases where punishment awarded is excessive: the various offences contained in Chapter V of the Pakistan Penal Code (1860) and the evidentiary laws and procedural requirements to secure convictions provide concrete examples.

A further question relates to persecution based on economic discrimination. State practice generally tends to bifurcate between 'economic migrants' and refugees. On the other hand, the line between economic discrimination and denial of fundamental rights is frequently blurred. Discrimination such as instances of deliberate denials of employment or deprivation of opportunities to earn a living should be considered as sufficiently serious to be categorised as persecution.⁴⁸ Other instances of socio-economic rights could be categorised as 'persecution'. Denial of the right to receive education has been recognised as a form of persecution for the purposes of the Convention.⁴⁹ Similarly deliberate and systematic denial of health care could also form the basis of a successful refugee claims. A common thread in the successful reliance on the violations of socio-economic rights is that denials of rights have been deliberate and discriminatory and have been based on one or more grounds as laid out in the 1951 Convention.

As the evidence in the two days of hearings has confirmed, members of religious minorities within Pakistan face serious, substantial and persistent discrimination of socio-economic rights specifically because of their religion or belief. Much like the Ahmaddiyyas, there has been considerable exclusion of Christians, Hindus and Sikhs from the workplace. Ahmaddiyyas, Christians and Hindus are denied employment opportunities with prospects of progression as almost non-existent.

European Law (European Union Law and the European Convention on Human Rights)

The Refugee and Persons in Need of International Protection (Qualification) Regulations 2006 (SI 2006/2525) provides as follows:

⁴⁸ The UK courts have recognized that a person's inability to secure employment for a convention reason, presents a 'serious issue' of an examination as to whether this amounts to persecution. *He v. Secretary of State for the Home Department* [2002] EWCA 1150, [2002] Imm AR 590 at paras 26, 38. Similar position has been advanced by Australian Courts see *Prahastono v. Minister for Immigration and Multicultural Affairs* (1997) 7 FCR 260 at 267.

⁴⁹ See *Ali v Canada (Minister of Citizenship and Immigration)* [1997] 1 FCD 26.

Act of persecution

5.— (1) In deciding whether a person is a refugee an act of persecution must be: (a) sufficiently serious by its nature or repetition as to constitute a severe violation of a basic human right, in particular a right from which derogation cannot be made under Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms(a); or (b) an accumulation of various measures, including a violation of a human right which is sufficiently severe as to affect an individual in a similar manner as specified in (a).

(2) An act of persecution may, for example, take the form of:

(a) an act of physical or mental violence, including an act of sexual violence;

(b) a legal, administrative, police, or judicial measure which in itself is discriminatory or which is implemented in a discriminatory manner;

(c) prosecution or punishment, which is disproportionate or discriminatory;

(d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;

(e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under regulation 7.

(3) An act of persecution must be committed for at least one of the reasons in Article 1(A) of the Geneva Convention.

In relation to actors of protection, Regulation 4 provides as follows:

4.— (1) In deciding whether a person is a refugee or a person eligible for humanitarian protection, protection from persecution or serious harm can be provided by: (a) the State; or (b) any party or organisation, including any international organisation, controlling the State or a substantial part of the territory of the State.

(2) Protection shall be regarded as generally provided when the actors mentioned in paragraph (1)(a) and (b) take reasonable steps to prevent the persecution or suffering of serious harm by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the person mentioned in paragraph (1) has access to such protection.

(3) In deciding whether a person is a refugee or a person eligible for humanitarian protection the Secretary of State may assess whether an international organisation controls a State or a substantial part of its territory and provides protection as described in paragraph (2).

The European Convention on Human Rights (1950),⁵⁰ most provisions of which have been incorporated into the UK law through the Human Rights Act (1998)⁵¹ does not explicitly makes reference to ‘refugees’, protection of ‘refugees’ or provide a meaning of ‘persecution’. That said, the Convention establishes European human rights standards as applied within the United Kingdom. The treaty contains several highly significant principles underlying protection for refugees and asylum-seekers, and as noted in the 2006 regulation defines human rights from which derogation by any member State remains impermissible. Article 15 prevents derogations from the right to life (except in respects of deaths resulting from lawful acts of war) from the prohibition of torture, from the

⁵⁰ ETS No. 005 213 U.N.T.S. 222, entered into force Sept. 3, 1953, as amended by Protocols.

⁵¹ Human Rights Act (1998) 1998 CHAPTER 42 <http://www.legislation.gov.uk/ukpga/1998/42/> <last accessed 1 February 2016>.

prohibition of slavery and retrospective application of criminal laws. Article 3—as a highly significant and relevant article of Convention—has been elaborated to incorporate the principle of non-refoulement. Article 3 provides as follows:

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

The APPG for IForB submits that through the substantial volume of information provided orally and in writing to it, Pakistani Christian, Ahmadiyya and Hindu communities are subject to treatment that, require protection as provided within the UK'S 2006 Qualification Regulations on Refugees of Persons in Need of International Protection.⁵² The APPG concludes that there is a real risk of persecution for members of the Ahmadiyya, Christian and Hindu communities in Pakistan, who are perceived as not adhering to the State ideology. As this report details, members of the Ahmadiyya, Christian and Hindu communities face violations of fundamental human rights including the right to life and the right to liberty and security. The real risk of persecution is evident from existing laws as well as from practices of law enforcement agencies and judicial officers. The overarching threat of terrorist violence is particularly acute for such groups since they remain a primary target of non-State actors.

More specifically, the criminal law provisions, notably those contained within the Pakistan Penal Code (1860), the Hudood laws (1979) and the Qisas and Diyat laws (1990) resulting in convictions that amount to 'torture or to inhuman or degrading treatment or punishment' contrary to Article 3 of the European Convention on Human Rights. The ambiguous and arbitrary application of Pakistan's Blasphemy laws not only breaches Article 18 of the UDHR and Article 18 of ICCPR, but also violates European standards of criminal justice and human rights. The APPG commends guidance suggesting analysis of asylum cases on a case-by-case basis but remains concerned about some of the guidance made in the Home Office Information and Country Guidance on Ahmadis and Pakistani Christians and Christian converts, as well as some of the procedural aspects of the process that Pakistani asylum seekers must go through in the UK.

⁵² See Annex 1

SECTION 2

RELIGIOUS MINORITIES OF PAKISTAN: DEMOGRAPHY AND LEGAL OBLIGATIONS IN RELATION TO FREEDOM OF RELIGION OR BELIEF

In August 1947, Pakistan emerged as an independent State, inheriting those contiguous regions of British India that had a majority Muslim population. The consequence of the partition of British India was a country divided into two wings of unequal sizes—‘West’ and ‘East’ Pakistan with a huge inhospitable neighbour—India—bordering both wings of Pakistan. After a nine months secessionist civil war and a pro-Bengali Indian military intervention, East Pakistan attained sovereign independent status in December 1971 as the People’s Republic of Bangladesh. In its current truncated form, Pakistan is bound by Iran in the west, Afghanistan in the north-west, India in the east and south-east and the Arabian Sea in the South. Pakistan is located in the southern part of Asia. According to unofficial figures available in 2016, the state has a population of c.191 million, being the world’s sixth most populous country.⁵³

Out of the c.191 million population, 96% are Muslims. The remaining 4% are non-Muslims, which includes Christians, Hindus, Buddhists, Sikhs, Jains, Parsis and atheists. Hindus make up 1.85% of the population,⁵⁴ whereas Christians represent 1.59% of the people.⁵⁵ Since 1974, Pakistan’s religious minorities have also included the Ahmaddiyas. As formerly recognised as a religious sect within Islam, Ahmaddiyas were constitutionally declared as non-Muslim by the second Constitutional Amendment (Act) 1974.⁵⁶ Pakistan’s official census does not provide any figures of Muslims sects. However, unofficial figures suggest that Muslims are further sub-divided into the majority Sunnis (consisting of approximately 80%) and the minority Shias representing between Shias 15%-20% of the total population. Almost all of the Sunni Muslims in Pakistan follow the *Hanafi* Islamic school of law, whereas the predominant school amongst *Shais* is the *Ithnā ‘Ashariyyah*.

Pakistan is a party to the international bill of human rights (consisting of the UDHR⁵⁷ ICCPR⁵⁸ and ICESCR)⁵⁹ and several international treaties with provisions relating to the right to religious freedom and religious non-discrimination. As a signatory to the UDHR—an instrument universally recognised as binding upon all States in customary international law—Pakistan is obliged to ensure that all its citizens are without distinction treated ‘equal in dignity and rights’ including ensuring complete equality before the law. Furthermore, Pakistan is committed to following the principles enshrined in Article 18 of the UDHR according to which

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with

⁵³ Worldometers, ‘Pakistan Population (live)’, available at: ><http://www.worldometers.info/world-population/pakistan-population/>>, (accessed: 12/12/15)

⁵⁴ Approximately 3.5 million.

⁵⁵ Unofficial figures suggest the Christian population to be between 3–5 million. *AK and SK case*, para 216.

⁵⁶ The Constitutional (2nd Amendment) Act 1974, Act XLIX 1974.

⁵⁷ 10 December, 1948, UN GA Res. 217 A(III), UN Doc. A/810 at 71 (1948).

⁵⁸ Adopted at New York, 16 December, 1966. Entered into force 23 March 1976. GA Res. 2200A (XXI) UN Doc. A/6316 (1966) 999 U.N.T.S. 171; 6 I.L.M. (1967) 368. (ratified 23 June 2010)

⁵⁹ Adopted at New York, 16 December, 1966. 993 U.N.T.S. 3; 6 I.L.M. (1967) 360. (ratified 17 April 2008).

others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.⁶⁰

On 23 June 2010 Pakistan ratified the ICCPR⁶¹ and CAT.⁶² The ICCPR provides for a number of rights, including, the right of freedom of thought, conscience and religion, a prohibition on incitement to religious hatred, rights of persons belonging to minorities, in addition to non-discrimination and equality before the law. At the point of ratification of the ICCPR, Pakistan entered a reservation, *inter alia*, to article 18, and thereby attempted to limit its scope:

[The] Islamic Republic of Pakistan declares that the provisions of Articles 3, 6, 7, 18 and 19 shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan and the *Sharia* laws.⁶³

Subjected to intense objections from the international community regarding reservations based upon the *Sharia* and constitutional provisions, and immediately risking the European Union's ineligibility criterion of Generalised System of Preferences (GPS Plus Status) the then Prime Minister, Syed Yousaf Raza Gilani, effected the withdrawal of the majority of Pakistan's reservations to the ICCPR including article 18, freedom of religion, in September 2011.⁶⁴ Although, the withdrawal of reservations to article 18 brings the incorporated international treaty in line with the fundamental rights provisions in the Constitution of Pakistan 1973, as subsequently examined in this report, there are considerable impediments in the practical implementation of this right within the domestic framework.

In addition to the international Covenants, as at 1 February 2016, Pakistan has become a party to the following relevant international treaties: Convention on the Prevention and Punishment of the Crime of Genocide,⁶⁵ Convention against Torture (CAT) – is taking place,⁶⁶ International Convention on the Elimination of All forms of Racial Discrimination,⁶⁷ Convention on Elimination of Discrimination Against Women,⁶⁸ the Convention on the Rights of the Children⁶⁹

⁶⁰ 10 December, 1948, UN GA Res. 217 A(III), UN Doc. A/810 at 71 (1948).

⁶¹ Adopted at New York, 16 December, 1966. Entered into force 23 March 1976. GA Res. 2200A (XXI) UN Doc. A/6316 (1966) 999 U.N.T.S. 171; 6 I.L.M. (1967) 368. (ratified 23 June 2010)

⁶² *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, New York, 10 December 1984 United Nations, *Treaty Series*, vol. 1465, p. 85. (ratified 23 June 2010)

⁶³ UNTS

⁶⁴ *Pakistan Decides to Withdraw Most of the Reservations on ICCPR, UNCAT, NATION (Pak.)* (June 23, 2011), <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/national/23-Jun-2011/Pakistan-decides-to-withdraw-most-of-reservations-on-ICCPR-UNCAT>.

⁶⁵ 77 UNTS 277; HMSO, Misc. No (1966), Cmnd 2904 (ratified 10 January 1958)

⁶⁶ *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, New York, 10 December 1984 United Nations, *Treaty Series*, vol. 1465, p. 85. (ratified 23 June 2010)

⁶⁷ *International Convention on the Elimination of All Forms of Racial Discrimination*, New York, 7 March 1966 United Nations, *Treaty Series*, vol. 660, p. 195. 'Pakistan was amongst the very first States to sign the Convention and the third to ratify it' 6th Periodic Report of Pakistan before the Committee, CERD/C/66/Add.10, para 8. (ratified 22 September 1996).

⁶⁸ *International Convention on the Elimination of All forms of Discrimination against Women*, New York, 18 December 1979, *United Nations, Treaty Series*, vol. 1249, p. 13. (ratified 12 March 1996)

⁶⁹ *Convention on the Rights of the Child*, New York, 20 November 1989 United Nations, *Treaty Series*, vol. 1577, p. 3. (Ratified 12 November 1990).

and the Convention on the Rights of the Persons with Disabilities.⁷⁰ Pakistan follows a dualist system of international law. All international treaties signed, ratified or acceded therefore require incorporating legislation for specific enforcement by courts and relevant enforcing agencies. While none of the aforementioned treaties have been specifically and fully incorporated into Pakistan's domestic law, at least in its constitutional provisions, Pakistan has consistently upheld the right to equality and non-discrimination as well as the right to freedom of religion or belief.

Since its independence in August 1947, Pakistan has experimented with a number of constitutions—i.e. the Constitutions of 1956,⁷¹ 1962⁷² and 1973.⁷³ The 1956 Constitution was abrogated after a military coup in 1958, while the 1962 Constitution was annulled after the break-up of Pakistan and the secession of East Pakistan into Bangladesh in December 1971. In so far as the constitutional position of minorities is concerned, only the religious minorities of Pakistan are provided recognition.⁷⁴ The 1973 Constitution makes a number of references to the term 'minority'.⁷⁵ No definition of this term 'minority' has been provided, although Pakistan's official and constitutional practices have vigorously adopted the position that minorities within Pakistan are essentially religious minorities.⁷⁶

According to Article 2 of the Constitution of the Islamic Republic of Pakistan (1973) Islam shall be the State religion of Pakistan. Article 20 of the Constitution provides that:

Subject to law, public order and morality:-

- (a) every citizen shall have the right to profess, practise and propagate his religion;*
- and*
- (b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions*

According to the 1973 constitution of the Islamic Republic of Pakistan, non-Muslims consist of the following: Christians, Hindus and Persons belonging to the Scheduled Castes, Sikhs, Buddhists

⁷⁰ Convention on the Rights of the Persons with Disabilities, New York, 13 December 2006, UN Doc. A/61/488. (Ratified 5 July 2011).

⁷¹ Government of Pakistan, *The Constitution of the Republic of Pakistan 1956*, Government of Pakistan Printing Press, Karachi, 1956.

⁷² Government of Pakistan, *The Constitution of the Republic of Pakistan 1962*, Government of Pakistan Printing Press, Karachi, 1962.

⁷³ Government of Pakistan, *The Constitution of the Islamic Republic of Pakistan 1973*, Government of Pakistan Printing Press, Karachi, 1973.

⁷⁴ See CERD/C/SR 322, March 1977, para. 3; CERD/C/299/Add.6 (June 1996), para. 12.

⁷⁵ See, for example the Preamble, Articles 2(a) and 36 of *The Constitution of the Islamic Republic of Pakistan 1973* (as amended).

⁷⁶ For substantiation on Pakistan's position see the proceedings of Committee on Elimination of All Forms of Racial Discrimination which operates under the auspices of the Convention on the Elimination of All Forms of Racial Discrimination (1965): Pakistan's Fourth Periodic Report before the Committee (CERD/C/R.90/Add.22) (July 1976), para. 3; Pakistan's Fifth Periodic Report (CERD/C/20/Add.15) (March 1978), para. 1; Pakistan's Fourteenth (Consolidated) Report (CERD/C/299/Add.6) (June 1996), para. 12; S Ali, 'The Rights of Ethnic Minorities in Pakistan: A Legal Analysis', in S Tierney, (ed.), *Accommodating National Identity: New Approaches to International and Domestic Law*, Kluwer Law International, The Hague, 2000, pp. 189–210.

and Parsi Communities and other non-Muslims, Persons belonging to the Qadiani group or the Lahori group (the Ahmadis). The preamble, article 2(a) and article 36 while deploying the term, necessarily connotes this term to a number of recognised and specified religious minorities. The preamble declares that '[a]dequate provisions shall be made for the minorities to profess and practice their religions and develop their cultures, [and that] fundamental rights including the equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality [shall be accorded to all citizens].'⁷⁷ The preamble also makes a commitment to protect the legitimate interests of minorities. In order to provide a voice to religious minorities.⁷⁷ The constitution provides for ten additional seats reserved for non-Muslims.⁷⁸

The constitutional right of every citizen to profess, practise and propagate his religion is supplemented by several additional provisions within the constitution of the Islamic Republic of Pakistan (1973). Article 21 provides that '[n]o person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own.'⁷⁹ According to Article 22:

(1) No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own

(2) In respect of any religious institution, there shall be no discrimination against any community in the granting of exemption or concession in relation to taxation.

(3) Subject to law

(a) no religious community or denomination shall be prevented from providing religious instruction for pupils of that community in any educational institution maintained wholly by that community of denomination; and

(b) no citizen shall be denied admission to any education institution receiving aid from public revenues on the ground only of race, religion, caste or place of birth.

(4) Nothing in this Article shall present any public authority from making provision for the advancement of any socially or educationally backward class of citizens.

Article 25 provides inter alia that:

(1) All citizens are equal before law and are entitled to equal protection of law.

(2) There shall be no discrimination on the basis of sex.

The provisions of Article 26(1) establish that:

⁷⁷ See, Preamble, *The Constitution of the Republic of Pakistan 1973*).

⁷⁸ Article 51(4).

⁷⁹ Article 21.

In respect of access to places of public entertainment or resort, not intended for religious purposes only, there shall be no discrimination against any citizen on grounds only of race, religion, caste, sex, residence or place of birth.

Article 27(1) states:

No citizen qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, case, sex, residence or place of birth.

According to Article 28:

Subject to Article 251, any section of citizens having a distinct language, script or culture shall have the right to preserve and promote the same subject to law, establish institutions for that purpose.

Within chapter II of the Constitution relating to Principles of Policy, Article 36 pledges the protection of minorities by safeguarding their 'legitimate rights and interest including due presentation in Federal and Provincial services'.

SECTION 3

HISTORIC OVERVIEW AND CONTEXT OF RIGHT TO FREEDOM OF RELIGION OR BELIEF IN PAKISTAN

'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, 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. Now I think we should keep that in front of us as our ideal and you will find that in course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not so in the religious sense because that is the personal faith of each individual, but in the political sense as a citizen of the State.'

- Mohammad Ali Jinnah, address to the Constituent Assembly, August 11, 1947

Mohammad Ali Jinnah, the founder of Pakistan, had the vision and determination to make Pakistan a home for all religions and all religious minorities. Soon after independence, unfortunately for Pakistan, Jinnah died on 11 September 1948, and with his death the vision of religious tolerance and equality for all also dissipated. The State's relationship with its minorities got increasingly strained with rifts between those wanting to build Pakistan on Jinnah's democratic and liberal model vis-à-vis those championing theocracy becoming more evident.

The gradual ascendancy of the forces of intolerance became apparent from the initial efforts to draft a constitutional and legislative framework. The Objective Resolution of March 1949 (intended as a blueprint for Pakistan's first Constitution) placed sovereignty in the hands of 'God Almighty alone, and the authority which He has delegated to the State of Pakistan through its people for being within the limits prescribed by Him as a sacred trust' implying therefore that Islam and Islamic law could place limits on the mode of governance.⁸⁰ While Pakistan's first indigenous constitution, the Constitution of the Republic of Pakistan 1956, took a tolerant and democratic approach (affirming and guaranteeing fundamental human rights to equality regardless of religion or gender) it was abrogated after the military coup of General Ayub Khan in October 1958.⁸¹ A new constitution was drafted, the Constitution of the Republic of Pakistan 1962.⁸² The State continued to pursue a discriminatory agenda, with exclusionary and discriminatory policies directed more towards the Bengalis (with the considerable Hindu population of

⁸⁰ See M Lau, 'Islam and Judicial Activism: Public Interest Litigation and Environmental Protection in the Islamic Republic of Pakistan', in: A Boyle, M Anderson, (eds.), *Human Rights Approaches to Environmental Protection*, Clarendon Press, Oxford, 1996, pp. 285-302, at p. 289.

⁸¹ *The Constitution of the Republic of Pakistan 1956.*

⁸² *The Constitution of the Republic of Pakistan 1962.*

East Pakistan). With its simmering ethnic, racial and linguistic problems, Pakistan suffered a most traumatic blow with the secession of East Pakistan in December 1971. Although, the Bengali secessionist movement was primarily nationalist, the treatment of non-Muslims, in particular the genocidal campaigns against Hindus was a reminder of the State's hostility of towards its religious minorities. It is estimated that amongst the one million people that were massacred during the secessionist movement, a significant proportion represented the Hindu communities of East Pakistan.⁸³

In the truncated Pakistan, a new Constitution, the Constitution of the Islamic Republic of Pakistan 1973 was introduced. The Constitution deemed Pakistan an Islamic Republic where all laws would be in accordance with the *Sharia* and follow the practices of Islam.⁸⁴ On the other hand, the Constitution did not mandate the Courts to accept challenges to constitutional rights on the basis of their being repugnant to Islamic law. Soon after the implementation of the Constitution, intense political pressure forced Prime Minister Bhutto to authorise a constitutional amendment declaring Ahmadis as non-Muslims.⁸⁵ Fundamental human rights including the freedom of religion and rights of minorities were suspended. General Zia-ul-Haq, who toppled Bhutto's civilian Government through a military coup in July 1977, made the introduction of *Nizam-e-Mustafa* (the system of the Prophet Muhammad) a primary function of his government. With this apparent objective Zia-ul-Haq brought about various constitutional, legislative and administrative changes—changes which were to have a lasting impact on freedom of religion as well as upon the specific position of religious minorities in Pakistan.

The 1973 Constitution had provided for a Council of Islamic Ideology with a largely advisory role. Under the government of Prime Minister Bhutto the Council had remained largely inactive. However, soon after coming into power, General Zia-ul-Haq reconstituted the Council of Islamic Ideology, assigning it the task of reforming the legal and social norms of Pakistan and bringing them in conformity with Islam. A new chapter consisting of Article 203-A to J, was added to the Constitution of Pakistan which allowed for the establishment of a Federal Shariat Court.⁸⁶ The Federal Shariat Court was accorded the jurisdiction to 'examine and decide the questions whether or not any law is repugnant to the injunctions of Islam, as laid down in the *Quran* and *Sunnah* of the Holy Prophet, hereinafter referred to as the injunctions of Islam'.⁸⁷ The decisions of the Federal Shariat Court were made subject to appeal before the 'Shariat Appellate Branch' of the Supreme Court. The Appellate Branch was to consist of three Supreme Court judges as well as two judges drawn from either the Federal Shariat Court or from

⁸³ See R Jahan, *Pakistan: Failure in National Integration* (New York: Columbia University Press) 1972; J Salzberg, 'UN Prevention of Human Rights Violations: The Bangladesh Case' 27 *International Organization* (1973) 115.

⁸⁴ Articles 227–230, *The Constitution of the Republic of Pakistan 1973 (as amended)*.

⁸⁵ The Constitutional (2nd Amendment) Act 1974, Act XLIX 1974.

⁸⁶ *Ibid*, Chapter 3-A; Substituted by the P.O. No. 1, 1980 (with effect from 25 June 1980).

⁸⁷ *Ibid*, Articles 203-D.

amongst the *Ullema*.⁸⁸ In accordance with Presidential Order 14 of 1985, the principles and provisions stated in the Objective Resolution were inserted as a new Article 2A of the Constitution. The Resolution provides, *inter alia*, that ‘adequate provisions shall be made for the minorities freely to profess and practise their religions and develop their cultures’.⁸⁹ The term ‘freely’, however, was deleted implying restrictions imposed by Islamic Law.

These constitutional amendments opened up the possibilities of judicial review based on the compatibility of existing and future laws in relation to *Sharia*. General Zia’s period (1977–1988) witnessed some of the most egregious violations of minority rights. Furthermore, the APPG recognises that the ‘Islamisation’ process had a seriously discriminatory impact on non-Muslims as well as Muslims belonging to Muslim minority sects, such as the Shia Muslims. The most damaging strands of discrimination and persecution were reflected in the form of separate electorates, the Hudood laws, and the anti-blasphemy laws. A more lasting consequence of Zia-ul-Haq’s moves to Islamise Pakistan was to produce a culture of religious intolerance and fanaticism; its long-term impacts are increasingly evident nearly three decades since the passing of General Zia-ul-Haq in 1988. Zia-ul-Haq’s unaccomplished task of implementing the *Sharia* was enthusiastically taken on board by his successors. In his first tenure as Prime Minister (1990–1993), Mr Nawaz Sharif introduced the *Enforcement of the Sharia Act* (1991).⁹⁰ The *Enforcement of the Sharia Act* defining the *Sharia* as ‘Islamic injunctions laid down in the *Quran* and the *Sunnah*’, declared the *Sharia* the supreme law of Pakistan. It further provided that all statute law of the country should be interpreted in the light of the injunctions of Islam. The State was also authorised to Islamise the judicial process and to enact laws to protect the ideology, solidarity, and integrity of Pakistan as an Islamic State.

Acting upon its new-found jurisdiction, in 1991 the Federal Shariat Court in *Muhammed Ismail Qureshi v. Pakistan*⁹¹ held the alternative punishment of life imprisonment as provided in S.295-C as being repugnant to Islam and ordered that this alternative punishment be deleted. In his second term in office (1997–1999), Mr Sharif introduced before the Parliament the fifteenth Amendment to the Constitution (The Shariat Bill) (1998).⁹² This amendment to the Constitution aimed, *inter alia*, to authorise the government to take any steps necessary to implement the *Sharia*. Sharif’s intention of

⁸⁸ *Ibid*, Article 203-F 3(a)(b); See CH Kennedy, ‘Repugnancy to Islam – Who Decides? Islam and Legal Reform in Pakistan’, *International and Comparative Law Quarterly*, Vol. 41, 1992, pp. 769–787.

⁸⁹ The Constitution of the Islamic Republic of Pakistan 1973, Article 2A.

⁹⁰ Government of Pakistan, *The Enforcement of the Sharia Act 1991*, Islamabad, Government of Pakistan, 1991.

⁹¹ *PLD 1991 FSC 10*; Human Rights Commission of Pakistan, *Pakistan: State of Human Rights 1991*, Maktaba Jadeed Press, Lahore, 1992, p. 121; Amnesty International, *Pakistan: Open Letter to Political Parties*, Amnesty International, Index: ASA 33/04/93, London, September 1993.

⁹² Government of Pakistan, *The Fifteenth Amendment to the Constitution, The Shariat Bill*, Government of Pakistan, Islamabad, 1998.

further Islamising Pakistan came to an end through the military coup of General Pervaiz Musharraf in October 1999.

General Pervaiz Musharraf's period, although characterised by his self-styled 'enlightened moderation' nevertheless failed to engender liberalism and democratic values within the body-politic of Pakistan.⁹³ During Musharraf's rule the United States led 'war-on-terror' had a particular focus upon Pakistan, leading to a frequent collision with indigenous religious institutions. Despite significant promises, General Musharraf failed to bring about either liberal reforms or promote the right to freedom of religion or belief. Many religious communities were targeted or repressed under the guise of State's anti-terrorist activities. Members of the religious communities were the primary targets of draconian policies including the extra-judicial killings, the so-called extraordinary renditions and torture. As a reaction to the so-called 'war on terror', Pakistan was engulfed in a series of suicide attacks.⁹⁴ The *Tehrik-e-Taliaban Pakistan* (TTP) was also formed during this time, which aims to dismantle the Pakistani State and to replace it with a system of *Sharia* law. The removal from power of General Musharraf and the ending of military rule has not brought about improvements in safeguarding the right to freedom of religion or belief. In the democratic Pakistan since 2008, firstly under the Pakistan Peoples' Party (2008–2013) and then under the governance of Pakistan Muslim League (Nawaz) (2013–), discriminatory laws such as the blasphemy laws and the *Hudood Ordinances* continue to be deployed.

⁹³ See: Malik, I.A., *Islam Terrorism and the Strategy of Enlightened Moderation* (BiblioScholar, 2012)

⁹⁴ See, for example: Masood, Salman, 'Pakistani Leader Escapes Attempts at Assassination', *The New York Times*, (26 December 2003), available at: <<http://www.nytimes.com/2003/12/26/world/pakistani-leader-escapes-attempt-at-assassination.html>>, (accessed: 15/12/15)

PART B

**WHAT DO MEMBERS OF DIFFERENT RELIGIOUS COMMUNITIES
IN PAKISTAN CURRENTLY FACE?**

SECTION 4

THEMATIC ISSUES

(i) Lack of Political Representation

In Pakistan, there remain distinct concerns for different religious groups' adequate political representation and in employment. There is a 5% quota for government jobs for religious minorities which, in reality, are rarely positions of power to influence policies and laws.⁹⁵ As Legal Evangelical Association Development highlight, 'minorities who initially welcomed the measure are deeply disappointed over non-implementation of the five percent job quota' and are concerned that some government departments are deliberately not advertising jobs to minorities, institutionalising prejudice and ensuring a single governmental narrative.⁹⁶

The Human Rights Commission of Pakistan outlines that Pakistan's electoral laws detailing rules regarding different religious communities' representation are also an extremely pressing issue.⁹⁷ Since independence, the State has interchangeably used joint and separate electorate systems for religious minorities.⁹⁸ The various legal instruments, including Article 51 of the Constitution, outline the electoral laws including eligibility to vote for religious minorities in Pakistan. Out of the 342-member house, 60 seats are reserved for women and 10 for minorities. The 104-seat Senate has four reserved seats for religious minorities, one from each province. As per clause 6(c) of Article 51, the whole country shall be the constituency of seats reserved for non-Muslims. Clause 6 (e) further states that members to the seats reserved for non-Muslims shall be elected through proportional representation on the basis of general seats won by a party as per lists submitted by parties.

Although the move to a joint electorate in 2002 was re-introduced by General Musharraf, after a separate electorate had been in place for 17 years, to bring smaller religious groups into mainstream politics, the current system continues to alienate them.⁹⁹ The joint electorate has created an imbalance, failing to allow religious communities to be proportionally represented as they were under the separate electoral system. Now there are no reserved seats for any one minority group—i.e. all ten parliamentarians from smaller religious communities may become representatives for one group.

In particular, the Ahmadis (declared non-Muslims in 1974 through the Second Constitutional Amendment) face serious discrimination with respect to electoral rights. Notwithstanding the introduction of joint electorates Ahmadis, have been placed on a separate, supplementary voters lists. These separate electorate lists are prepared for Ahmadis who are required to disassociate the title of the Prophet (PBUH), commonly prefaced with names in Pakistan, to appear on the voter

⁹⁵ See British Pakistani Christian Association (hereafter BPCA) submissions to the APPG at:

<https://freedomdeclared.org/in-parliament/pakistan-report/>

⁹⁶ *ibid*

⁹⁷ Human Rights Commission of Pakistan, AGHS Legal Aid Cell, Catholic Commission for Justice and Peace (CCJP), Simorgh, Faiz Foundation Trust, Centre for Civic Education (CCE), *Discrimination Against Religious Minorities in Pakistan: An analysis of Federal and Provincial Laws*, available at: <<https://freedomdeclared.org/in-parliament/pakistan-report/>>, (accessed: 15/12/15)

⁹⁸ *ibid*, p.57

⁹⁹ *ibid*, p.61

lists; a violation of freedom of religion or belief.¹⁰⁰ In order for Ahmadis to take part in election processes, a declaration is required confirming their status as non-Muslims. Since Ahmadis are not prepared to give up their personal beliefs, they are effectively disenfranchised. Furthermore, due to the general societal disapproval of the self-identification of Ahmadis as Muslims, none of the major parties associate with Ahmadis for fear of violation by extremist non-State actors or because of political backlash.

Even when religious minorities have found themselves represented in parliament (for example, the appointment of late Shahbaz Bhatti, the first Federal Minister for Minorities Affairs) members from these communities have been targeted for criticising laws regarding religion and their misuse. Severe repercussions for individuals representing religious minority groups and standing, as representatives for their community, in favour of religious tolerance, place minority leaders at extreme risk of being attacked and victimised.

In terms of institutional framework for protecting minorities a Ministry of Religious and Minorities Affairs had been operational since 1970. This ministry was restructured in 2004, and was further expanded into a Ministry of Minorities Affairs at the federal level by the incumbent Pakistan Peoples Party government. A leading human rights activist and a Christian, Shabaz Bhatti was appointed as the Minister for Minorities Affairs, a role he performed with eloquence and diligence until his assassination in Islamabad on 2 March 2011. In July 2011, the Federal Minorities Affairs Ministry, was closed down as part of the governmental plans of decentralisation, and was replaced by another Ministry, the Ministry for National Harmony. This Ministry had a role and remit similar to that of the defunct Ministry of Minorities Affairs and Paul Bhatti, the brother of the assassinated Shahbaz Bhatti was to lead this ministry in the capacity of special advisor to the Prime Minister. After coming into power in June 2013, the Nawaz Sharif government of Pakistan Muslim League (N) merged the Ministry for National Harmony into a larger Ministry, the Ministry of Religious Affairs. The focus and interests of this Ministry is exclusively upon Muslims and religious ceremonies performed by Muslims. According to the current mandate, the Ministry is responsible for the pilgrimage beyond Pakistan, Muslims pilgrims visits to India for Ziarat and Saudi Arabia for Umra & Hajj. It is also responsible for the welfare and safety of pilgrims and zairines. The main activities also include research based Islamic studies, holding of conferences, seminars, training education of Ulemas and Khateebes, exchange of visits of scholars of Islamic learning with the liaison amongst foreign and international institutions.

This Division also performs the activities like management of Ruit-e-Hilal, Dawah, council of Islamic Ideology, infants and minor adoption laws. There are six subordinate offices working as Directorates of Hajj of this Ministry and two Autonomous bodies i.e. Council of Islamic Ideology and Pakistan Madrasa Education Board.'

In the meanwhile, the Federal Ministry for Human Rights that had been established by the Pakistan Peoples Party government in November 2008 has been dismantled and merged with the Ministry of Law and Justice (MoLJ) by the new federal government led by Prime Minister Nawaz Sharif. This new entity that was established on June 7, 2013 was named Ministry of Law, Justice, and Human Rights (MoLJ&HR). While the government has presented this merger as a cost-cutting initiative, the inherent contradictory roles assigned to the Ministry have produced ineffective outcomes. The

¹⁰⁰ *ibid*, pp.61-2

Ministry of Law and Justice, which is the arm of the government and represents the State, cannot at the same time be expected to act as the guardian of human rights violations conducted or condoned by governmental agencies. Furthermore, the limited mandate and miniscule focus on human rights including the right to freedom of religion by the new Ministry is likely to lead to further neglect of human rights and minority rights issues. In June, the Supreme Court of Pakistan ordered for the constitution of a National Council of Minorities Rights.¹⁰¹ While this Council has indeed been established, its effectiveness is still to be determined and the spirit of this Council is yet to be felt through all Pakistani State legislation.

Recommendations:

The APPG concurs with the following recommendations made by the Human Rights Commission of Pakistan that:

- *Federal and provincial governments need to ensure full and effective usage of the 5% quota currently authorised for non-Muslims.*
- *Minorities should be given dual voting rights where they can vote for their own representative as well as a member running on the general seat in their constituency.*
- *The system of maintaining separate lists for Ahmadis breaches the letter and spirit of the principle of joint electorate. The separate lists identifying Ahmadis voters needs to be abolished; this is not only contrary to their fundamental human rights as citizens of Pakistan but can lead to the Ahmadis being target by non-state terror groups. Under the current proportional representation system the whole of country is treated as a constituency for minorities. In addition, party bosses virtually select non-Muslim candidates. This needs to be addressed in order to allow the religious minorities to elect their true representatives.*
- *Legislation should be enacted, making it mandatory for political parties to award a certain percentage of their tickets to non-Muslims on the general seats during elections.*
- *The following issues in the 1973 constitution need to be addressed:*
 - (a) *Constitutional provisions making it mandatory that only a Muslim can be the president and the prime minister of the country.*
 - (b) *Members of the National and provincial assemblies and Senate, federal/provincial ministers, ministers of state, speakers and deputy speakers of National and provincial assemblies and chief ministers can constitutionally be non-Muslims but they have to take an oath given in the Third Schedule of the constitution that includes a line, "That I will strive to preserve the Islamic Ideology which is the basis for the creation of Pakistan". This provision should be revised so that religious minorities do not have to take such an oath, which contradicts their religious beliefs.*
 - (c) *The number of reserved seats for religious minorities should be raised in the same proportion as the increase made in the number of National Assembly seats in 2002. When the number of general seats in the National Assembly was 207, the seats reserved for religious minorities were 10. Even when the number of general seats rose to 272 in 2002, the seats reserved for minorities remained 10. There should have been a proportional increase in the reserved seats for minorities. A proportionate increase should also be made in the provincial assemblies and effective representation of religious minorities ensured in the local bodies as well.¹⁰²*

¹⁰¹ See SMC No.1 of 2014 and CMA Nos 217-K/2014 in SMC No 1/2014 (19 June 2014).

¹⁰² The above recommendations are sourced from: Human Rights Commission of Pakistan, AGHS Legal Aid Cell, Catholic Commission for Justice and Peace (CCJP), Simorgh, Faiz Foundation Trust, Centre for Civic Education (CCE), *Discrimination Against Religious Minorities in Pakistan: An analysis of Federal and Provincial*

(ii) Blasphemy laws

The Pakistani blasphemy laws are a vehicle for egregious violations of religious freedom and related human rights.¹⁰³ Chapter XV of the Pakistan Penal Code 1860 (as amended) lists in Sections 295-297 a series of offences ‘relating to Religion’.¹⁰⁴ Prior to the commencement of Zia-ul-Haq’s Islamisation process, the Pakistan Penal Code attached criminal sanctions to a number of activities. These were injuring or defiling places of worship with intent to insult the religion of any class,¹⁰⁵ deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs,¹⁰⁶ disturbing religious assembly,¹⁰⁷ trespassing on burial places¹⁰⁸ and uttering words etc. with deliberate intent to wound religious feelings.¹⁰⁹ These offences were designed to apply for the protection of sentiments of all religions, and were on the whole applied objectively. From 1980 onwards, there was, however, a rapid expansion of the offences in the Penal Code. The first amendment to Chapter XV of the Penal Code was made in 1980, with the incorporation of section 298-A. The section provides as follows:

“whoever 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 any wife (Ummul Muminees), or members of the family (Ahle-bait) of the Holy Prophet (peace be upon him) or any of the righteous Caliphs (Khulafa-e-Raashideen) or companions (Sahaaba) of the Holy Prophet (peace be upon him) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both”.

In 1982, further measures were introduced through Ordinance 1 which inserted section 295-B into the Penal Code. Section 295-B provides for the following additional offences:

“Whoever wilfully defiles, damages or desecrates a copy of the Holy Qur’an or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life”.

In 1984, Ordinance XX inserted section 298-B and section 298-C to the Penal Code. Ordinance XX was targeted specifically at the Ahmadiyya community, and oral and written submissions confirm attempts to implement these provisions have had serious tragic consequences.

Another offence under section 295-C of using derogatory remarks in respect of the Holy Prophet was inserted in the Penal Code in 1986. A subsequent amendment to section 295-C made the death penalty mandatory for anyone defiling the name of the Prophet Mohammed. Through the *Qisas and*

Laws, available at: <<https://freedomdeclared.org/in-parliament/pakistan-report/>>, (accessed: 15/12/15). See this report at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁰³ USCIRF, ‘Pakistan Leads the World in Blasphemy Prisoners’, (27 March 2014), available at: <<http://www.uscirf.gov/reports-briefs/perspectives/pakistan-leads-the-world-in-blasphemy-prisoners>>, (accessed: 15/12/15)

¹⁰⁴ See Chapter XV, Pakistan Penal Code (PPC) (Act XLV of 1860).

¹⁰⁵ Ibid. Section 295.

¹⁰⁶ Ibid. Section 295-A.

¹⁰⁷ Ibid. Section 296.

¹⁰⁸ Ibid. Section 297.

¹⁰⁹ Ibid. Section 298.

Diyat Ordinance 1992, the maximum punishment for breaching section 295-A was increased from two to ten years.¹¹⁰ The overall impact of these laws, has been deeply disturbing and regrettable; not only have they produced a culture of religious intolerance, bigotry and fanaticism, they also deter any form of rational and tolerant expression on matters pertaining to religion.

Section 295-B and 295-C amendments of the Pakistan Penal Code which concern ‘defiling the Holy Qur’an’ and ‘using derogatory words in respect of the Holy Prophet’ and carry the death penalty, should also in principle only be applicable to Muslims.¹¹¹ However, religious minorities, including Ahmadis, Hindus and Christians have continued to fall victim to these laws, which as USCIRF note, ‘inappropriately position governments as arbiters of truth or religious rightness, empowering officials to enforce particular religious views’.¹¹² The laws also embolden extremists to commit violent acts against perceived blasphemers.¹¹³ While the recent Pakistan Supreme Court judgement on 27th October 2015 warns of the seriousness of false allegations, as well as the Government’s preparation of a draft bill along those lines, demonstrates some movement on the part of the officials, in practice such stances are far from being taken seriously.¹¹⁴ Accusations of blasphemy have served as a pretext to incite vigilante violence, permitting lynch mobs to take the law into their own hands.

BPCA estimate that c. 50% of blasphemy charges, since the amendments have been against religious minorities, meaning that, given population size, minorities are ten times more likely to be targeted by blasphemy charges.¹¹⁵ According to the Human Rights Commission of Pakistan (HRCP), in 2014, 725 individuals were victims of blasphemy charges, police registered 12 new cases under blasphemy laws during the year and the courts sentenced three individuals to death, six individuals to life imprisonment, and three individuals to two-years of imprisonment for blasphemy.¹¹⁶ The government did not carry out any executions for blasphemy during the year.¹¹⁷ Pakistan’s National Commission for Justice and Peace estimate over the last 25 years, out of c.1060 blasphemy cases, c.450 of them have been against Muslims, c.457 against Ahmadis, c.132 against Christians and c.21 against Hindus.

¹¹⁰ See PPC S.295-A (as amended).

¹¹¹ See Christian Solidarity Worldwide (hereafter CSW) submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹¹² USCIRF, ‘Pakistan Leads the World in Blasphemy Prisoners’, (27 March 2014), available at: <<http://www.uscirf.gov/reports-briefs/perspectives/pakistan-leads-the-world-in-blasphemy-prisoners>>, (accessed: 15/12/15)

¹¹³ *ibid*

¹¹⁴ The Express Tribune, ‘Penalties Proposed for False Accusers of Blasphemy’, (27 March 2015), available at: <<http://tribune.com.pk/story/892895/blasphemy-law-penalties-proposed-for-false-accusers/>>, (accessed: 15/12/15)

¹¹⁵ See British Pakistani Christian Association submissions to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹¹⁶ Human Rights Commission of Pakistan, ‘Summary: Offences Relating to Religion’, available at: <<http://hrcp-web.org/hrcpweb/wp-content/uploads/2015/09/Blasphemy-2014.pdf>>, (accessed: 15/12/15); Human Rights Commission of Pakistan, AGHS Legal Aid Cell, Catholic Commission for Justice and Peace (CCJP), Simorgh, Faiz Foundation Trust, Centre for Civic Education (CCE), *Discrimination Against Religious Minorities in Pakistan: An analysis of Federal and Provincial Laws*, available at: <<https://freedomdeclared.org/in-parliament/pakistan-report/>>, (accessed: 15/12/15). See this report at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹¹⁷ *ibid*

Although Pakistan has yet to execute anyone charged of blasphemy, mob violence often ensues with the accused as well as their families, local communities and lawyers targeted.¹¹⁸ All too often, the laws have been used as an instrument for revenge in ‘personal vendettas, property disputes, political rivalry, marital disputes and religious differences’.¹¹⁹ Some cases involving blasphemy charges against religious minorities further highlight the ‘evidentiary lacuna where unreliable witnesses are being used to substantiate charges’ and incompetence of the courts who often fail to adhere to basic evidentiary standards. In *Muhammad Yousaf v. The State*, the court asked a query of the appellants after the proceeds were closed but stated in ‘such an eventuality, it was under obligation to stay its hands off the matter’.¹²⁰

Lower courts judges are also easily intimidated by violent extremists, leading to few defendants being released on bail or acquitted, some trials even being delayed indefinitely, for fear of reprisal and vigilantism.¹²¹ Such incompetence and fear leads some of those convicted to spend years in jail before higher courts overturn the convictions.¹²² As other provisions provide, for example, that bail for those accused of blasphemy who are proved to be mentally challenged can only be secured at the Supreme Court level and female Christian witnesses only count for a quarter of the value of Muslim men hence fair trials in such cases are extremely rare.¹²³ In 2012, Gabriela Knaul, UN Special Rapporteur on the Independence of Judges and Lawyers, expressed concerns that judges had been coerced to decide against the accused even without supporting evidence, and to convict people accused of blasphemy.¹²⁴ Thus for example, in at least three High Court cases, even after announcing decisions in favour of Ahmadis, judges have been forced to take them back under pressure from the clerics and lawyers representing the hard-line religious groups, depriving Ahmadis of any hope of justice.¹²⁵ In these circumstances only a minority of Judges and officials have the ability to remain impartial and objective.

As HRCP highlight, other state bodies such as the police are fearful, prejudiced and often incompetent in cases of blasphemy. The police fail to properly investigate cases and follow correct

¹¹⁸ European Asylum Support Office, ‘EASO Country of Origin Information Report: Pakistan Country Overview’, (August 2015), available at: <https://easo.europa.eu/wp-content/uploads/EASO_COI_Report_Pakistan-Country-Overview_final.pdf>, (accessed: 15/12/15)

¹¹⁹ Human Rights Commission of Pakistan, AGHS Legal Aid Cell, Catholic Commission for Justice and Peace (CCJP), Simorgh, Faiz Foundation Trust, Centre for Civic Education (CCE), *Discrimination Against Religious Minorities in Pakistan: An analysis of Federal and Provincial Laws*, available at: <<https://freedomdeclared.org/in-parliament/pakistan-report/>>, (accessed: 15/12/15)

¹²⁰ *Muhammad Yousaf v. The State*, MLD 1339 (2006).

¹²¹ International Religious Freedom Report for 2014 United States Department of State, ‘Pakistan 2014 International Religious Freedom Report’, p.7, available at: <<http://www.state.gov/documents/organization/238716.pdf>>, (accessed: 15/12/15)

¹²² *ibid*

¹²³ Human Rights Commission of Pakistan, AGHS Legal Aid Cell, Catholic Commission for Justice and Peace (CCJP), Simorgh, Faiz Foundation Trust, Centre for Civic Education (CCE), *Discrimination Against Religious Minorities in Pakistan: An analysis of Federal and Provincial Laws*, p.82, available at: <<https://freedomdeclared.org/in-parliament/pakistan-report/>>, (accessed: 15/12/15)

¹²⁴ See Christian Solidarity Worldwide (hereafter CSW) submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹²⁵ See International Human Rights Committee submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

procedures provided in the 1898 Criminal Procedure Code, (CrPC).¹²⁶ Incidents have even occurred where those accused of blasphemy have been killed by police or prison guards and killers are permitted to have their hands kissed be glorified.¹²⁷ In 2011, the late Punjab Governor, Salman Taseer, was killed by his own official police guard for criticising blasphemy laws and the killer was revered by thousands around Pakistan. With the additional rise of mobile communication technology, individuals' photos can be easily obtained and shared to affiliate extremist groups where perceived blasphemers are suspected to have fled to.¹²⁸

Pakistan's continuing refusal to reform or repeal the blasphemy laws creates an environment of persistent vulnerability for minority communities, placing all members of such communities at real risk of persecution, the immediacy of which depends on their current circumstances.¹²⁹

Recommendations:

- As a party to the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT), the Pakistani Government should be supported in maintaining its international obligations that include protecting against violations of freedom of religion or belief and repealing punishments (including those for blasphemy convictions) that are inhuman and degrading or amount to torture. The APPG urges the UK Department for International Development, in line with its strategic objectives outlined in the last sub-section, to ensure that overseas development aid is provided only to organisations and government departments in Pakistan that can demonstrably prove their understanding of and commitment to upholding Pakistan's international human rights' obligations.
- All sections of law under the chapter of Pakistan's Penal Code entitled (Offences relating to Religion) that are discriminatory or undermine fundamental rights or principles of due process and fair trial should be repealed.¹³⁰
- The government should establish a judicial commission to consider whether in light of flaws, corruption and consistent miscarriages within the criminal justice system the continued existence of blasphemy offences can be justified within the Pakistan Criminal Code.¹³¹

¹²⁶ Human Rights Commission of Pakistan, AGHS Legal Aid Cell , Catholic Commission for Justice and Peace (CCJP), Simorgh, Faiz Foundation Trust, Centre for Civic Education (CCE), *Discrimination Against Religious Minorities in Pakistan: An analysis of Federal and Provincial Laws*, available at: <<https://freedomdeclared.org/in-parliament/pakistan-report/>>, (accessed: 15/12/15). See this report at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹²⁷ Ibid

¹²⁸ See British Pakistani Christian Association submissions to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹²⁹ See Jean Lambert MEP submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹³⁰ Human Rights Commission of Pakistan, AGHS Legal Aid Cell , Catholic Commission for Justice and Peace (CCJP), Simorgh, Faiz Foundation Trust, Centre for Civic Education (CCE), *Discrimination Against Religious Minorities in Pakistan: An analysis of Federal and Provincial Laws*, available at: <<https://freedomdeclared.org/in-parliament/pakistan-report/>>, (accessed: 15/12/15). See this report at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹³¹ *ibid*

(iii) Protection of Religious Minorities and Their Defenders

Police and other state officials have systematically failed to protect members of religious minorities, including Christians, Ahmaddiyyas, and Shia Muslims from attack.¹³² Fund for Peace's Annual Fragile State Index 2015, ranks Pakistan as 13th most fragile State in the world with indicators suggesting that the risk of fragility is on 'high alert'.¹³³ Numerous religious groups have long protested the lack of government protection from religious persecution. A lack of police presence during a Taliban attack on two Christian churches in March, resulting in the death of at least 14 people and many dozens wounded has been deemed to have abetted the violence".¹³⁴ Similarly notwithstanding common knowledge that Ashura is a time when Shia Muslims, even though not constitutionally recognised as a religious minority in Pakistan, are especially vulnerable. According to the International Imam Hussein Council report, security forces have been unable to provide protection when Shias have needed it.¹³⁵ In 2012, in the first ten days of the month of Muharram leading up to Ashura, there were alleged to have been 51 attacks on Shias, leaving 55 dead and 324 wounded.¹³⁶

Human rights activists, lawyers and district level judiciary taking on cases for religious minorities continue to be threatened and killed throughout Pakistan, by both State and non-State actors alike, with those responsible for these violations continuing to enjoy widespread impunity.¹³⁷ As CSW highlight, threats are 'made by State and non-State actors; religious and political groups, and in some cases the local community, district administration and police'.¹³⁸ Supreme Court Bar Association President, prominent human rights activist and former UN Special Rapporteur for Freedom of Religion or Belief, Asma Jahangir, for example, has survived plots by Pakistani military and intelligence services to assassinate her for bringing to light human rights violations in the country.¹³⁹

Examples of State failure to protect judges and lawyers include the case of Judge Pervez Ali Shah who convicted Mumtaz Qadri for the murder of Salman Taseer and was forced to flee Pakistan in October 2011 after receiving death threats. Governor Taseer was shot dead on 4 January, in Islamabad, by one of his own police bodyguards, Mumtaz Qadri. The governor had backed a private member's bill in parliament, to amend the blasphemy law in an attempt to reduce the prospects of any miscarriages of justice and remove the punishment of the death penalty it can carry with it.¹⁴⁰

¹³² See Christian Solidarity Worldwide submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/> & see cases: David Saul (pseudonym used), 2008; Daniel Thomas (pseudonym used), HO ref J1187177/2, appeal ref AA/00918/2010.

¹³³ Fragile state Index 2015, available at: <<http://fsi.fundforpeace.org/rankings-2015>>, (accessed: 15/12/15)

¹³⁴ Williams, T., 'US Religious Freedom Commission Pushes State Department', *Breitbart*, (21 October 2015), available at: <<http://www.breitbart.com/big-government/2015/10/21/u-s-religious-freedom-commission-pushes-state-dept-blacklist-pakistan/>>, (accessed:15/12/15)

¹³⁵ See International Imam Hussein Council submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹³⁶ *ibid*

¹³⁷ See Christian Solidarity Worldwide submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹³⁸ *ibid*

¹³⁹ Dawn.com, 'Intelligence Points to 2012 Plot to Kill Asma Jahangir: Report', (4 Sept. 2014), available at: <<http://www.dawn.com/news/1040480>>, (accessed: 15/12/15)

¹⁴⁰ BBC News, 'Pakistan Minorities Minister Shabaz Bhatti Shot Dead', (2 March 2011), available at: <<http://www.bbc.co.uk/news/world-south-asia-12617562>>, (accessed: 15/12/15)

Taseer was an outspoken critic of the harsh blasphemy law and had also sought a presidential pardon for Asia Bibi, a Christian woman sentenced to death for insulting the Prophet Muhammad. When Qadri killed the governor in 2011, he was hailed by many as a hero, and lawyers in Islamabad's district courts garlanded him when he was taken there for hearings. He was sentenced to death by a trial court in October 2011. However, Judge Pervez Ali Shah who passed the sentence was forced to leave the country due to threats by extremists and he has not been heard from since.¹⁴¹ This is indicative of the judicial environment in Pakistan where the judiciary is harassed or intimidated. Fortunately, in the case of Salman Taseer, justice appears to have prevailed: the recent Supreme Court ruling of October 2015 has upheld the death sentence of Qadri for the murder of the former governor of Punjab.¹⁴²

Just like Taseer, on 2 March 2011, Mr Shabaz Bhatti, the Cabinet's only Christian minister, was shot at least 8 times after receiving death threats for urging reform to blasphemy laws. After leaving his mother's house Mr Bhatti's vehicle was surrounded by gunmen who riddled it with bullets.¹⁴³ Two assassins shot at the Christian minister's car with gunfire, striking him at least eight times, before scattering pamphlets that described him as a 'Christian infidel'. The leaflets were signed 'Taliban al-Qaida Punjab'¹⁴⁴—a branch of the Taliban in Pakistan's most populous province.¹⁴⁵ From the above case (as well as Salman Taseer's case) it is evident that any attempt to criticise or reform the Blasphemy laws comes at a heavy price. At the same time, the extremist's threatening behaviour has given them a reign of impunity to carry out persecutory actions.

In May 2014, a lawyer from the Human Rights Commission of Pakistan, Rashid Rehman, was shot dead by gunmen, for defending a university lecturer accused of blasphemy. On 12 February 2014, while returning from the Lahore High Court after defending Arif Masih, a Christian Pakistani accused of blasphemy and his lawyers were stopped by two motorcyclists with guns who threatened to kill them if the case was not abandoned.¹⁴⁶

The above cases are indicative of the environment in Pakistan, where even a Government Minister is not safe for advocating views in favour of freedom of religion or belief. The insolence of extremists to target a Minister further highlights the level of impunity such perpetrators feel they are afforded when it comes to issues involving minorities and blasphemy laws. The threat and risk to one's life for speaking against such laws presents an obstacle to meaningful debate for reform and progress towards a more tolerant Pakistan with greater freedoms. The brutal assassination of Mr Bhatti, demonstrates the dire situation those face in attempting to foster developments in the Pakistani Penal Code that do not conform with the wishes of staunch opponents to plurality and religious freedom.

¹⁴¹ BBC News, 'Salman Taseer Murder: Killer's Appeal Denied', (7 October 2015), available at: <<http://www.bbc.co.uk/news/world-asia-34467603>>, (accessed: 15/12/15)

¹⁴² J Boon, 'Pakistan's Top Court Upholds Death Sentence in Blasphemy Murder Case' Guardian Newspaper, 7 October 2015

¹⁴⁶ See Christian Solidarity Worldwide submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

Although judicial reform is urgently required in Pakistan, the climate of fear within which judges are forced to operate cannot be ignored. Just as with Pakistani media, several judges, lawyers and witnesses involved in cases against militant leaders face death threats and are therefore reluctant to speak against them. It is not uncommon for extremist groups to turn up en masse at court cases and intimidate judges, lawyers and witnesses. Where perpetrators—who have often openly admitted to their crimes—have been caught, they have still escaped punishment due to the ineffective state of the judicial system.¹⁴⁷ The conviction rates in the country are dismal: 75% of alleged terrorists are acquitted by the anti-terrorism courts.¹⁴⁸ Malik Ishaq, the chief of the ostensibly banned LeJ was, before his death in July 2015, in and out of Pakistani jails, despite facing charges related to the killing of more than 100 people belonging to the Shia sect.¹⁴⁹ Indeed, witnesses and their relatives willing to testify against Ishaq were routinely been found murdered.

Extremist groups have often taken time to cultivate links with sympathetic members of the police and other security forces, and lawyers.¹⁵⁰ Every Pakistani citizen is now required to carry and use a national identity card (NADRA) which contains details such as one's religion. For renting, hiring and purchasing items the card must be shown on demand to the police, this places religious minorities at even greater risk due to the close links between the police and extremist factions. There are at least ten different police and security agencies in Pakistan, infiltrated by Muslim extremists, which share information with each other.¹⁵¹ From May 2015 onwards, as an anti-terrorism measure, all mobile phones are required to be registered to a named person with an address and their fingerprints on their data files, making tracing any individual via their phone easy.¹⁵² Due to the infiltration of extremists into the police and security services, already vulnerable individuals' information is available to extremist organisations.¹⁵³ In the case of Aftab Mughal, who was given asylum to the UK in 2010, he and his family were traced by extremists from Peshawar to Multan and then to Lahore.¹⁵⁴ As is established from the above evidence, there is no 'sufficiency of protection' and a serious lack of due judicial process in Pakistan for those not perceived as adhering to the correct' ideology, standardising a real risk of persecution for all religious minorities.

Recommendations:

- The UK Government to work in conjunction with the Pakistani government to train police and judicial officers on human rights including freedom of religion, expression and speech and gender sensitisation.¹⁵⁵
- The UK Government to urge the Pakistani government to take special measures to ensure security and protection of human rights defenders.¹⁵⁶

¹⁴⁷ Mullick, F., Cooper, C & El-Badawy, E. (2014) *Shia Genocide: A Crisis in Pakistan*. Khudi & International Imam Hussain Council, p.20

¹⁴⁸ Ibid.

¹⁴⁹ BBC News, 'Malik Ishaq: Pakistan Sunni Militant Chief Killed by Police', (29 July 2015), available at: <<http://www.bbc.co.uk/news/world-asia-33699133>>, (accessed: 15/12/15)

¹⁵⁰ See British Pakistani Christian Association submissions to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁵¹ See Christian Solidarity Worldwide submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁵² ibid

¹⁵³ ibid

¹⁵⁴ ibid

¹⁵⁵ ibid

(iv) Women & Girls

Despite Pakistan's ratification of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), women from religious minorities across Pakistan are 'doubly discriminated' against, at systematic risk of becoming victims of abductions, extortion, hijacking and being held for ransom, trafficking, rape, forced marriages, forced conversions and allegations of blasphemy.¹⁵⁷ Women and girls face discrimination and marginalization and are targeted simply because they are minorities.¹⁵⁸ Hindu girls in Sindh and Christian girls in Punjab, for example, are abducted, raped and forced to convert to Islam, facing extreme pressure including threats to themselves and their families from the abductor and his family.¹⁵⁹ The majority of the Christian women are illiterate and do menial jobs, working in factories or as domestic servants with a risk of sexual harassment, physical abuse forced conversion and marriage and even death.¹⁶⁰ Sania Kanwal, from the AK and SK case reports sexual harassment and attempted forced conversion after her brother, Ashur Kanwal, was deemed to have blasphemed against the Holy prophet. The Asian Human Rights Commission stated in its report of December 2012 that on average some 700 Christian and 300 Hindu girls are forcibly converted to Islam each year, most notably in Punjab, Khyber Pakhtunkhwa and Sindh provinces.¹⁶¹

District Minority Committees have failed to review matters for minority women's rights such as personal laws and rules and police in cases are at times complicit in fulfilling wishes of the local elite. Organisations submitting evidence to the APPG have stated that police in all provinces are gender blind in cases of forced conversion and marriage and can be complicit in these actions, nullifying women's previous non-Islamic marriages and recognising their forced marriages instead.¹⁶² In cases of sexual assault, rape and sexual violence they do not conduct proper investigation and minority women are 're-victimised' because police take bribes and do not adequately protect minority women. CSW's cases indicate that Christians do not feel safe going to police stations when they have problems related to unjust blasphemy charges. In October 2015, three Muslim men broke into a deaf Christian woman's home in Kasur, Pakistan, taking turns to rape her while the men of the family

¹⁵⁶ *ibid*

¹⁵⁷ Movement for Solidarity and Peace, *Forced Marriages & Forced Conversions in the Christian Community of Pakistan*, (April 2014), p.4, available at: <https://d3n8a8pro7vhmx.cloudfront.net/msp/pages/162/attachments/original/1396724215/MSP_Report_-_Forced_Marriages_and_Conversions_of_Christian_Women_in_Pakistan.pdf?1396724215> (accessed: 15/12/15)

¹⁵⁸ See Christian Solidarity Worldwide submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁵⁹ *ibid*

¹⁶⁰ See Centre for Legal Aid, Assistance and Settlement submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁶¹ International Religious Freedom Report for 2014 United States of State, 'Pakistan 2012 International Religious Freedom Report', available at: <<http://www.state.gov/documents/organization/204621.pdf>>, (accessed: 15/12/15)

¹⁶² See Global Minorities Alliance submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>; See Christian Solidarity Worldwide submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

were at work.¹⁶³ Despite this crime, the lawyer defending the woman admits the difficulty in getting the court to punish the perpetrators.¹⁶⁴

The implementation of the *Hudood Ordinances* has had seriously damaging consequences on all sections of Pakistani society. Women and religious minorities have in particular, been targeted and victimised as a result of these Ordinances. Notwithstanding the State's commitment of non-imposition of an exclusively Islamic code on non-Muslims, these Ordinances for most part also control the activities of non-Muslims alongside the majority Muslims. Religious minorities under these Ordinances remain liable to suffer from punishments such as physical amputations, whipping etc. for various offences related to theft, whipping for having committed *zina* and death or whipping in case of *zinabiljabar* and *Qazf*. The imposition of the *Hudood Ordinances*, an exclusively Islamic code, on non-Muslims is also discriminatory in the manner of its application.

For the application of the Hadd conviction, strict evidentiary requirements must be complied with. In accordance with these requirements, while Muslims can give evidence against non-Muslims, non-Muslims are barred from giving evidence against an accused who happens to be a Muslim. Attempts have been made to modify the Hudood ordinances and to eradicate some injustice created through the application of these laws. One such noticeable effort was made during the time of General Pervaiz Musharraf through introduction of the Protection of Women (Criminal Law Amendment) Act 2006. Under this legislation, while both adultery and rape remained criminal offences, rape cases were removed from the Hudood Ordinances and were reverted to criminal laws as applied under the PPC. The removal from the Hudood Ordinances, also meant the removal of the Hudd evidential requirement of four witnesses. Convictions could be based on criminal evidence including usage of circumstantial and forensic evidence. However, the Criminal Law (Amendment) Act 2006 has been the subject of intense legal and political debate. In 2013, the Council of Islamic Ideology determined that the (Criminal Law Amendment) Act 2006 was contrary to the provisions of Islamic law and therefore recommended that it should be held void under the constitutional provisions. The future of Criminal Law (Amendment) Act 2006 remains in doubt at the present time.

A further mechanism through which discrimination against religious minorities is perpetuated is with the application of the *Qisas and Diyat Ordinance*. The Ordinances imply that in the application of certain penal laws only the family of the victim, and not the State has the option to pardon the convicted person, in return for monetary compensation. Non-Muslim minorities however point to the discriminatory nature of evidentiary requirements under the prevailing laws of criminal evidence. In addition, the *Qisas and Diyat Ordinance* has been used as an instrument of undermining of the principles of rule of law and criminal justice. Since the underlying objective is the privatization of justice between individuals and families, convicted murders are in effect able to obtain reprieve and pardon so long as monetary compensation is acceptable to the victim's family. The cases of the United States citizen and CIA contractor Raymond Davis and Shahrukh Jatoi confirm the injustices inherent under the *Qisas and Diyat Ordinance*.¹⁶⁵

¹⁶³ Williams, T., 'Deaf Christian woman gang raped', *Breitbart*, (15 October 2015), available at: <<http://www.breitbart.com/big-government/2015/10/26/deaf-christian-woman-gang-raped-muslims-pakistan/>>, (accessed: 15/12/15)

¹⁶⁴ *ibid*

¹⁶⁵ See Dawn Newspaper, *Qisas and Diyat: Legal Reforms to Ensure Murders Get Away No More* <<http://www.dawn.com/news/1220808> (19 November 2015) <last accessed 31 January 2016>.

Recommendations:

- That the elimination of all forms of discrimination against women, in line with international legal standards, is ensured throughout Pakistani federal and provincial laws, including Pakistan's *hudud* laws in its Penal Code.
- The Pakistani Government must ensure the cessation of *diyya* (pl: *diyat*), (the financial compensation paid to the victim or heirs of a victim in the cases of murder, bodily harm or property damage), in all criminal cases, including suspected 'adultery' cases, which has led to honour killings of many girls by family members who have paid off such 'blood money' to the victim.

(v) The Future: Educating the Next Generation

Madrasas - private schools run by Muslim clerics - are prohibited by Pakistan's laws from teaching or encouraging sectarian or religious hatred or violence. The Societies Registration Act states that no madrasa "shall teach or publish any literature which promotes militancy or spreads sectarianism or religious hatred".¹⁶⁶ The requirements in this Act, however, contain many loopholes, including that madrasas are required to submit an annual report only on their 'educational activities' and not their activities as a whole.¹⁶⁷ Pakistani law requires all madrasas to register with one of five *waqafs* (independent boards) or directly with the government to ensure that they cease accepting foreign financing that acceptance of foreign students is done only with the consent of their governments. Despite this law (and although they vary greatly in their curriculum and character) in some rural communities where madrasas are the only viable form of education available to impoverished students, some madrasas have begun to teach violent extremist doctrines in support of terrorism.¹⁶⁸

Articles 20 and 22 of Pakistan's Constitution guarantees freedom of religion or belief and that 'no person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony or worship, if such instruction, ceremony or worship relates to a religion other than his [or her] own'.¹⁶⁹ A plethora of evidence, however, suggests that this provision is not being upheld in schools where non-Muslim students attend.¹⁷⁰ After carrying out a study in 2012 on textbooks and teachers' attitudes in madrasas and other schools, for example, the National Commission for Justice and Peace (NCJP), concluded that there were "no substantial differences

¹⁶⁶ Text of the law reproduced in The News, 2 December 2005; Societies Registration (Second Amendment) Ordinance, 2005.

¹⁶⁷ For more information see: Crisis Group, 'Pakistan: Karachi's Madrasas and Violent Extremism Crisis Group Asia Report N°130', (29 March 2007) – available at: <http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/130_pakistan_karachi_s_madrasas_and_violent_extremism.pdf>, (accessed: 10/12/15)

¹⁶⁸ International Religious Freedom Report for 2014 United States of State, 'Pakistan 2014 International Religious Freedom Report', p.7, available at: <<http://www.state.gov/documents/organization/238716.pdf>>, (accessed: 15/12/15)

¹⁶⁹ *Constitution of the Islamic Republic of Pakistan* [Pakistan], 10 April 1973, Articles 20/22

¹⁷⁰ Tribune (2012) 'Teaching Hate – Punjab textbooks spreading bigotry hate, says NCJP', *The Tribune*, 5 April 2012 (accessed at: <http://tribune.com.pk/story/360063/teaching-hate-punjab-textbooks-spreading-bigotry-hate-says-ncjp/>).

between public institutions and madrasas” regarding institutionalised discriminatory educational practices.¹⁷¹

The NCJP study found that some teachers surveyed in State schools thought of Jihad as an obligatory violent struggle, with many thinking that animosity towards religious minorities was justified for ‘blasphemy’.¹⁷² Although comparative religion was not on the official curriculum, many schools have introduced it into classes, suggesting a will to demonstrate the ‘superiority’ of Islam over other religions, contributing to a hostile environment for Christians and other minorities. Upon interviewing students, their learnt hostility toward individuals of other religions was evidently reflected.

The Archbishop of Karachi has also highlighted the pressure for some students to convert to Islam with teachers even asking students to write essays on ‘encouraging friends to convert’.¹⁷³ There is also an emphasis on the reading and rote learning of the Quran, with incentivised marks being awarded to those students who have rote learned the Quran. Educational curricula at all levels also advance certain perceptions seriously undermining the position of other religious faiths. The underlying theme as taught in secondary school classes of history, geography and Islamic studies is that Pakistan is a country made for the Muslims alone and was created as a reaction to a perceived Hindu mentality of hatred against Muslims. Hindus, while always portrayed as enemies of Pakistan are also frequently labelled as crafty, politically astute and manipulative. The school textbooks, in misrepresenting historical facts, can be seen as also advocating religious hatred including concepts such that Hindus are against Islam and Pakistan, and that the break-up of Pakistan in December 1970 was a consequence of Hindu conspiracy. According to BPCA, some educational institutions (notably the *Madrasas*) encourage the students to take the path of *Jihad* (i.e. fighting in the path of Allah) including *Shahadat* (martyrdom for the cause of Allah).¹⁷⁴

According also to BCPA, segregation policies have also been practised in some State schools, including in Faisalabad where school officials are being criticised for prohibiting Christian pupils from using lavatories reserved for Muslim students.¹⁷⁵ In Samundari, near Faisalabad, a young Christian girl, Sara Bibi, was recently severely punished for allegedly using a lavatory designated for the ‘use of Muslim students’.¹⁷⁶ The State has also recently introduced a new policy for exams in which it must be declared whether the student is Muslim or non-Muslim and if Muslim, must sign a

¹⁷¹ Asia News. 'Pakistani Schoolbooks full of contempt and bigotry against Christians, Hindus and Sikhs', *Asia News* (accessed at: <http://www.asianews.it/news-en/Pakistani-schoolbooks-full-of-contempt-and-bigotry-against-Christians,-Hindus-and-Sikhs-24431.html>).

¹⁷² National Commission of Justice and Peace (NCJP), Education Report 2012 (2012), available at: <<https://citizensfordemocracy.files.wordpress.com/2012/09/ncjp-education-report-2012.pdf>>, (accessed: 12/12/15)

¹⁷³ Collier, M. (2013) 'Christians Forced to Convert to Islam in Pakistan's Schools', *The Christian Post*, 26 September 2013 (accessed at: <http://www.christianpost.com/news/christians-forced-to-convert-to-islam-in-pakistans-schools-105412/>).

¹⁷⁴ See British Pakistani Christian Association submissions to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁷⁵ *ibid*

¹⁷⁶ Williams, T. (2015) 'Christian girl beaten, locked using Muslim toilets in Pakistani school', *Breitbart*, 13 November 2015 (accessed at: <http://www.breitbart.com/national-security/2015/11/13/christian-girl-beaten-locked-using-muslim-toilets-pakistani-school/>).

declaration that the founder of the Ahmadiyya community is an imposter, leaving Ahmadis, according to the International Human Rights Commission, in an incredibly difficult position.¹⁷⁷

USCIRF have further highlighted Pakistani primary and secondary schools' continuing use of "textbooks that foster prejudice and intolerance of religious minorities".¹⁷⁸ "Hindus have, for example, been depicted in especially negative ways and descriptions of Christians have often been found as derogatory, portraying them as a threat to Islam."¹⁷⁹ School books commissioned by provincial governments, including in Khyber Pakhtunkhwa, are frequently re-written, omitting non-Muslim Pakistani historical figures, removing pictures of unveiled women, changing material on recent history, including around the creation of Pakistan and reintroducing verses on jihad.¹⁸⁰ Inayatullah Khan, the leader of religious political party, Jamaat-e-Islami, said that the use of the verses on jihad in school textbooks were not intended to promote violence but to inform students when jihad was lawful.¹⁸¹

Due to such teaching of children in Pakistan, organisations submitting evidence to the APPG for demonstrably held serious concerns about the provision of international aid – including UK aid – to schools in Pakistan. As Bishop Nazir-Ali has noted, "Britain's commitment to aid is praiseworthy but we must make sure that it is directed properly to the right people in the right way and ensure that it is not being used to support violations of freedom of religion or belief."¹⁸² Atif Khan, the provincial education minister, has played down the changes to school textbooks, stating that they are merely reverting to an earlier curriculum and rejected notions that the changes are a strategy to harden the attitudes of the next generation and use 'identity politics' to institutionalise that to be Pakistani is to be Muslim.¹⁸³ Khan's provincial education department is getting \$29 million from the British government in 2015.

The APPG sees the difficulty in promoting peace and tolerance through in schools within the above institutionalised discriminatory contexts. With such hostilities and intolerance continuing to be taught to Pakistan's next generation in the growing number of madrasas as well as State Schools across Pakistan today, freedom of religion or belief cannot be secured for the current or next generation. Given also that UK (DfID) aid money is also seen to be making its way into funding

¹⁷⁷ See International Human Rights Committee submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁷⁸ US Commission on International Religious Freedom (2012) *Annual Report – Pakistan*. US Commission on International Religious Freedom, 25 March 2012 (accessed at: <http://britishpakistanichristian.blogspot.co.uk/2012/03/us-commission-on-international.html>)

¹⁷⁹ US Commission on International Religious Freedom (2012) *Annual Report – Pakistan*. US Commission on International Religious Freedom, 25 March 2012 (accessed at: <http://britishpakistanichristian.blogspot.co.uk/2012/03/us-commission-on-international.html>); See Prof. Desmond Fernandes submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁸⁰ Ahmad, Jibrán, 'Pakistan Province Rewrites Text Books to Satisfy Islamic Conservatives', *Reuters*, (30 October 2014), available at: <http://uk.reuters.com/article/2014/10/30/uk-pakistan-education-idUKKBN0I1G620141030>, (accessed:15/12/15)

¹⁸¹ *ibid*

¹⁸² Bingham, John, 'UK's £2.7bn in Aid to Countries where Christians are Persecuted', *The Telegraph*, (11 August 2015), available at: <http://www.telegraph.co.uk/news/religion/11794601/UKs-2.7bn-in-aid-to-countries-where-Christian-are-persecuted.html>, (accessed: 12/12/15)

¹⁸³ Ahmad, Jibrán, 'Pakistan Province Rewrites Text Books to Satisfy Islamic Conservatives', *Reuters*, (30 October 2014), available at: <http://uk.reuters.com/article/2014/10/30/uk-pakistan-education-idUKKBN0I1G620141030>, (accessed:15/12/15)

teaching that, using the evidence the APPG has received, appears to amount to violate Article 20(2) of the International Covenant on Civil and Political Rights, we urge the UK Government to critically analyse the outcomes of the projects and institutions it funds in Pakistani provinces, reassess such funding and ensure an end to learning based on an agenda of religious discrimination and persecution of minorities.

Recommendations:

- Given current aid commitments, both the UK and Pakistan's Governments must urgently initiate a thorough review of the educational curriculum to eliminate all forms of material that advocate discrimination or hatred based on religion or belief - in line with Article 20(2) of the International Covenant on Civil and Political Rights - (as well as other forms of discrimination including discrimination based on race, gender, ethnicity and disability etc).
- The UK Government should urge Pakistan's provincial governing bodies to order the alteration of education materials considered 'inflammatory' or 'discriminatory' to religious minorities be removed from the syllabus.
- The UK Government should also support Pakistan's federal and provincial governing bodies to retrain teachers ensuring greater understanding of human rights values.
- The APPG urges the UK Department for International Development, in line with its strategic objectives outlined in the executive summary, to ensure that overseas development aid is provided only to organisations and government departments in Pakistan that can demonstrably prove their understanding of and commitment to upholding Pakistan's international human rights' obligations.

SECTION 5

ANALYSING THE CONSTITUTIONALLY-RECOGNISED RELIGIOUS MINORITIES OF PAKISTAN

Ahmadis

Ahmadis (also known as Qadianis or persons belonging to the Lahori group) follow Mirza Ghulam Ahmad. Ahmad, who initiated the Ahmadiyya movement, was born in the village of Qadian which now forms part of the Indian Punjab.¹⁸⁴ Once independence was achieved for Pakistan in August 1947, a majority of Ahmadiyya population decided to settle in Pakistan and established their headquarters in Rabwah (West Punjab). Ahmadis, although a smaller group, had been influential in the Pakistan movement. Zaffarullah Khan, an Ahmadi, was the President of the All India Muslim League and is credited for having drafted the Lahore Resolution of March 1940. The Ahmadiyya community represented an educated and a highly articulate community, which was eager and competent to deal with various administrative and political challenges facing the new country. Zaffarullah Khan was aligned very closely to Pakistan's founder Mohammad Ali Jinnah and was appointed as Pakistan's first Foreign Minister. There were also a number of key Ahmadi figures in the political and administrative arena in the years subsequent to Pakistan's establishment. Growing Ahmadi influence, however, became a source of concern for politicians and religious parties within Pakistan. Demands were voiced that Ahmadis be declared non-Muslims and as imposters. It was also demanded that all Ahmadis should be excluded from governmental positions. Religious friction resulted in violent demonstrations during 1953, with the government resisting pressure from radical religious parties for an official pronouncement that Ahmadis are declared as non-Muslims. The official position was that the Ahmadis could not be declared a minority against their own wishes.¹⁸⁵

After the secession of East Pakistan, attention was refocused towards the Ahmadi issue. Considerable anti-Ahmadi riots engulfed the country during 1974 and on 7 September, Pakistan's National Assembly having turned itself into a Special Committee adopted the Constitution (Second Amendment) Act 1974 which added the Ahmadis to the list of Non-Muslims.¹⁸⁶ A new clause to the Constitution (Clause 3 in Article 260) outlawed the group and stated as follows:

'A person who does not believe in the absolute and unqualified finality of prophet-hood of Muhammed (peace be upon him) the last of the prophets, in any sense of the word or of any description whatsoever, after Muhammed (peace be upon him), or recognises such a claimant as a prophet or a religious reformer, is not a Muslim for the purposes of the Constitution or law'.¹⁸⁷

¹⁸⁴ Y Friedman, Y., *Prophecy Continues: Aspects of Ahmadi Religious Thought and its Medieval Background*, (University of California Press, Berkley) 1989.

¹⁸⁵ After the riots and violence in 1953, a governmental enquiry report was commissioned. The report also analysed various issues concerning the Ahmadiyya beliefs and activities. See Government of the Punjab, *Report of the Court of Enquiry Constituted under the Punjab Act II of 1954 to Inquire in the Punjab Disturbances of 1953*, Superintendent of the Government Printing Press, Lahore, 1954.

¹⁸⁶ Constitutional (2nd amendment) Act 1974, Act XLIX 1974.

¹⁸⁷ Article 260(3) Constitution of Pakistan, 1973. Substituted by Constitution (Third Amendment) Order 1985 (President Order No. 24 of 1985).

Although having been constitutionally declared non-Muslims, the socio-economic position of the **Ahmadis** remained relatively safe and secure. **Ahmadis** were, however, to face much harsher treatment and persecution once General Zia came to power. The 'Islamisation' period of the General witnessed the introduction of discriminatory legislation and other administrative practices specifically aimed at persecuting and victimising the Ahmadiyya community. Section 298-A of the PPC circumscribed the religious freedom and activities of Ahmadis, without making reference to the Ahmadiyya community. Further amendments to the Penal Code were introduced specifically targeting the Ahmadiyya community. On 26 April 1984 President Zia issued an anti-Ahmadi Ordinance which added two Clauses to the Pakistan Penal Code. According to section 298-B:

(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 Muhammed (Peace be upon him), as (Ameer-ul-Mumineen), (Khalifat-ul-Mumineen), (Khalifat-ul-Mumineen), (Khalifat-ul-Muslimeen), (Sahaabi) or (Razi Allah Anaho);

(b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammed (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 Muhammed (Peace be upon him), as Ahle-bait; or

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

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

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

According to section 298-C:

Any person of the Qadiani group or Lahori group (who call themselves 'Ahmadis' or by 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 representations 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 fine.

In 1986, through Criminal Law Amendment Act, a new clause was introduced in the Pakistan Penal Code. The new section 295-C provides:

“Whoever 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 Muhammed (Peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine”.

The introduction of these laws had devastating consequences on the position of the Ahmadiyya community in Pakistan.¹⁸⁸ They were forced to renounce the core elements of their religious values. Many of the expressions prohibited by Ordinance XX also form part of the cultural ethos in which members of the Ahmadiyya community are brought up; many Ahmadis having frequently used terms such as *Aslam-o-Alikim* (as greetings) or recited verses of the Holy Book *Quran*. The criminalisation of activities central to their religious beliefs therefore provided a serious blow to the Ahmadi culture, tradition and religious beliefs. The laws were framed in such an ambiguous and convoluted manner, that any religious activity committed by an Ahmadi could be deemed to contravene these clauses of Pakistan Penal Code. It is therefore not surprising to note that these pieces of legislation have opened the way for Ahmadis to be intimidated, victimised and indeed persecuted by the State officials as well as by the members of public. In a hostile environment charged with religious intolerance, various actions challenging the legal validity and constitutionality of the Anti-Ahmadiyya laws have failed.¹⁸⁹ Furthermore, it is troubling to notice that judges are often silent in cases of Ahmadiyya persecution, too scared to rule in favour of them; in three High Court cases, due to pressure from clerics and lawyers representing hard-line groups, judges have been forced to rescind their rulings.¹⁹⁰

The ambiguous, arbitrary and problematic nature of anti-Ahmadiyya laws—in violation of ICCPR Article 18—have emboldened other State actors and extremists to harass, attack and kill Ahmadis and are regularly abused to do so.¹⁹¹ USCIRF have found it not uncommon for the anti-Ahmadi laws to be used to settle personal scores, rendering Ahmadis in even Ahmadi-predominant towns incredibly fearful of their security, feeling abandoned and targeted by the country they live in.¹⁹²

During the hearings, the APPG heard a harrowing personal account of persecution against an Ahmadi Muslim during its evidence hearings. Umaad Farooq, who was born in Karachi, gave a firsthand testimony of the dire situation Ahmadis are faced with, which children are not even spared from - “*Persecution in Pakistan starts right from childhood, if you are an Ahmadi Muslim you don’t play with other kids, you are not allowed to talk to them, eat with them, you are not allowed to leave your house, it’s just not safe*”.¹⁹³

¹⁸⁸ K Parker, *Human Rights in Pakistan*, Human Rights Advocates Inc (New York: San Francisco) 1987.

¹⁸⁹ See *Mirza Khurshid Ahmad v Government of Punjab* PLD 1992 Lah 1; *Mujibur Rahman v Government of Pakistan*, PLD 1985 FSC 8.

¹⁹⁰ See International Human Rights Committee submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁹¹ See Ahmadiyya Muslim Association UK submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁹² European Asylum Support Office, ‘EASO Country of Origin Information Report: Pakistan Country Overview’, (August 2015), available at: <https://easo.europa.eu/wp-content/uploads/EASO_COI_Report_Pakistan-Country-Overview_final.pdf>, (accessed: 15/12/15)

¹⁹³ See Umaad’s testimony, in conjunction with the International Human Rights Committee, to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

In 2012 when returning to Pakistan from the UK to attend his brother's wedding, he spoke of how his family were attacked by religious extremists which resulted in his brother's death after being shot in the head. His Uncle was also killed in this encounter while he and his father also suffered from gunshot wounds. Furthermore, they were not treated adequately in the hospital simply because they were Ahmadis and they could not even attend his brother's funeral due to the risk to their lives. His case is symptomatic of the difficulties Ahmadis find, with the police offering no help or security forcing Umaad and his family to reside in a safe house before fleeing Pakistan. This incident has left his family separated in different countries and his niece fatherless.¹⁹⁴

This is just one example but as Umaad mentioned there are numerous cases of persecution against Ahmadis. He identified that persecution against Ahmadis is different to others as it is specifically enshrined in law. For example, he cited that if an Ahmadi is caught wearing a Muslim cap, it can carry a 10 year jail sentence, even saying 'peace be upon you' is criminal for an Ahmadi who can be fined £2000-£3000 or suffer a 10 year jail sentence. Wearing the traditional dress known as the 'salwar kameez' is also illegal for Ahmadis and can carry a jail sentence. This is the situation Ahmadis experience in Pakistan as described by our witness, tragically he told our panel that many Ahmadis face the same dire situation and cannot financially afford to flee Pakistan, condemning them to remain in a country where their lives may be put at risk at any time simply due to the adherence of their faith.¹⁹⁵

He ended his testimony by informing us that a list of Ahmadi doctors had been issued publicly in a Mosque with orders that they must be killed. The targeting of Ahmadi Doctors, people who alleviate the sick in society, is a particularly striking observation of the climate in Pakistan and its treatment of Ahmadis who clearly have the propensity to enrich and make valuable contributions to Pakistani society.¹⁹⁶

As confirmed in the UK country guidance case of *MN and Others* [2012] UKUT 389 (paragraph 119ii), these anti-Ahmadi laws restrict the way in which Ahmadis are able to openly practice their faith. They not only prohibit preaching and other forms of proselytizing but, in practice, restrict other elements of manifesting one's religious beliefs such as holding open discourse about religion with non-Ahmadis, even where this does not amount to proselytizing.¹⁹⁷ Ahmadis are also restricted in building new houses of worship, holding public conferences or other gatherings, and travelling to Saudi Arabia for religious purposes.¹⁹⁸ Ahmadi mosques across the country have been sealed, and minarets demolished by police under pressure from extremists.¹⁹⁹ Even beyond death, mobs and police have destroyed and defaced graves bearing Qur'anic inscriptions, highlighting the systematic failure of State actors to take measures to prevent persecution of Ahmadis.²⁰⁰

¹⁹⁴ *ibid*

¹⁹⁵ *ibid*

¹⁹⁶ *ibid*

¹⁹⁷ *MN and others (Ahmadis - country conditions - risk) Pakistan v. the Secretary of State for the Home Department*, CG [2012] UKUT 00389(IAC), United Kingdom: Upper Tribunal (Immigration and Asylum Chamber), 13 November 2012, paragraph 119

¹⁹⁸ See Ahmadiyya Muslim Association UK submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

¹⁹⁹ *ibid*

²⁰⁰ International Religious Freedom Report for 2013 United States Department of State, 'Pakistan 2013 International Religious Freedom Report', available at:

As the Ahmadiyya community do not self-identify as non-Muslim, they have no political representation under the affirmative regulations for religious minorities, and with no Ahmadi representatives able to participate in elections, there has been no opportunity for Ahmadis to amend current discriminatory laws.²⁰¹ Ahmadis are registered on a separate electoral roll which forces them to identify as non-Muslim if they want to vote. 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. 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. They were the only community who could not legally vote in the country's 2013 national elections.²⁰²

Even in schools and educational institutions Ahmadis are denied the right to education, are routinely harassed and discriminated against on the basis of faith, with cases of expulsion, removal from classes and being targeted for abuse due to their faith.²⁰³ 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. 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.

Recent Cases:

Ahmadis have been routinely attacked and substantially more than the officially recorded number of 250 are believed to have been murdered in Pakistan on grounds of faith since 1984.²⁰⁴ The deadliest attack on the community in recent years occurred in May 2010, when extremists attacked during Friday prayers at two Ahmadi mosques in Lahore, killing 94 people.²⁰⁵

<<http://www.state.gov/documents/organization/222551.pdf>>, (accessed: 15/12/15); See Ahmadiyya Muslim Association UK submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

²⁰¹ European Union Election Observation Mission, 'Final Report 2013', (July 2013), available at:

<http://www.eueom.eu/files/dmfile/eu-eom-pakistan-2013-final-report_en.pdf>, (accessed: 15/12/15)

²⁰² See Ahmadiyya Muslim Association UK submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

²⁰³ *ibid*

²⁰⁴ Ahmadiyya Times, 'Pakistan: Over 250 Minority Members Murdered During Shabaz Sharif's Reign as CM Punjab, (8 November 2014), available at: <<http://ahmadiyyatimes.blogspot.co.uk/2014/11/pakistan-over-250-minority-members.html>>, (accessed: 15/12/15)

²⁰⁵ See Christian Solidarity Worldwide submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

In 2014, Ahmadis faced a number of targeted attacks, resulting in 11 casualties. In May 2014, an Ahmadi man accused of blasphemy was shot dead by a teenager while he was in police custody. Later that same month, a Canadian-American doctor undertaking humanitarian work in Pakistan was killed, on the basis of his Ahmadi faith.²⁰⁶

Within the last year, on 27 July 2015, a mob burned down the homes of a small Ahmadiyya community in Punjab province on the evening of 27 July, after a resident was accused of blasphemy - two children and their grandmother died of smoke inhalation and several others were seriously injured.²⁰⁷

In October 2015, an Ahmadi family in Karachi were attacked whilst entering their home after returning in the evening following prayer at a local mosque. They were confronted by two attackers who opened fire and sprayed them with bullets. The victims were immediately taken to hospital where they are fortunate to have survived, despite having with serious life changing injuries.²⁰⁸

On Friday 20 November 2015, a violent mob attacked Ahmadi Muslims in Jhelum, Pakistan, on allegations of blasphemy – ‘desecrating the Qur’an - and burned down a large chipboard factory belonging to members of the community. The violence then spread over the next day to a nearby village, Kala Gujran where Ahmadi homes were the target of arson and a second mob attacked the nearby Ahmadi mosque, Baitul Zikr. A mob began to pelt stones at a chipboard factory before setting the factory alight trapping workers inside the blazing building causing the army to be called in an attempt to contain the violence. Although the police registered a First Information Report (FIR) against the accused, no action has been taken by the police to arrest and/or prosecute the violent perpetrators despite the substantial damage caused.²⁰⁹ Some have advanced that the true motivation for the attack stemmed from the fact that the Ahmadi factory owner owned prime real estate.²¹⁰

Conclusions:

The APPG concludes that through the substantial volume of information provided to it both orally and in writing, there is a real risk of persecution for members of the Ahmadiyya community in Pakistan, who are perceived as not adhering to the ‘orthodox’ ideology. Stating that members of these religious communities are at real risk of persecution is not to say that all these individuals inherently have been or will be persecuted during their lifetime; the likelihood of persecution depends on factors such as their encounters with and actions amongst people of other/different faiths or beliefs. These factors are not exhaustive.

²⁰⁶ Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2015 - Pakistan*, 2 July 2015, available at: <http://www.refworld.org/docid/55a4fa494.html> [accessed 2 December 2015]

²⁰⁷ See Amnesty International submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

²⁰⁸ Ahmadiyya Times, ‘Pakistan: Ahmadi-owned factory set on fire; Punjab govt and media biases on display’ 20 November 2015, available at: <http://ahmadiyyatimes.blogspot.co.uk/2015/11/pakistan-mob-injehlum-torches-ahmadi.html> accessed: (18/12/15); Kayani, Amir, Dawn News, ‘Ahmadi place of worship set ablaze in Jhelum, riots erupt after blasphemy allegations’, 21 November 2015, available at: <http://www.dawn.com/news/1221273>, (accessed: 17/12/15)

²⁰⁹ *ibid*

²¹⁰ The Nation, ‘Mob Justice’, 22 November 2015, available at: <http://nation.com.pk/editorials/22-Nov-2015/mob-justice>, (accessed: 29/11/15)

As the above information details, members of Pakistani Ahmadiyya community face violations of fundamental human rights, including the right to life and the right to liberty and security. The real risk of persecution is evident from existing national and provincial laws in Pakistan, such as the blasphemy laws under Section 295-C of the Penal Code as well as from practices of law enforcement agencies and judicial officers. The over-arching threat of terrorist violence is particularly acute for the above-mentioned community since they remain a primary target of non-State actors.

The APPG submits that Pakistani Ahmadis are subject to treatment that requires their protection as provided within the UK'S 2006 Qualification Regulations on Refugees of Persons in Need of International Protection.²¹¹ The APPG recommends that cases in which members of this community seek asylum on the grounds of religious persecution should, in line with UNHCR guidelines, be analysed and judged on a case-by-case basis.²¹² The UNHCR has suggested that persecution can be established on 'cumulative grounds'; whereas a single act of discrimination in itself may not be sufficient to establish persecution and claim refugee status, where this is combined with 'other adverse factors (e.g. a general atmosphere of insecurity in the country of origin)' or 'where a person has been the victim of a number of discriminatory measures', this may be enough to cross the threshold for and establish persecution.²¹³ Using the above evidence, the APPG submits that persecution of Ahmadis, depending on the circumstances, does also occur on a cumulative basis. See Section 1 for the definition of 'refugee' and full analysis of what constitutes 'persecution' under international law.

Christians

Christians represent 1.59% of Pakistan's current total population of c.191 million.²¹⁴ Some estimates suggest that there are between 3–5 million Christians in Pakistan (AK & SK case, para. 216). Between 80%-90% of Christians reside in Punjab, with an overwhelming majority of the Punjabi Christians concentrated in central areas of the province. Almost half of the Punjabi Christians are based in Gujranwala and Lahore. Fifty-four Christian villages can be located in Punjab, whereas Sindh has predominantly four Christian villages. Pakistan's second largest city Lahore has approximately 50 Catholic Church schools and schools of other confessions.

According to available information, approximately 40-60% of all Christians are Catholics.²¹⁵ The remaining half represents the protestant community and are divided into the Church of Pakistan, Methodist, Anglican, Presbyterian and Lutheran, the United Presbyterian Church and Salvation Army. The majority of the Christian community in Pakistan are descendants of converts from communities formerly deemed lower caste. Conversions to Christianity were perceived as a means to escape the rigid hierarchical system which assigned them to an inferior socio-economic standing..

²¹¹ See Annex 1

²¹² UN High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan*, (14 May 2012), HCR/EG/PAK/12/02

²¹³ UN High Commissioner for Refugees (UNHCR), *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV. 3, paras.52-3

²¹⁴ Worldometers, 'Pakistan Population (live)', available at: ><http://www.worldometers.info/world-population/pakistan-population/>>, (accessed: 12/12/15)

²¹⁵ Adherents.com – Religion by Location, 'Pakistan, continued...', available at: <http://www.adherents.com/adhloc/Wh_266.html>, (accessed: 15/12/15)

Amidst the growth of communalism in the early part of the twentieth century, the Christian community of British India on the whole adopted a pacifist and apolitical stance.²¹⁶ At the time of the partition of India, a very small proportion of the Christian community had been able to benefit from the religious and educational institutions established by the foreign Christian missionaries. In the years subsequent to Pakistan's creation, these institutions continued to attract a segment of educated Christians into higher education. These institutions not only provided a steady source of educational facilities (secular as well as religious) but their preferential hiring policies ensured a secure source of employment for the Christians.²¹⁷

Over the years, however, a vast majority of Christians, being illiterate and on the lowest ladder of socio-economic scale have failed to receive any formal education. Increasing hurdles have been placed for those who were formerly in a position to benefit from these Christian missionary institutions. The most serious assault upon these Christian institutions was conducted under the government of Zulfikar Ali Bhutto (1972–1977). Under the banner of 'Islamic Socialism' the Bhutto Government nationalised many of the Christian educational institutions. Nationalisation was followed by administrative changes within these educational institutions, with the government abolishing administrative and teaching posts which had previously been reserved for Christian minorities. This administrative shake-up has had disturbing long-term consequences for the Christians of Pakistan. As administrative control was passed on to the majority Muslims, the Christians felt that they were being deliberately excluded from job opportunities. The increasingly prejudicial environment, it is alleged, has also led to 5000 job losses for Christians during 1975–1990.²¹⁸ Nationalisation of these institutions also resulted in a serious decline in educational opportunities for Christians, with recent years having seen a sharp drop in their literacy rate. Nationalisation also meant a loss of control over educational curriculum and appointment of employees and administrators in these institutions. In 2004, the government of President Pervez Musharraf made a public commitment to de-nationalise and to return these educational institutions to their rightful owners. While, some institutions were indeed de-nationalised and church properties and assets were returned, most remain in the possession of federal or provincial governments.

While the Christian minorities always remained vulnerable and open to abuse, the Islamisation process initiated by General Zia-ul-Haq (1977–88) had a particularly adverse impact on their position. Many of the constitutional and legislative changes brought by Zia to Islamise Pakistan's polity proved extremely detrimental to the existence of the Christians. The usage and application of the blasphemy laws have, in particular, been extremely unfortunate. These laws have been invoked either by religious extremists or by Muslims who want to evict the Christians forcibly and take over their properties.

All organisations making submissions to the APPG for IForB during its evidence hearing sessions raised their continuing deep concerns about the treatment of Pakistan's Christians. Although

²¹⁶ G Shiri, *Christian Social Thought in India 1962–1977*, (The Christian Literature Society, Madras) 1981, p. 6.

²¹⁷ See United Presbyterian Church, *A Century of Christ in India and Pakistan 1855–1955*, United Presbyterian Church, Lahore, 1958, pp. 12–14; L Vemmelund, *The Christian Minority in the North West Frontier Province of Pakistan*, (Christian Study Centre, CSC Series No. 6, Rawalpindi) 1973, p. 11.

²¹⁸ Pakistan Christians, *Miseries of the Christians in Pakistan: Under Severe Religious Domination – November 1996*, Internet source <http://hem/passagen.se/depaul>, 28 May 2001; also see IA Rehman, 'Emerging Trends in Human Rights Violations in Pakistan', in: Idara-e-Amn-O-Insaf (ed.), *Emerging Trends in Human Rights*, Idara-e-Amn-O-Insaf, Lahore, 1994, pp. 53–58.

Christians do not have laws in which they are specifically named, they are, like the Ahmaddiyyas a target for both State and non-State actors for those motivated by vested political and socio-economic interests and have been subject to the misuse of laws as well as treatment that, by its nature, amounts to systematic persecution. While not all Christians are, at any one time, being persecuted in Pakistan, the APPG has determined that there remains a real risk of persecution for Christians in Pakistan, the immediacy of which is dependent on the individuals' current circumstances, including where they live, work and who they converse with.

The UK Home Office country guidance outlines, using the *AK and SK (Christians: risk) Pakistan CG [2014] UKUT 00569 (IAC)* Supreme Court case decision, finds that "Christians in Pakistan are a religious minority who, in general, suffer discrimination but this is not sufficient to amount to a real risk of persecution". The APPG for IForB has deep concerns about the use of this phrase in the Home Office Country Guidance and, in line with the extensive evidence it has been provided, has concluded that this phrase does not match the reality of the situation for Christians living in Pakistan. Further commentary on the Home Office Country Guidelines is outlined in the report below.

Pakistan is currently ranked sixth on Open Doors' World Watch List of the worst persecutors of Christians and has been marked as 79/100, giving it the classification of "extreme persecution".²¹⁹ USCIRF has also consistently deemed Pakistan a 'Country of Particular Concern'.²²⁰ In response to the twin suicide bombings outside two churches in Lahore in March 2015, Pope Francis stated: "Christians are being persecuted ... I assure you of my prayers... that this persecution against Christians, which the world tries to hide, might end and that there may be peace".²²¹ According to Aid for the Church in Need: "Christians in Pakistan find themselves at the centre of a crisis" suffering 'some of the bloodiest persecution in the country's history and facing ever-more calls to abandon their faith, discrimination at work and at home and attacks on their livelihood'.²²² In practice, without the right to freely express their religion in word or action, some Christians feel the Government is failing to provide them the 'right to be Pakistani'.²²³

Much like Ahmadis, Christians face a multi-level targeting including via discriminatory laws, such as the blasphemy laws, violent attack on homes, shops and other property belonging to the Christian community with little or no police protection as well as via the judicial system in which local court proceedings are often biased and witnesses and legal protection intimidated. Many incidents of social hostility, such as intimidation of Christians in the workplace, harassment of pastors in their homes via loudspeakers and even the desecration of Christian graveyards, never make it to the news. From the APPG's evidence hearings, we heard a harrowing testimony of intimidation in the

²¹⁹ Open Doors, 'World Watch List 2016, available at:

<<http://www.opendoorsuk.org/persecution/resources.php>>, (accessed: 18/01/16)

²²⁰ United States Commission on International Religious Freedom Annual Report, 2015 *USCIRF Report, 2015*, available at: <<http://www.uscifr.gov/sites/default/files/USCIRF%20Annual%20Report%202015%20%282%29.pdf>>, (accessed: 18/12/15)

²²¹ James, A. (2015) 'The world tries to hide: Pope Francis calls for immediate end to persecution of Christians after suicide bombers attack Pakistani churches', *Catholic Online*, 17 March 2015 (accessed at: <http://www.catholic.org/news/hf/faith/story.php?id=59179>).

²²² Aid for the Church in Need (2015) 'Pakistan: Tested in Faith', *Aid for the Church in Need* (accessed at: <http://www.acnuk.org/pakistan-tested-in-faith?handle=pakistan.html>).

²²³ See Prof. Desmond Fernandes submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

workplace from a woman whose husband was murdered by his Muslim colleagues.²²⁴ They resented the fact he was their manager and the only Christian in the office. He was subject to harassment and pressure to convert to Islam, after his consistent refusal, one night they beat him to death. When his wife mustered the courage to approach the police about this incident, she gave us the following testimony of her experience:

'... police in Pakistan routinely treat Christians extremely badly. The police refused to take my 'First Information Report'. They said I had committed blasphemy just like my husband, and they locked me in a little room, not a proper cell. There was no formal arrest and so no paperwork. After two or three days, the door opened and Mr Akmal and a Mr Ramzan entered, those two men who had killed my husband. I was tied to the side of the bed, and they stripped all my clothes off and tortured me, burning me with lit cigarettes, and then... I was raped.'

Alongside a curriculum in many madrasas and State schools teaching children to be critical of Christians, Christian pupils may be publicly ridiculed, beaten by teachers and face many difficulties obtaining university places because of their faith. These 'less serious' incidents nevertheless highlight the pervasiveness of anti-Christian sentiments and the climate of persistent volatility and insecurity that Christians live within in Pakistan.

Christian women and children, in particular, face 'double discrimination', with girls – who often work as domestic servants - remaining at real risk of rape, forced conversion and marriage. Children also continuously fall victim to Section 295 of Pakistan's Penal Code (PPC), with false cases being registered and pursued against them.²²⁵ According to International Christian Concern, 'Rape has been used as a weapon of persecution against Christian girls in Pakistan, where Christians are treated as third-class citizens'. Christian Freedom International estimates that as many as 700 girls are abused in this manner each year.²²⁶ In most of these cases, the authorities rarely take action and the girls are never returned to their families. If the girls are raped and become pregnant, it is nearly impossible for the courts to release them from their captors.²²⁷

Additionally, if a Muslim makes a decision to become a Christian – becoming an apostate and, in turn, blaspheming against the Prophet - and their conversion becomes public knowledge, their life will be

²²⁴ See Bridget John's testimony online at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

²²⁵ Human Rights Commission of Pakistan, AGHS Legal Aid Cell, Catholic Commission for Justice and Peace (CCJP), Simorgh, Faiz Foundation Trust, Centre for Civic Education (CCE), *Discrimination Against Religious Minorities in Pakistan: An analysis of Federal and Provincial Laws*, available at: <<https://freedomdeclared.org/in-parliament/pakistan-report/>>, (accessed: 15/12/15). See this report at: <https://freedomdeclared.org/in-parliament/pakistan-report/>; European Asylum Support Office, 'EASO Country of Origin Information Report: Pakistan Country Overview', (August 2015), available at: <https://easo.europa.eu/wp-content/uploads/EASO_COI_Report_Pakistan-Country-Overview_final.pdf>, (accessed: 15/12/15)

²²⁶ Movement for Solidarity and Peace, *Forced Marriages & Forced Conversions in the Christian Community of Pakistan*, (April 2014), p.2, available at: <https://d3n8a8pro7vhm.cloudfront.net/msp/pages/162/attachments/original/1396724215/MSP_Report_-_Forced_Marriages_and_Conversions_of_Christian_Women_in_Pakistan.pdf?1396724215> (accessed: 15/12/15)

²²⁷ See Prof. Desmond Fernandes submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

at risk.²²⁸ Usually a Mullah will be informed and he will issue a 'Fatwah' and a male cousin or family member will attempt to kill or will kill the apostate.²²⁹

As modern communications allow information regarding the apostate to be sent around to new communities in which the 'apostates' have fled, the only option open to an apostate is often to flee the country. Pew Forum surveys have consistently reported high levels of support in Pakistan for extreme *Sharia* positions among the diverse Muslim population, supporting the death penalty for those who convert from Islam to another faith.²³⁰

According to the BPCA, many churches, including those without large funds, feel the need to hire guards or semi-automatic weapons to guard their church services and prayer meetings due to official police protection, even when it is given, often being unreliable and providing no guarantee of protection when attacks occur. In cases where an individual is accused of perceived blasphemy, it is the whole Christian community that can come under attack hence the need for protection by Churches. Attacks on whole Christian communities are a real threat stemming from accusations of Blasphemy, this is evident from the cases below.

Recent Cases: The cases below are only some of the most prominent incidents against Christians and it is difficult to ascertain how many other individual cases of persecution occur.

Burning of Shanti Nagar (February 1997) -

On February 6, 1997 a Christian Village called Shantinagar, was attacked by over 30,000 militant Muslims. At least 75 per cent of the village was destroyed, including 16 churches, over 300 houses and three hostels and schools.²³¹ The attacks stemmed from the discovery of torn and desecrated pages of the Quran. Names of seven culprits were written down on pages of the Quran and a note was left urging Muslims to take revenge against the seven people as they had committed an act of blasphemy which is punishable by death. While many are also of the opinion that the Police orchestrated the burning of pages from the Quran and instigated the riots against the seven culprits.²³²

Gojra Incident in Punjab (1 August 2009) -

Rumours of a Quran desecration at a Christian wedding in the eastern village of Kurian led to violent demonstrations that culminated in the destruction of more than 100 Christian houses in nearby Gojra. Eight Christians were killed (including 4 women and 1 child) in the mob violence, including six family members burned alive in their home. Pakistani authorities said the Quran desecration allegations were unfounded and that banned Sunni extremist groups in the area had incited the attacks.

²²⁸ See Christian Solidarity Worldwide submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

²²⁹ *ibid*

²³⁰ Fisher, Max, The Washington Post, 'Majorities of Muslims in Egypt and Pakistan support the death penalty for leaving Islam', available at: <<https://www.washingtonpost.com/blogs/worldviews/wp/2013/05/01/64-percent-of-muslims-in-egypt-and-pakistan-support-the-death-penalty-for-leaving-islam/>>, (accessed at: 10/12/15)

²³¹ Christian Solidarity Worldwide, 'PAKISTANI CHRISTIANS CALL FOR SEVEN DAYS OF MOURNING AND A ONE DAY STRIKE TO PROTEST AT ATTACKS ON SANGLA HILL CHRISTIANS', 14 November 2005, available at: <<http://www.csw.org.uk/2005/11/14/press/451/article.htm>>, (accessed: 18/12/15)

Burning of the Christian Joseph Colony in Lahore (9 March 2013) -

An enraged Muslim crowd attacked a Christian neighbourhood in Lahore, setting fire to more than 150 houses and 2 churches. Several thousand people, estimated at 3,000, attacked the Joseph Colony, after an erroneous report that a Christian sanitation worker, Savan Masih, had been accused of blasphemy against the Prophet Muhammad.²³³ Masih, was sentenced to death for blasphemy after a friend accused him of making blasphemous remarks during an argument.

The accusations provoked a two-day riot where over 100 houses were subsequently ransacked and torched, while the inhabitants fled for their lives. Windows were smashed and burned, valuables were looted – not a single house in the colony was spared as the mob destroyed everything.²³⁴

Police were warned of the impending attack but failed to take adequate measures to protect the community. From our Hearings we have found that Police inadequacies are not an unusual occurrence in Pakistan. As the European Asylum Support Office (EASO) have found, “much of the police force is regarded as corrupt, inefficient and unprofessional. There are reports that the police often fail to protect members of religious minorities and women”.²³⁵

Church Bombings in Peshawar (22 September 2013) -

A twin-suicide bombing outside a 130 year old Anglican Church in Peshawar killed at least 78 people. Two bombers blew themselves up as worshippers were coming out of the city's historic All Saints church. The atrocity was claimed by the Jundullah branch of the Tehreek-e-Taliban Pakistan (TTP), a group that has orchestrated attacks against Shias as well. Jean Lambert MEP informed the APPG that at the time of the attack the European Parliament passed a resolution on persecution against Christians, in particular referencing Peshawar, where it said "the majority of Pakistani Christians lead a precarious existence, often fearful of allegations of blasphemy".²³⁶

Shama Bibi and Shazad Masih Case (November 2014) -

Shama Bibi and Shazad Masih were brutally attacked by a mob and burnt alive in a brick kiln in the Punjab on 14 November 2014. “On 4 November, Shehzad Masih and his pregnant wife Shama Bibi were lynched and burned to death in a brick kiln in the village of Kot Radha Kishan. The couple were killed by a crowd of c.1,200 incited to violence by a false rumour that they had committed blasphemy by burning pages of the Qur’an.”²³⁷ At least some of their children and wider family witnessed the brutal incident while local police authorities stood by and did nothing. Although there were some arrests, most of the mob got away, and there is a strong suspicion that those arrested and charged – as is usually the case – will be acquitted free of charge.

²³³ Walsh, Declan, New York Times, ‘Attack on Christians Follows Claim of Blasphemy in Pakistan’, 9 March 2013, available at: <<http://www.nytimes.com/2013/03/10/world/asia/explosion-rips-through-mosque-in-peshawar-pakistan.htm>>, (accessed: 15/12/15)

²³⁴ Rehman, Sonya, The Diplomat, ‘Joseph Colony: Attacked and Unprotected’, 5 April 2013, available at: <<http://thediplomat.com/2013/04/joseph-colony-christian-community-in-lahore-attacked-and-unprotected>>, (accessed: 15/12/15)

²³⁵ European Asylum Support Office, ‘EASO Country of Origin Information Report: Pakistan Country Overview’, (August 2015), p.69, available at: <https://easo.europa.eu/wp-content/uploads/EASO_COI_Report_Pakistan-Country-Overview_final.pdf>, (accessed: 15/12/15)

²³⁶ *ibid*

²³⁷ Christian Solidarity Worldwide, ‘CSW CALLS FOR INQUIRY INTO KASUR LYNCHINGS’, 12 November 2014, available at: <<http://www.csw.org.uk/2014/11/12/news/2370/article.htm>>, (accessed: 11/12/15)

Church Bombings in Youhanabad, Lahore (15 March 2015) -

At least 15 people were killed and over 70 were wounded after two churches were bombed in Youhanabad, a Christian neighbourhood in Lahore.²³⁸ Jamaat-ul-Ahrar, a faction of Tehreek-e-Taliban Pakistan claimed responsibility for the attack. The bombings occurred during prayers at two churches located around half a kilometre apart in the city's Youhanabad neighbourhood that is home to more than 100,000 Christians.²³⁹ There were reports that these bombings sparked Christian protests in Lahore which subsequently turned violent and two alleged militants were killed in suspected reprisal attacks.²⁴⁰ Following on from the Youhanabad tragedy CSW partners informed us that due to social bias against Christians the police were excessive and misapplied the law to randomly arrest young men and detain them in jail where they were beaten and tortured.

Conclusions:

The APPG concludes that through the substantial volume of information provided to it both orally and in writing, there is a real risk of persecution for members of the Christian communities in Pakistan, who are perceived as not adhering to the 'orthodox' ideology. Stating that members of these religious communities are at real risk of persecution is not to say that all these individuals inherently have been or will be persecuted during their lifetime; the likelihood of persecution depends on factors such as their encounters with and actions amongst people of other/different faiths or beliefs. These factors are not exhaustive.

As the above information details, members of Pakistani Christian communities face violations of fundamental human rights, including the right to life and the right to liberty and security. The real risk of persecution is evident from existing national and provincial laws in Pakistan, such as the blasphemy laws under Section 295-C of the Penal Code as well as from practices of law enforcement agencies and judicial officers. The over-arching threat of terrorist violence is particularly acute for the above-mentioned community since they remain a primary target of non-State actors.

The APPG submits that Pakistani Christians are subject to treatment that requires their protection as provided within the UK'S 2006 Qualification Regulations on Refugees of Persons in Need of International Protection.²⁴¹ The APPG recommends that cases in which members of this community seek asylum on the grounds of religious persecution should, in line with UNHCR guidelines, be analysed and judged on a case-by-case basis.²⁴² The UNHCR has suggested that persecution can be established on 'cumulative grounds'; whereas a single act of discrimination in itself may not be sufficient to establish persecution and claim refugee status, where this is combined with 'other adverse factors (e.g. a general atmosphere of insecurity in the country of origin)' or 'where a person

²³⁸ Christian Solidarity Worldwide, Pakistan Two Churches Bombed in Lahore, (15 March 2014), available at: <<http://www.csw.org.uk/2015/03/15/press/2511/article.htm>>, (accessed: 15/12/15)

²³⁹ Dawn, '15 killed in Taliban attack on Lahore churches', 17 March 2015, available at: <<http://www.dawn.com/news/1169713>>, (accessed: 8/1/16)

²⁴⁰ Christian Solidarity Worldwide, 'CSW URGES PAKISTANI GOVERNMENT TO TACKLE ROOTS OF VIOLENT ATTACKS' 17 March 2015, available at: <<http://www.csw.org.uk/2015/03/17/press/2514/article.htm>>, (accessed: 17/12/15)

²⁴¹ See Annex 1

²⁴² UN High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan*, (14 May 2012), HCR/EG/PAK/12/02

has been the victim of a number of discriminatory measures', this may be enough to cross the threshold for and establish persecution.²⁴³ Using the above evidence, the APPG submits that persecution of Christians, depending on the circumstances, does also occur on a cumulative basis. See Section 1 for the definition of 'refugee' and full analysis of what constitutes 'persecution' under international law.

Hindus

The Hindu population of Pakistan makes up a minority of about 3.5 million, or 1.85 % of the total population. An overwhelming majority of the Hindus live in the rural areas of Sindh. There are heavy concentrations of Hindus in Sanghar and Tharparkar district which borders India.²⁴⁴ Having endured persistent campaigns of physical and cultural extermination, the history of the Hindu minorities within Pakistan has been unfortunate and tragic. The partition of India in August 1947 resulted in genocidal campaigns against religious minorities, with the Hindus in Pakistan having to suffer most. In addition to the genocide, several million Hindus were forced to become refugees. In this sequence of tragedy and disaster they lost their families and friends, and many were made to witness scenes of mass killings, torture and rape. A factor contributing to the enforced expulsions of Hindus and Sikhs from Pakistan was the interest in their properties and businesses. In carefully planned attacks, prominent Hindus and Sikh families were targeted and forced to flee, leaving behind their assets and properties.

These properties were confiscated and evacuee estates distributed amongst incoming refugees from India. Notwithstanding genocidal campaigns and persecutions, many Hindus decided to stay in Pakistan. The sizeable Hindu existence in East Pakistan came to be regarded as '[t]he core of [Pakistan's] minority problem'.²⁴⁵ Hindus in both East and West Pakistan were frequently associated with the enemies of Pakistan, their physical presence questioned and their loyalty towards Pakistan doubted. The worst fears of the Hindu minority of genocide and physical extermination, did become part of the unfortunate reality of the events that accompanied the civil war of 1971.²⁴⁶ The Hindus of East Pakistan became a primary target of the ruthless campaign of the West Pakistan military which led to the extermination of more than a million people and the creation of ten million refugees.²⁴⁷ The tragedy of the genocide of Hindus in East Pakistan became more painful when the new government of Bangladesh agreed with Pakistan not to conduct trials of those involved in genocide and crimes against humanity.²⁴⁸ The tiny minority of Hindus that remains in the truncated Pakistan of today, continues to find itself vulnerable to exploitation and abuse. The constitutional

²⁴³ UN High Commissioner for Refugees (UNHCR), *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV. 3, paras.52-3

²⁴⁴ See M Rahman, *Land and Life of Sindh: Pakistan*, (Ferozsons Publishers, Lahore) 1993, p. 91.

²⁴⁵ K Ali, *A New History of India and Pakistan Since 1956*, (Pakistan Book Centre, Karachi) 1992, p. 476.

²⁴⁶ A Mascarenhas, *The Rape of Bangladesh*, (Vikas Publications, Delhi) 1971.

²⁴⁷ See R Jahan, 'The Bengalis of East Pakistan', in: Porter, J. (ed.), *Genocide and Human Rights: A Global Anthology*, (University Press of America, Washington D.C., 1982) pp. 44-61; L Kuper, *The Prevention of Genocide*, (Yale University Press, New Haven) 1985, p. 48; International Commission of Jurists, *The Events of East Pakistan 1971*, (Geneva, 1972) p. 57.

²⁴⁸ See J Paust, J and A Blaustein, 'War Crimes Jurisdiction and Due Process: The Bangladesh Experience', 11 *Vanderbilt Journal of Transnational Law*, (1978) 1.

amendments introduced by General Zia-ul-Haq have adversely affected the position of the Hindu minority. More significantly, the rise in religious extremism within South-Asia, with periods of tense political relations between India and Pakistan, has led to greater violence and physical attacks on Hindus. Thus the Hindus of Pakistan frequently suffer from outbursts of anti-Hindu sentiments generated through a backlash of violations against the rights of Muslims in India.

The *Babri Masjid* incident (December 1992) provides a tragic example when the anger at the demolition of the Mosque in Ahodhya (India) was vented against the Hindus and their properties in Pakistan.²⁴⁹ It is estimated that between 2–8 December 1992 about 120 Hindu temples were destroyed in various parts of Pakistan. In a number of instances, gangs of frenzied men entered these temples, smashed the idols of revered Hindu gods and goddesses, snatched the jewels that adorned them, and made off with the charity boxes containing donations. Several shops were looted or burnt with the damages running into millions of rupees. More than 500 non-Muslims, primarily Hindu families, were victimised and tortured; angry crowds entering their houses, destroying their furniture and household goods and taking away their savings and jewellery. There were also physical attacks on members of the Hindu community. A number of Hindus were killed, including the burning to death of a family of six in Loralia. There have been intermittent attacks and destruction of properties belonging to Hindus and to Hindu temples. More recently Hindu temples were attacked in March and November 2014, while compensation for the damage to life and property has not been forthcoming.²⁵⁰

Many Hindus have fled Pakistan, crossing over into India as asylum seekers. IN the evidence hearings, the APPG heard about the ‘P2P Team’ of Anuradha Mishra and Prakash Jha who have been working with Hindu refugees from Pakistan, eking out an existence in camps in the Indian capital, Delhi. The P2P Team is presently highlighting the plight of these refugees to the wider public and APPG urges that support and resources are provided to them for their important work.

Attacks on Hindu Temples - In 2014, from January to June, a series of attacks on Hindu temples in Sindh, Pakistan were reported. In November, the incidents of dozens of forced conversion of Hindu girls also came into light.²⁵¹ On 21 November 2014, the Hindu temple in the Tando Mohammad Khan area in Sindh was attacked by fanatics in Pakistan, the temple was torched, the stone idol of Lord Hanuman blackened with soot, and some religious books burnt. Likewise, on 28 March 2014, in a similar attack, a small Hindu temple was torched near Fateh Chowk in Hyderabad, Sindh, triggering widespread protests by the Hindu community. The Pakistan Hindu Council said, after the attack on the Hindu temple in Tando Mohammad Khan, that around 1,400 Hindu religious sites across the country were in dire need of protection by the government.²⁵²

²⁴⁹ Human Rights Commission of Pakistan, *State of Human Rights in Pakistan 1992*, Human Rights Commission of Pakistan, Lahore, 1993, p. 44. Also see Athar, H., *Babri Masjid*, Rabb Publishers, Karachi, 1990.

²⁵⁰ <http://timesofindia.indiatimes.com/world/pakistan/Attacks-on-Hindu-temples-in-Pakistan-a-worrying-trend/articleshow/45317888.cms>

²⁵¹ *Increased number of attacks on Hindu temples in Pakistan a worrying trend*. 28 November 2014. Available [Online] from: <http://www.india.com/news/world/increased-number-of-attacks-on-hindu-temples-in-pakistan-a-worrying-trend-206278/>, (accessed: 28/11/15)

²⁵² Ibid.

Members of the Hindu minority in Pakistan fear persistent harassment at the hands of religious extremists and complain that there is little official protection accorded to them.²⁵³ Hindu activists argue that ‘secret files are kept on them and their integrity is always in question. They are not allowed into the armed forces, the judiciary or responsible positions in the Civil Service’. These allegations are substantiated through facts which reflect an almost negligible Hindu presence in the higher echelons of administration, bureaucracy and armed forces. Discrimination and prejudice against the Hindus is reinforced by the religious orthodoxy, within educational institutions as well as by the State-controlled media. As a consequence of the oppression and discrimination, the last two decades have seen a steady exodus of Hindus from Pakistan. This exodus, however, has left behind a community that is most vulnerable and in an urgent need of socio-economic protection.

A significant proportion of the Hindus within the province of Sindh are the so-called ‘untouchables’, the Scheduled Caste Hindus. As *haris*²⁵⁴ these Scheduled Caste Hindus form part of the landless bonded labour of the province of Sindh.²⁵⁵ Sindh’s agricultural wealth, to a large extent has depended on the intensive and strenuous work of the bonded labour in producing hugely profitable cash crops such as sugar cane. While huge profits are made by the wealthy landlords, this landless bonded labour consisting of substantial number of Schedules Caste Hindus continues to suffer from abject poverty. They remain tied to the land where they are forced to work literally as slaves. The landlords ensure that these bonded labourers and their future generations remain illiterate and unable in any manner to challenge the unfair system of exploitation. The National Assembly of Pakistan abolished bonded labour through the Bonded Labour Abolition Act 1992. However, the banned practices continue to thrive in many parts of Sindh; officials remain reluctant to interfere for fear of incurring the wrath of powerful ruling families.

Hindus who do manage to break the vicious cycle of repression of bonded labour, nevertheless fail to gain any support from the general community. Existing taboos and rampant discrimination ensure that their employment prospects are confined to menial labour as *Jamadars*. Recent reports suggest increasing amounts of harassment, intimidation, abduction and rape of women belonging to these Hindu communities. Ranbir Singh, from the Hindu Human Rights Group (HHR), gave us the following testimony from Hindu refugees who spoke of the deplorable conditions they faced in Pakistan’s Sindh province.

‘In Pakistan our sisters, daughters, daughter-in-laws and mothers are the victims of abduction, rape and then they are married off to a Muslim and forcefully converted to Islam. Hindus are forced to eat cow beef as cow is sacred in Hinduism. Hindu temples are looted and demolished, idols in temples are destroyed, deities are insulted, our religious book Bhagwad Gita is being burned –it all happens on a daily basis. We’ve seen these atrocities and discrimination from Pakistani Muslims and decided to leave Pakistan. We’ll not leave India in any condition no matter what; you can punish us for that by sending us to jails.’

²⁵³ H Jilani, *Human Rights and Democratic Development in Pakistan*, (Maktaba Jadeed Press, Lahore) 1998, p. 130;

²⁵⁴ Urdu word pronounced as *harees*, meaning: landless bonded labour.

²⁵⁵ See ‘Families Enslaved by a Life of Casual Brutality’ *The Guardian*, 18 March 1996; Human Rights Commission of Pakistan, ‘Bonded Labour: The Surviving Shame of Servitude’, *Newsletter*, Vol. 7, 1996, pp. 9–10.

Hindus as well as Sikhs are not treated as equal citizens in Pakistan. In the political sense they are hardly citizens at all. The politicisation of every social aspect of existence has meant that these minority communities, along with others, have been systematically marginalised, persecuted and discriminated against in a host of measures. Such persecution has led to an increasing level of violence, notably religiously motivated kidnapping, assault, sexual crimes and murder. Religious shrines are a particular favourite target.

Anti-Hindu Media, Statements & Literature - According to the 2006 US Department of State International Religious Freedom Report, Hafiz Saeed, leader of Lashkar-e-Tayyiba, a designated foreign terrorist organization, consistently issued statements calling for holy war against Jews and Hindus. Some Sunni Muslim groups published literature calling for violence against Ahmadis, Shi'a Muslims, other Sunni sects, and Hindus. Newspapers also frequently published articles that contained derogatory references to religious minorities, especially Ahmadis, Hindus, and Jews. Sermons at mosques frequently railed against Ahmadis, other Muslim groups, and Hindus. Already suffering mass illiteracy, Pakistan's schools do little to promote tolerance towards minority groups. A 2005 report by the National Commission for Justice and Peace a non-profit organization in Pakistan, found that Pakistan Studies textbooks have been used to articulate and inculcate hatred towards Hindus. Furthermore, the state-run electronic media, which until recently dominated the opinion building in Pakistan, used to portray India (Hindus) as eternal enemies of Pakistan and Muslims of the entire world. Unsurprisingly, this exacerbated disconcerting feelings from the majority Muslim population towards the Hindu minority.

Vulnerability of Dalits - The majority of the Hindus in Sindh, the so-called 'Dalits', work as landless peasants, bonded labourers, or servants doing menial jobs (sweepers, scavengers, etc.) that other Pakistanis regard as degrading. The official number of Dalits is approximately 330,000 (1998 census), however the real figure may be two million, or even higher.²⁵⁶ They are the most vulnerable suffering myriad forms of abuse, extreme poverty and low human development, due to the prevailing patterns of exclusion and marginalization.²⁵⁷ They are evicted from the land they occupy, relocated at distant places, and forced to work without due compensation. Bogus criminal cases are filed against the political activists among them. Their women are often molested, and the police ignore their complaints; even the more affluent Hindus are not immune from attack. The majority of society feels free to insult, humiliate, intimidate, and blackmail them.

Targeting of Females - Women and girls in particular face discrimination and marginalization and are targeted because they are minorities with many cases of hostility, abduction, extortion, hijacking and ransom. Females are also subject to sexual abuse, forced marriage and conversion to Islam. This is a key concern for Hindus as it is trend that has increased in recent years²⁵⁸, the volunteer group REAL found, between 20 and 25 Hindu girls were converted every month.²⁵⁹ Furthermore the worst

²⁵⁶ International Dalit Solidarity Network, 'Caste-based discrimination in Pakistan', May 2014, available at: <http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Pakistan/Pakistan_briefing_note.pdf>, (accessed: 15/12/15)

²⁵⁷ Ibid.

²⁵⁸ Ibid

²⁵⁹ Responsible for Equality and Liberty, 'Pakistan: 25 Hindu Girls Abducted Every Month; Forcibly Converted To Islam', 31 March 2010, available at: <http://www.realcourage.org/2010/03/pakistan-25-hindu-girls-abducted-every-month/>, (accessed: 18/12/15)

victims are Dalits who are kidnapped or lured into conversion, sexually exploited and then abandoned.²⁶⁰

There was no legal mechanism for the government to register the marriages of Hindus and Sikhs, causing women of those religious groups' difficulties in inheritance, accessing health services, voting, obtaining a passport, and buying or selling property. However, the Hindu minority community in Pakistan will soon have a marriage law as a parliamentary panel has unanimously approved the Hindu Marriage Bill. While this bill is welcome news, the recognition of Hindu marriages may not be immediate in rural areas where many Hindus are located thus they are still remain in a position of risk.

Issues regarding education - A report by BBC Urdu claims that minor Hindu girls are being abducted and forced to embrace Islam in Pakistan after which they are married off. The report also added that shockingly there is no law that prevents such brutal acts against the community. With no legal deterrence against those committing such actions it is unsurprising many Hindus have decided to flee Pakistan for safer havens with greater protections for their rights.²⁶¹

According to BBC Hindi's Zubair Ahmed, about 1,200 people, who have migrated from Pakistan in the past five years, are housed in three camps in Delhi and many say one of the biggest problems they faced in Pakistan was that they were unable to educate their children.²⁶²

Bhagwan Das, who was among a group of people who reached Delhi in 2015, has two growing children with no formal education. He says they were treated like "second-class citizens" in Pakistan. "Our children don't feel welcome in schools there. Muslims taunt us for being Hindu. Our girls are also sexually harassed," Mr Das says. There are also reports of discrimination in government schools, where Hindus are referred to as "kafirs"²⁶³, told to go and work in the fields and obliged to recite the six kalimas, or tenets, of Islam.

Rajwanti, 13, and other children in the camp allege that Hindu boys and girls are made to read the Quran (Muslim holy book) in Pakistani schools and that Muslim students laugh at their religious practices.²⁶⁴ There is reference to the inclusion of derogatory remarks against minority religious groups, particularly Hindus, in public school textbooks. It is reported however that the government has made some effort 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.

Impunity for Perpetrators - Violence and atrocities against the minority population of Sindh has continued for many years but the Hindu minority are increasingly subject to persecution. Kidnapping

²⁶⁰ International Dalit Solidarity Network, 'Caste-based discrimination in Pakistan', May 2014, available at: http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Pakistan/Pakistan_briefing_note.pdf, (accessed: 15/12/15)

²⁶¹ Zee News (2016) *Minor Hindu girls forcefully being converted to Islam in Pakistan*. January 29. Available [Online] from: http://zeenews.india.com/news/south-asia/minor-hindu-girls-forcefully-being-converted-to-islam-in-pakistan_1850405.html, (accessed: 17/12/15)

²⁶² BBC, (2015) *Why Pakistani Hindus leave their homes for India*. 28 October. Available [Online] from: <http://www.bbc.co.uk/news/world-asia-india-34645370>, (accessed: 17/12/15)

²⁶³ Arabic term for 'infidel' or 'non-believer'

²⁶⁴ Ibid.

of their girls and sexually assaulting their children has been made easier by the 'untouchable' status which Hindu minorities are forced to exist under. The families of victims are afraid of registering cases against influential perpetrators in case of death threats being issued to them in case they raise their voices. The police in cases are also at times complicit in fulfilling wishes of the local elite.

In February 2012 over 200 Hindus fled Pakistan after 19-year old Rinkle Kumari was abducted from her village Mirpur Mathelo in Ghotki province of Pakistan, and subsequently forcibly converted and married. Her abductors had powerful political connections and after two months the country's Supreme Court ruled against her parents. Kidnappings, rapes, forcible conversions and constant harassment are a daily routine for Hindus reside in Pakistan and suffer humiliation of being regarded as third class citizens.

Abductions - A survey conducted by Chander Kumar Kohli, vice-president of the Pakistan Hindu Seva in 2011-2012, found that Dalits are reluctant to let their girls to study even in primary schools as they say there is a risk they will be abducted when they go to school and then converted to Islam. Furthermore, Hindu children are often forced, through being beaten and harassed, to recite Islamic teachings as a precondition before they are educated. As a result of this harassment and fear that their children will be abducted and converted to Islam, many Hindus have stopped sending them to school all together. The implications of this are leaving a whole generation illiterate.

Pakistan Muslim League (N) member parliament Dr Haresh Chopra told the Times of India on 28 August 2012 that these incidents were increasing in frequency. He further said that there are organized gangs of mullahs and terrorists, who even abduct minor girls of minority communities and procure their age certificates with Muslim names from madrassas proving them adults.

Forced Conversion - According to the Movement for Solidarity & Peace, the prevalence and incidence of forced conversion and marriage are difficult to accurately estimate due to reporting deficiencies and the complex nature of the crime. However, for the Hindu community, the most conservative estimates put the number of victims of forced conversion and marriage at 300 girls per year.²⁶⁵

Conclusions:

As the above information details, members of Pakistan's Hindu community continue to face violations of fundamental human rights, including the right to liberty and security and are thus at a real risk of persecution. The real risk of persecution is evident from existing national and provincial laws in Pakistan, such as the blasphemy laws under Section 295-C of the Penal Code as well as from practices of law enforcement agencies and judicial officers. The over-arching threat of terrorist violence is particularly acute for the above-mentioned community since they remain a primary target of non-State actors. Stating that members of these religious communities are at real risk of

²⁶⁵ Movement for Solidarity & Peace (2014) *Forced Marriages & Forced Conversions in the Christian Community of Pakistan*. P.2. Available [Online] from: http://d3n8a8pro7vhmx.cloudfront.net/msp/pages/162/attachments/original/1396724215/MSP_Report_-_Forced_Marriages_and_Conversions_of_Christian_Women_in_Pakistan.pdf?1396724215, (accessed: 17/12/15)

persecution is not to say that all these individuals inherently have been or will be persecuted during their lifetime; the likelihood of persecution depends on factors such as their encounters with and actions amongst people of other/different faiths or beliefs. These factors are not exhaustive.

In light of the above information and especially given the historic treatment of Pakistan's Hindus since the formation of Pakistan, the APPG submits that Hindus remain at a real risk of persecution. Hindus are particularly at risk of being associated with India and Hindu women and dalits are particularly vulnerable members of Pakistan's society. Hindu women and girls who in some cases are specifically being targeted, forcibly converted and married because they are Hindu and not simply just because they are female. The UNHCR has suggested that persecution can be established on 'cumulative grounds'; whereas a single act of discrimination in itself may not be sufficient to establish persecution and claim refugee status, where this is combined with 'other adverse factors (e.g. a general atmosphere of insecurity in the country of origin)' or 'where a person has been the victim of a number of discriminatory measures', this may be enough to cross the threshold for and establish persecution.²⁶⁶ The history of discriminatory acts and a general atmosphere of insecurity in which Hindus have lived since partition will, in some cases, in line with UNHCR guidelines, mean that persecution can be established on cumulative grounds.²⁶⁷ Despite some positive changes in legislation regarding Hindu rights, as many of them reside in rural areas, the APPG believes changes in Government policy will be slow to reach these communities and hence translate into substantial reform of their treatment.

The APPG submits that Pakistani Christians are subject to treatment that requires their protection as provided within the UK'S 2006 Qualification Regulations on Refugees of Persons in Need of International Protection.²⁶⁸ The APPG recommends that cases in which members of this community seek asylum on the grounds of religious persecution should, in line with UNHCR guidelines, be analysed and judged on a case-by-case basis.²⁶⁹ See Section 1 for the definition of 'refugee' and full analysis of what constitutes 'persecution' under international law.

Sikhs

Sikhs have a historically strong affinity towards Pakistan as it is believed to be the birthplace of the founder of Sikhism, Guru Nanak Dev Ji. Sikhs have lived in peace on the Afghan-Pakistan border among Pashto-speaking tribes since the 17th century. However, during the last decade the Federally Administered Tribal Areas (FATA) - what was once a safe haven for Sikhs escaping religious persecution - has become an area of hostility and violence with sometimes deadly consequences.²⁷⁰

²⁶⁶ UN High Commissioner for Refugees (UNHCR), *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV. 3, paras.52-3

²⁶⁷ *ibid*

²⁶⁸ See Annex I

²⁶⁹ UN High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan*, (14 May 2012), HCR/EG/PAK/12/02

²⁷⁰ Yusufzai, Ashfaq, IPS News, 'Pakistani Sikhs Back in the 'Dark Ages' of Religious Persecution', 20 November 2014, available at: <<http://www.ipsnews.net/2014/11/pakistani-sikhs-back-in-the-dark-ages-of-religious-persecution>>, (accessed: 15/12/15)

According to a U.S. State Department Report on religion in 2008, there are some 30,000 Sikhs residing across Pakistan, many in the north-western provinces of Khyber Pakhtunkhwa (KPK) and FATA. According to Muhammad Rafiq, a professor with the history department at the University of Peshawar, Sikhs are the largest religious minority in Pakistan after Hindus and Christians.²⁷¹

Many Sikhs have registered as Internally Displaced Person's (IDPs), along with 200,000 others who have left FATA in waves since militant groups began exerting their control over the region in 2001.²⁷² The Taliban as well as other armed Islamic fundamentalist groups refer to Sikhs as 'infidels' and treat the community with a high level of hostility simply due to the fact they are not Muslim. They have often instigated waves of destroying shops owned by Sikhs and kidnappings. There have also been reports that Sikhs have been threatened and forced to pay the Jizya tax by Islamic groups in the area.²⁷³ Sikhs are particularly at risk of attack because they can be distinguished from others due to their turbans.

Amnesty International's 2014/2015 report on 'The State of The World's Human Rights' states that in Pakistan: "Members of the Sikh religious community staged several protests throughout the year against killings, abductions and attacks on their places of worship in different parts of the country. They complained that the authorities consistently failed to provide adequate protection from such attacks or bring those responsible to justice. The blasphemy laws remained in force, in violation of the rights to freedom of thought, conscience and religion and freedom of opinion and expression."²⁷⁴

Sikh Displacement - In June 2014, a government-sponsored offensive in North Waziristan Agency, aimed at rooting out Tehreek-e-Taliban Pakistan (TTP) militants once and for all from their stronghold, forced scores of people to flee their homes amidst bombs and shelling. Some 500 Sikh families were among those escaping to Peshawar. Now, they are living in makeshift camps, unable to earn a living, access medical supplies and facilities or send their children to school, especially boys who stand out due to their turbans.

As is the case with other minorities, Sikhs feel marginalised by the Government and state authorities. The police regularly fail to act against perpetrators of crimes against Sikhs, who they allow to operate with impunity. Despite the fact militant groups claim responsibility for crimes and even if reports are lodged by victims, the police do not take any action out fear of the groups such as the Taliban and Al Qaeda.²⁷⁵

²⁷¹ Ahmad, Amara, The Diplomat, 'The Killing of the Sikhs', 30 September 2014, available at: <<http://thediplomat.com/2014/09/the-killing-of-the-sikhs>>, (accessed: 15/12/15)

²⁷² Yusufzai, Ashfaq, IPS News, 'Pakistani Sikhs Back in the 'Dark Ages' of Religious Persecution', 20 November 2014, available at: <<http://www.ipsnews.net/2014/11/pakistani-sikhs-back-in-the-dark-ages-of-religious-persecution>>, (accessed: 15/12/15)

²⁷³ ibid

²⁷⁴ Amnesty International, 'AMNESTY INTERNATIONAL REPORT 2014/15: THE STATE OF THE WORLD'S HUMAN RIGHTS', 25 February 2015, p.283, available at: <<https://www.amnesty.org/en/documents/pol10/0001/2015/en>>, (accessed: 15/12/15)

²⁷⁵ Ahmad, Amara, The Diplomat, 'The Killing of the Sikhs', 30 September 2014, available at: <<http://thediplomat.com/2014/09/the-killing-of-the-sikhs>>, (accessed: 15/12/15)

Kidnapping & Beheading - Sikhs are exposed to kidnapping threats from militant groups, an issue that became particularly rife as Islamic militants increasingly exerted their influence over tribal areas. The kidnapers demand unaffordable sums for ransom and then kill the victim if not paid.

February 2014 - two Sikh businessmen were kidnapped in Dera Ismail Khan. They were released after allegedly paying a hefty ransom of Rs. 4 million (\$38,953). In February 2010, two Sikh men from Pakistan's tribal northwest were kidnapped and beheaded. The men were kidnapped by the Pakistan Taliban for ransom from Khyber Agency and were killed when their family members were unable to pay their ransom, officials said.²⁷⁶ Furthermore, in January 2013, a 40-year-old Sikh was kidnapped by the militant group Lashkar-e-Islam in Khyber Agency (tribal areas in the north-west of Pakistan). He was later beheaded and his mutilated body was dumped in a sack with a note accusing him of spying for a rival group.²⁷⁷

Conclusions:

The APPG is disturbed by the cases reported above and those received from individuals that highlighted the discrimination, oppression and what was suggested, in some cases, including cases of beheading and kidnapping, to amount to persecution of Sikh communities in Pakistan. The APPG does not believe that it currently has sufficient contemporary evidence to determine whether the Pakistani Sikh community continues to be at real risk of persecution. Therefore, the APPG recommends that further evidence be gathered on this community and that all Sikh asylum cases being claimed on the grounds of religious persecution be analysed on a case-by-case basis with the cumulative grounds for establishing persecution, as outlined above, being taken into account.²⁷⁸

Jews

Having heard much of the discrimination and persecution experienced by minority communities in Pakistan, this section provides an example of a reality that may transpire for non-Jewish religious minority communities currently living in Pakistan if maltreatment towards them is not halted. The section highlights the story brought to us at the evidence hearing sessions of the alleged last self-identifying Jew in Pakistan; a poignant indication of what years of systematic discrimination and alienation of individuals adhering to minority religious beliefs in Pakistan can lead to if such treatment is not eradicated.

Destruction of the Jewish Community in Pakistan - Hostilities against the Jewish community in Pakistan began in 1947 when Mohajir Muslim refugees from India ransacked Jewish sites and places of worship, with the Karachi synagogue being burnt down. Every time there was a war in the Middle East, the Jews suffered the repercussions. In 1948 most Jews left for Israel and the population continued to decline so that after 1967 there were only 350 Jews left in Pakistan. In 1988 the Magen Shalom synagogue in Karachi was demolished under Zia al-Huq and a shopping centre was built on

²⁷⁶ Dawar, Nasir, CNN, '2 Sikhs beheaded in Pakistan's northwest' available at: <<http://edition.cnn.com/2010/WORLD/asiapcf/02/24/pakistan.sikhs.beheaded>>, accessed: 23/12/15

²⁷⁷ Ahmad, Amara, The Diplomat, 'The Killing of the Sikhs', 30 September 2014, available at <<http://thediplomat.com/2014/09/the-killing-of-the-sikhs>>, (accessed: 15/12/15)

²⁷⁸ *ibid*

the site. Today there are no more self-identifying Jews in Pakistan although some ten families of Jewish origin who masquerade as Parsis or Muslims are still thought to exist.²⁷⁹

During the evidence hearings, the APPG heard the following statements from the organisation Haif UK regarding the alleged ‘last self-declared Jew in Pakistan’:

*Fishel Benkhald is Pakistan's only self-declared Jew. He wants to restore the cemetery and rebuild the synagogue in Karachi. He stated that: "My dream is to gain empathy. Later I will try and get help and start the process for a small synagogue".*²⁸⁰

*In 2009, the constant anti-Semitic propaganda and conspiracy theories from the Pakistani government and media sickened him, he wrote that: "My political side outgrew my fear. I felt less hesitant to claim my religion more publically than I would have before".*²⁸¹

*In February 2014 Fishel, whose father is Muslim but whose mother is Jewish (and therefore considered Jewish under Jewish law) planned to change his official religious status from Islam to Judaism. He said "It is dangerous, but I will go at least once to record my request so their response can be documented." The APPG heard that NADRA, the database in Pakistan which handles citizenship, denied his request to change his identity from 'Muslim' to 'Jew'. This is a concerning outcome as it represents a flagrant violation of one's freedom to pursue and manifest ones religious belief. It is also a worrying development for the trend of plurality and religious freedom in Pakistan.*²⁸²

As Harif UK highlighted, “the ethnic cleansing of minorities sets a dangerous precedent for society at large.” We have heard testament of the destruction of the Jewish community in Pakistan, and with the continuing trends of high levels of persecution and discrimination against other religious minorities discussed in this report, it is perhaps a worrying sign that there may be a risk of the eradication of other minorities too.

Conclusions:

The APPG is concerned at the apparent virtual eradication of the Pakistani Jewish Community and fears other minority groups may suffer a similar fate if the trajectory of religious freedom in Pakistan does not proceed in a positive direction. Due to the very small size of the Jewish community in Pakistan, the APPG cannot conclude whether members of this community are currently at real risk of persecution, however we do recognise that this is a result of past persecutory action against the Jewish community. Thus, the APPG recommends that further evidence be gathered on any remaining Jews in Pakistan and that all Jewish asylum cases being claimed on the grounds of religious persecution be analysed on a case-by-case basis with the cumulative grounds for establishing persecution, as outlined above, being taken into account.²⁸³

²⁷⁹ See Harif (UK Association of Jews from the Middle East and North Africa) submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

²⁸⁰ ibid

²⁸¹ ibid

²⁸² ibid

²⁸³ ibid

PART C

WHAT DO MEMBERS OF PAKISTANI RELIGIOUS MINORITY GROUPS SEEKING ASYLUM CURRENTLY FACE?

SECTION 6

OUTSIDE THE UK:

Case-Study: Christians in Thailand & UNHCR Bangkok Policy

According to European Asylum Support Office, about 10,000 Christians have migrated to Bangkok to seek refugee status in recent years.²⁸⁴ Despite the high numbers of refugees entering Thailand, little to no protection is afforded to refugees by the state as Thailand is not a signatory to the 1951 Geneva Refugee Convention or its protocols. According to the provisions of Thailand's Immigration Act, individuals entering the country without proper authorisation are in breach of the law and thus subject to arrest, detention and deportation.²⁸⁵ These provisions may be applied against refugees and asylum seekers, and no distinction is made between the two groups, except those for whom specific executive decisions apply.²⁸⁶ Asylum seekers continuously risk being detained, either while attempting to cross the border into Thailand or once within Thailand and can be harassed by police to pay a fee to 'remain safe'.²⁸⁷ Places of worship are commonly raided to identify individuals with no valid visas.²⁸⁸

There are now at least 11,500 Pakistani Christian men, women and children living illegally or being held in detention centres, seeking asylum in the Thailand.²⁸⁹ Due to Thailand's provisions, Christian asylum seekers often live in a desperate state of poverty with little or no access to job opportunities, education and healthcare. Most urban asylum seekers in Thailand live a precarious existence: unable to work or send their children to school, financially stretched, dependent on ad-hoc charity to survive, at risk of exploitation and constantly worried about being arrested and detained indefinitely in abysmal conditions in immigration detention centres.²⁹⁰ Lack of education further leads to language barriers that prohibit easy integration into Thai life.²⁹¹ Families must find ways to survive, feed themselves, educate their children as well as avoid arrest or detention for usually between 7 and 8 years until they are processed. Those arrested from countries that border Thailand frequently are informally deported back to their countries of origin. Detained refugees from countries that do not border Thailand must remain in detention until resettlement is secured, which can mean indefinite detention.²⁹²

²⁸⁴ See Jean Lambert MEP submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

²⁸⁵ Jubilee Campaign, Urgent Report: Pakistan Asylum Seekers in Bangkok, (April 2015), available at: <http://jubileecampaign.org/wp-content/uploads/2015/04/Jubilee-Campaign_Thailand-Report-04-20151.pdf>, (accessed: 15/12/15)

²⁸⁶ UNHCR, Analysis of Gaps in Refugee Protection Capacity Thailand, (November 2006), p. 8, available at: <<http://www.unhcr.org/457ed0412.pdf>>, (accessed: 15/12/15)

²⁸⁷ Rev. Rana Youb Khan evidence submission via personal email (03/11/15)

²⁸⁸ *ibid*

²⁸⁹ UNHCR, '2015 UNHCR Country Operations Profile – Thailand: Overview', available at: <<http://www.unhcr.org/pages/49e489646.html>>, (accessed: 15/12/15)

²⁹⁰ Jubilee Campaign, Urgent Report: Pakistan Asylum Seekers in Bangkok, (April 2015), available at: <http://jubileecampaign.org/wp-content/uploads/2015/04/Jubilee-Campaign_Thailand-Report-04-20151.pdf>, (accessed: 15/12/15)

²⁹¹ Rev. Rana Youb Khan evidence submission via personal email (03/11/15)

²⁹² UNHCR, Analysis of Gaps in Refugee Protection Capacity Thailand, November 2006, p. 8, available at: <<http://www.unhcr.org/457ed0412.pdf>>, (accessed: 14/12/15)

In Bangkok, the Pakistani asylum seekers are taken to the Immigration Detention Centre where they have to wait until the UNHCR handles their case, normally taking about 2 months. After that, the decision of the UNHCR takes another 90-days to be issued. After a RSD approval for refugee status it normally takes another one year or more for resettlement to take place.²⁹³ During that one year period, approved refugees are permitted by Thai authorities to obtain release of up to 18 months through the payment of a bail which, reportedly, is 50,000 Bhat (approx. 1000 GBP) and is returned upon their leaving Thailand, a rare occurrence and one only provided to those with serious health issues.²⁹⁴ Some of the bailed refugees whose 18 months are expired must renew this release.²⁹⁵

In September 2015, Lord Alton visited Bangkok's Detention Centre where he met with detainees who said they were held in a cell with another 95 individuals, having to take it in turns to sleep due to the severe lack of space. UNHCR officials in the detention centre conceded that there is "extreme overcrowding" in the detention centres and that "conditions in Thai prisons are actually better than in the detention centres".²⁹⁶ Lord Alton details that the visit to the detention centre made evident its "appalling, scandalous overcrowding; the lamentable failure to process asylum applications – some will not be considered and resolved until 2018; the dismal lack of UNHCR resources and personnel; the lack of legal representation for detainees; the failure to protect women and children; inadequate and flawed translation provisions; the denial of education for children and young people; meagre health care, leading to deteriorating conditions and deaths of refugees while detained; and the dismissal of evidence from Pakistan highlighting an escalation in violence against the tiny Christian minority and the well-founded fear of lethal persecution". In evidence hearing sessions carried out in the detention centre, a picture was painted of Pakistani Christians' well-founded fear of persecution from which asylum represents the only prospect of safety and survival' and, in particular, that the blasphemy laws in Pakistan have become a 'pretext for systematic and punitive persecution of Christians'.

Approximately 7,600 refugees in Thailand await interviews with the UNHCR office in Bangkok, with waiting periods reaching three and a half years or more.²⁹⁷ The interviews with the UNHCR are usually very long, stressful and intense times for asylum seekers with the fundamentality of their faith questioned by individuals not necessarily trained to recognise the nuances of different religious beliefs and the extensive variety of forms that persecution can take. While the UNHCR office is indeed under-staffed for the processing of the high volume of asylum seekers in Bangkok's detention centres, adequate treatment and a real effort to prevent Pakistani Christians from being deported back to Pakistan, many of whom will face a real risk of persecution in Pakistan is not being given due to the use of the UK Home Office's February 2015 'Country Information and Guidance on

²⁹³ *ibid*

²⁹⁴ *ibid*

²⁹⁵ *ibid*

²⁹⁶ Alton, David, 'International Scandal of 95 Detainees Held in one Cell – Including Children', 4 September 2015, available at: <<http://davidalton.net/2015/09/04/international-scandal-of-95-detainees-held-in-one-cell-including-children/>>, (accessed: 14/12/15)

²⁹⁷ Jubilee Campaign, Urgent Report: Pakistan Asylum Seekers in Bangkok, (April 2015), available at: <http://jubileecampaign.org/wp-content/uploads/2015/04/Jubilee-Campaign_Thailand-Report-04-20151.pdf>, (accessed: 15/12/15)

Pakistan: Christians and Christian Converts'.²⁹⁸ Official 2012 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan states that:

“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 religion or membership of a particular social group.”

Despite such UNHCR guidance, when discussing the processing of Pakistani Christians with a ‘senior official who works for the UNHCR’ at the detention centre, it was made clear to Lord Alton that this individual held a negative opinion towards the Christian asylum seekers and, by referencing the Home Office Country Guidance on Pakistani Christians and Christian Converts, did not believe them to have been at a ‘real risk of persecution’ for their faith in Pakistan. Deporting them was not seen as a process dangerous to the Christian asylum seekers.

Given the evidence received by those making submissions to the APPG for IForB, as well as the evidence gathered by Lord Alton and the Jubilee Campaign from detainees in the detention centre, the APPG for IForB holds deep concerns about the policy of senior individuals working for the UNHCR in Bangkok using the Home Office Country guidance, on Christians and Christian converts in Pakistan, to justify their policy and subsequent actions, which will be critically analysed in the section below. The APPG for IForB is deeply troubled that the February 2015 Home Office Country Guidance is having such negative implications for Christians seeking asylum, being used to justify unnecessarily prolonging the asylum processes for Christians by the UNHCR in Bangkok. In practice, the current Home Office Country Guidance on Pakistani Christians and Christian converts is being used to de-prioritise and de-legitimise Christian asylum seekers’ applications, even if returning these individuals to Pakistan will leave them at a significant and real risk of attack, torture or being killed.

Recommendations:

- The UK Government should urge the Thai government ratify the 1951 Geneva Refugee Convention.
- The Pakistani Government should be encouraged to put a moratorium in place in charging Pakistani asylum seekers using criminal law and placing them in prison without processing them as asylum seekers.
- The UK Government to provide and encourage other countries, including Pakistan, as a priority, to allocate more resources to process the substantial numbers of asylum seekers living in appalling conditions in Bangkok’s detention centres.
- All UNHCR staff must follow the UNHCR’s 2012 guidance, treating each asylum seeker’s application on a case-by-case basis and recognising that certain sections of Christian and

²⁹⁸ UK Home Office, Country Information and Guidance: Pakistan: Christians and Christian converts, (Feb. 2015), available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/402591/cig_pakistan_christians_and_christian_converters_v1_o_2015_02_10.pdf, (accessed: 15/12/15)

Ahmadiyya communities are at a real risk of persecution, the immediacy of which depends on their circumstances while living in Pakistan. A policy of 'well-founded fear of persecution' should be utilised until proven wrong, rather than a policy of treating the asylum seekers' application as 'unfounded' until proven to be 'well-founded'.

SECTION 7

INSIDE THE UK UK Home Office Country Information and Guidance on Pakistani Religious Groups

The UK's refugee procedures are based on the principle of individual determination meaning that each person lodging an asylum claim must have the individual facts of their case considered and a reasoned decision made whether or not they demonstrate an entitlement to international protection under the UN Refugee Convention.²⁹⁹ In order to bring a level of consistency to this process, both the Home Office and the Upper Tribunal of the Immigration and Asylum Chamber have developed guidance for asylum decision makers. The Home Office publish 'Country Information and Guidance' reports (CIGs) which aim to set out summaries of relevant case law and country evidence and offer guidance to UK Visas and Immigration caseworkers on how these should generally be interpreted and applied in individual cases.³⁰⁰ CIGs are, from time to time, revised to take into account new country evidence and developments in case law. The Home Office CIGs on Ahmadis, Shia Muslims and Christians and Christian Converts that are currently operative were published in February 2015. More generic CIGs on Pakistan may also be relevant in cases involving religious minorities.³⁰¹

The Upper-tier Tribunal of the Immigration and Asylum Chamber issues 'Country Guidance' determinations. As Mr Justice Blake, former president of the Upper-tier Tribunal, has explained, such guidance will normally involve an intense examination of country of origin information including expert reports and any advice given by the UNHCR.³⁰² Guidance is given on issues that are considered to be of general assistance to judges of the First-tier Tribunal and the parties because the issues regularly arise. The case is submitted to the Reporting Committee by the judges deciding the case in conjunction with the Country Guidance Convenor.³⁰³

Where an issue arising in an asylum case has been previously considered in a country guidance case, the First-tier Tribunal judges must refer to it in deciding the subsequent appeal. Where there is no material change in the evidence that was considered in the Country Guidance appeal and the evidence is the same or similar, Tribunal judges should regard the guidance as authoritative and apply it. Only if there is significant new evidence that indicates that the Country Guidance case is effectively out-of-date should a Tribunal judge depart from its findings regarding country conditions. As such, Country Guidance cases are the point at which authoritative asylum guidance on a country

²⁹⁹ See Amnesty International submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁰⁰ See the Country guidance reports at the following link:

<https://www.gov.uk/government/publications/pakistan-country-information-and-guidance>

³⁰¹ See e.g. UKVI, Country Information and Guidance, Pakistan: Fear of the Taliban and Other Militant Groups, July 2014; Prison Conditions, July 2; Women, July 2014, <https://www.gov.uk/government/publications/pakistan-country-information-and-guidance>

³⁰² See Amnesty International submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁰³ Sir Nicholas Blake, Luxembourg, Strasbourg and the National Court: the Emergence of a Country Guidance System for Refugee and Human Rights Protection, *International Journal of Refugee Law* Vol. 25 No. 2 pp. 349–372

is made in the UK. CIGs remain crucially important, however, as they most directly affect initial asylum decision making by UK visa and immigration caseworkers.

While the UN Refugee Convention itself notes that ‘the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees’, the UNHCR does not have a direct role in producing UK policy on entitlement to asylum or in decision making on individual cases.³⁰⁴ UNHCR produces its own guidance documents, known as ‘Eligibility Criteria’, the most recent of which relating to the issue of religious minorities in Pakistan was published in 2012.³⁰⁵ As was noted above by Mr Justice Blake, UNHCR’s views on eligibility are accorded significant weight in Country Guidance determinations, and indeed in any other asylum appeals. While UNHCR’s views they are essentially dealt with as one (significant) source of evidence amongst many, they are not necessarily treated as determinative.³⁰⁶

Organisations submitting evidence to the hearings in parliament, including Amnesty International, raised their concern including that the Home Office Country Information and Guidance reports contain a number of serious flaws, including that they do not seem to give full weight to the reality for minority religious groups on the ground in Pakistan (see APPG conclusions regarding persecution in the Executive Summary above). These flaws are important as, while a Country Guidance case is the source of legal authority on country conditions in asylum cases, there may be issues on which there is no current Country Guidance case applicable. The APPG for IForB contends this is the case with regard to non-Evangelical Christians and Christian converts for the current Christian and Christian Convert report. In the context of an under-resourced and target-driven department, reliance by UKVI decision makers on CIG reports can lead to a lack of proper consideration of longer and more complex Country Guidance cases, potentially unjustly determining the fate of the asylum seeker in front of them.³⁰⁷

UK Home Office Country Information and Guidance Report on Pakistani Ahmadis

The Home Office Country Guidance and Information report on Ahmadis uses the guidance provided by the Upper Tribunal in *MN & others (Ahmadis – Country conditions – risk) Pakistan CG [2012] UKUT 00389(IAC)*.³⁰⁸ The Upper Tribunal country guidance case of *MN and Others [2012]* held that the anti-Ahmadi laws are discriminatory and against the fundamental right to religious expression.³⁰⁹ If one is able to demonstrate that he/she engages in behaviour contrary to the anti-Ahmadi laws then he/she

³⁰⁴ Although the UNHCR has been involved in a long term programme of monitoring, training and developing decision making capacity within the Home Office.

³⁰⁵ UNHCR, Eligibility Guidelines For Assessing The International Protection Needs Of Members Of Religious Minorities From Pakistan, 14th May 2012, <http://www.refworld.org/pdfid/4fboec662.pdf>

³⁰⁶ See e.g. para 155 of the recent country guidance determination on Iraq, *AA (Article 15(c)) Iraq CG [2015] UKUT 00544 (IAC)*

³⁰⁷ See Amnesty International submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁰⁸ For full case see: *MN and others (Ahmadis - country conditions - risk) Pakistan v. the Secretary of State for the Home Department, CG [2012] UKUT 00389(IAC)*, United Kingdom: Upper Tribunal (Immigration and Asylum Chamber), 13 November 201

³⁰⁹ Para. 115 of *MN & others (Ahmadis – Country conditions – risk) Pakistan CG [2012] UKUT 00389(IAC)*

is deserving of international protection.³¹⁰ This country guidance case represents a welcomed shift in the understanding of the plight of Ahmadi Muslims in Pakistan.

Despite this, in the evidence hearing sessions, Amnesty International raised concerns regarding the emphasis the CIG places on it being ‘of particular importance’ to an Ahmadi’s religious identity for them to manifest their faith openly in order for them to be entitled to international protection. This may lead to decisions that conflict with Supreme Court jurisprudence.

The leading cases of *HJ Iran* and *RT Zimbabwe* found that a person of minority faith, political opinion or sexuality must be able to ‘live freely and openly... without fearing that they may suffer harm of the requisite intensity or duration [to amount to persecution]’ and that where a home state fails to protect this right ‘the receiving country should’.³¹¹ In *RT Zimbabwe*, a case which revolved around individuals who had no committed political allegiance but who were facing circumstances where having no political allegiance would be construed as opposition to the Zimbabwean regime, the Supreme Court further clarified that ‘nothing that was said ... by us in *HJ (Iran)* supports the idea that it is relevant to determine how important the right is to the individual’.³¹²

This being the case, in a context where the criminal law disproportionately criminalises everyday human conversation, (by preventing Ahmadi Muslims from, *inter alia*, self-identifying as Muslims, referring to their places of worship as Mosques or their religious leaders as Imams) the insistence on it being ‘of particular importance’ to the claimant that they are able to manifest their faith openly by doing these things institutes an unjustifiable additional test for claimants to pass before being recognised as entitled to international protection.

The Ahmadiyya Muslim Community UK (AMC UK) also raised their concern that a number of difficulties have arisen in the interpretation and application of the current law and policy. They firstly raise that First-tier Tribunal decisions have tended to lack consistency with some Immigration Judges granting an adjournment pending evidence required from the Ahmadiyya Muslim Association UK (AMA UK) and others believing they can safely determine such a case without this vital decisive evidence.³¹³ This is a clear violation of direct guidance from the Upper Tribunal in *MN* which states comprehensive verification from AMA UK forms part of the judicial fact-finding process.³¹⁴

Additionally, AMC UK advance that the *MN and Others* Country Guidance case does not go far enough. Given the unique and sustained state sponsored persecution of Ahmadi Muslims in Pakistan, Ahmadi Muslims should be afforded *prima facie* refugee status in order to ensure all necessary legal protections are in place. According to paragraph 13 of the *UNHCR Guidelines on International Protection No. 11: Prima Facie Recognition of Refugee Status*: “Prima facie recognition is based on readily apparent, objective circumstances in the country of origin or former habitual residence assessed against the refugee definition being applied to that situation”.³¹⁵ The UNHCR recognises that a *prima facie* approach is appropriate in relation to groups of similarly situated individuals who share a readily apparent

³¹⁰ Para. 2(i) of *MN & others (Ahmadi Muslims – Country conditions – risk) Pakistan CG [2012] UKUT 00389(IAC)*

³¹¹ *HJ Iran / RT Zimbabwe*

³¹² *RT Zimbabwe*

³¹³ AMA UK submission

³¹⁴ *MN and Others* - section

³¹⁵ *UNHCR Guidelines on International Protection No. 11: Prima Facie Recognition of Refugee Status*, Para 13. Available [Online] from: <http://www.unhcr.org/558a62299.html>

common risk of harm, such as religion, which exposes them to risk.³¹⁶ The UNHCR further notes, that “where there is evidence of persecution against an entire group on account of a 1951 Convention ground, refugee status should be recognized pursuant to the 1951 Convention”.³¹⁷ This applies directly to Ahmadis given the systemic state sponsored nature of the persecution in Pakistan against the entire group of Ahmadis in Pakistan on the grounds of religion.

AMC UK further states that prima facie status, in any case, ought to be accorded to Ahmadis following individual assessment. UNHCR *Guidelines No .11* (above), paragraph 40, affirms that, in the context of individual procedures, a *prima facie* approach allows a simplified or accelerated processes based on a presumption of inclusion.³¹⁸ Adopting a *prima facie* approach in individual procedures operates to provide an “evidentiary benefit” to the applicant in the form of accepting certain objective facts. Refugee status would be provided to those Ahmadis who can establish that they belong to the pre-established “beneficiary class”, unless there is evidence to the contrary.³¹⁹ Thus, Ahmadi Muslims would be afforded protection in belonging to this “beneficiary class”. As recognised by the UNHCR adopting a prima facie approach in individual procedures has many advantages, not least those of fairness and efficiency.³²⁰ This evidentiary benefit of prima facie refugee status ought to be applied to Ahmadis for the above reasons.³²¹

While UK case law used to focus on whether a person preached (tabligh), *MN and Others* extended it to any Ahmadi Muslim who behaves in a way contrary to the anti-Ahmadi laws in Pakistan. Despite this and contrary to *MN and Others*, interviewing officers still focus only on preaching - meaning that if an Ahmadi asylum seeker has not preached or his claim to have preached is found not credible then the case is refused.³²²

The current UK Home Office Country Information and Guidance on Pakistani Ahmadis states that: “where an Ahmadi is at risk of local hostility from non state actors they may be able to avoid this by moving elsewhere in Pakistan, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so”.³²³ This statement runs contrary to the *UNHCHR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan* which confirms that:

“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-Nabuwwat, there is no viable IFA/IRA given the countrywide reach of such groups, compounded by the reported lack of effective State protection”.³²⁴

³¹⁶ Ibid, Para 10.

³¹⁷ Ibid, Para 15.

³¹⁸ Ibid, Para 40.

³¹⁹ See Ahmadiyya Muslim Association UK submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³²⁰ UNHCR *Guidelines on International Protection No. 11: Prima Facie Recognition of Refugee Status*, Para 41.

³²¹ ibid

³²² See Ahmadiyya Muslim Association UK submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³²³ UK CIG, entitled *Pakistan: Ahmadis* (pg. 7 at [2.4.12])

³²⁴ *UNHCHR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan* at (pg. 43)

AMC UK as well as the Human Rights Commission, which works on the rights of Ahmadis, have raised their concerns over the CIG's guidance which fails to recognise that there is no option of internal relocation for Ahmadis within Pakistan. They underline it is not only contrary to the UNHCR Eligibility Guidelines, as demonstrated above, but also international NGO's observations as well as the guidance provided in *MN and Others* which recognizes that Rabwah, the city in which the Ahmadiyya community have their headquarters, does not provide any greater level of safety than anywhere else in Pakistan.³²⁵ As individuals' religion appears on most official documents, the Human Rights Committee advance that it would only be a matter of time before an individual's religion would be made public, making them a target. If, for example, an Ahmadi would not attend a Sunni mosque, it would become noticeable to their neighbours and, equally, if an Ahmadi declines an invitation to pray at a Sunni mosque, it could alert a neighbour or colleague to the individual's faith, endangering the individual even to the point of being killed.³²⁶

Recommendations:

- 'Policy summaries' in the CIG should not be used.
- There ought to be consistency in the application of the policy, in line with MN principles, in all cases and accept that evidence is required from the Ahmadiyya Muslim Association UK (AMA UK) in order to consider a claim effectively.
- The February 2015 Home Office Country Information and Guidance on Pakistani Ahmadis needs to take account of judicial findings and objective information on internal relocation.
- Home Office officials should be trained and required to amend their questioning in interviews to cover all aspects raised in MN to allow the Applicant an opportunity to substantiate his or her claim and to provide a full account.
- Interpreters should be re-trained to ensure that all religious terminology is correctly written down on the interview record and an explanation sought from the applicant.
- The issue of delay is one that can only be addressed with more resources.
- Letters from the AMA UK should be given due weight and accepted taking into account its verification procedures. If further information or verification is required the relevant official from the AMA UK should be invited to further clarify and verify (as appropriate) rather than dismissing such letters.

³²⁵ See International Human Rights Committee submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³²⁶ *ibid*

UK Home Office Country Information and Guidance Report on Pakistani

Shias

The CIG on Shia Muslims in Pakistan uses no country guidance case directly related to Shia Muslims, but does refer to broader guidance cases which include *AW (sufficiency of protection) Pakistan [2011] UKUT 31 (IAC)*.

At the evidence hearing sessions, Amnesty International raised its concern that the CIG's 'Policy Summary' section, which is intended to give a succinct series of bullet points to summarise the already summary guidance in the 'Consideration of Issues' section, makes statements which are sweeping in nature, not representative of the summary guidance and which are not supported by either the background evidence contained in the CIG or in the wider range of independent sources that report on conditions in Pakistan.³²⁷ In particular, the statement "those in fear of ill-treatment by extremists will in general be able to seek effective protection from the authorities, or internally relocate within Pakistan" contradicts the guidance provided above it. Given the situation for Shia Muslims, as this report outlines above, the UK Visa and Immigration department are placing excessive faith in both the willingness and ability of the Pakistani security forces to provide a sufficiency of protection against sectarian violence.³²⁸

More concerning still, the summary guidance states that 'where a claim falls to be refused, it is likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002'.³²⁹ Such a certification has the effect of removing the right of in-country appeal from the asylum seeker - meaning that to appeal a refusal, a person must return to the location of their potential persecution. Amnesty International stated its opposition to the use of Section 94 powers in asylum cases in general, as they are a dilution of the principle that each asylum application must be considered in a fair and equal process. That said, it is particularly inappropriate to designate Pakistani Shi'a cases as likely to be 'clearly unfounded', given the level and nature of the sectarian and targeted violence that they face and the faulty nature of the guidance on internal relocation and the sufficiency of state protection.³³⁰

It is also regrettable that the guidance on Shia Muslims in Pakistan does not include any commentary on the intersectional risks faced by Pakistan's overwhelmingly Shia Hazara ethnic minority, particularly those resident in the province of Balochistan.³³¹ Such people face significant risks from both state and non-state actors and should therefore be addressed in the CIG.³³² Such an omission points to the Home Office's lack of 'literacy' on the Shia communities in Pakistan, which, the APPG for IForB also recommends, ought to be addressed. The APPG also recommends that 'Policy Summaries'

³²⁷ See Amnesty International submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³²⁸ *ibid*

³²⁹ UK Home Office, CIG Pakistan: Shia Muslims, (Feb. 2015), available at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/402592/cig_pakistan_shias_v1_o_2015_02_10.pdf>, (accessed: 15/12/15)

³³⁰ See Amnesty International submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³³¹ *ibid*

³³² *ibid*

in the CIG are not used due to their sweeping nature and often inconsistent position with other UK Government documents.

UK Home Office Information and Country Guidance Report on Christians and Christian Converts

The Home Office CIG on Christians and Christian converts, using the country guidance case AK & SK (*Christians: risk*) Pakistan (CG) [2014] UKUT 569 (IAC) (15 December 2014), states that: “Christians in Pakistan are a religious minority who, in general, suffer discrimination but this is not sufficient to amount to a real risk of persecution”.³³³ This CIG states that: “In general, Christians are able to practise their faith, attend church, participate in religious activities and have their own schools and hospitals. Although Christians, as with other faiths, may be at risk of blasphemy allegations, this in itself is not generally enough to make out a claim under the Refugee Convention”.³³⁴ It additionally states that: “In general, the government is willing and able to provide protection against such attacks and internal relocation is a viable option”.³³⁵

Section 2.2.2 of the CIG advances that:

“There are incidents of some Christians being subject to harassment, discrimination, violence and murder at the hands of non state actors in Pakistan, as well as allegations of blasphemy and forced conversion to Islam (see Violence and discrimination against Christians in the country information). However, there are a large number of Christians in the country and the evidence does not indicate that Christians are, in general, subject to a real risk of persecution or inhuman or degrading treatment ... ”

Section 2.2.4 states:

*In the case of a Christian woman AK & SK (Christians: risk) Pakistan found that ‘Like other women in Pakistan, Christian women, in general, face discrimination and may be at a heightened risk but this falls short of a generalised real risk’.*³³⁶

The CIG does highlight the plight, in particular, of Christian converts, stating that they “are likely to face and be at real risk of attacks by non-state actors” and that “effective protection and internal relocation will generally not be available”, as well as evangelical Christians, who, according to the CIG,

³³³ AK and SK (*Christians: risk*) Pakistan CG v. Secretary of State for the Home Department

³³⁴ Home Office (2015) *UK Country Information and Guidance for Pakistan: Christians and Christian Converts*. Home Office, February 2015, para. 2.2.1 (accessed at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/402591/cig_pakistan_christians_and_christian_converters_v1_o_2015_02_10.pdf).

³³⁵ Home Office (2015) *UK Country Information and Guidance for Pakistan: Christians and Christian Converts*. Home Office, February 2015, (accessed at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/402591/cig_pakistan_christians_and_christian_converters_v1_o_2015_02_10.pdf).

³³⁵ *ibid*

³³⁶ *ibid*

“face a greater risk than those Christians who are not publicly active”.³³⁷ Despite such rhetoric, in its policy summary, the CIG conflates all adherents of different Christian denominations and makes one judgement for all Christians, as outlined in the paragraph above, and fails to have adequately assessed the situation in Pakistan for members of each different Christian denomination. Just as the CIG on Ahmadi Muslims does not purport to be a sufficient guide for the UK Visa and Immigration department on all Pakistani Muslims applicants, the country guidance case, *AK and SK*, which addresses the plight of an evangelical brother and sister, should similarly not be used to provide guidance on all Christian Pakistani cases.

Paul Nettleship, the respected Solicitor-Advocate at Sutovic & Hartigan, raises his concern that in the *AK and SK* country guidance case, the Upper-tier Tribunal constructed a narrow paradigm of assessment of risk in its judgement.³³⁸ The Tribunal has done so, firstly, by focussing on limited aspects of religious practice (‘being active’; ‘behaving in evangelical ways’)³³⁹ as encapsulating what it is to be an adherent of the Christian faith, rather than the wider concept of ‘being’ a Christian i.e. faith as religious observance rather than as a core component of identity. Such a focus may be inconsistent with case law regarding the recognition of sexuality as a part of core identity and a recognition of sexual identity as a protected characteristic. From such a starting point, any interference, or inability to realise such a characteristic is prohibited and potentially persecutory.³⁴⁰ This leads to a false dichotomy between those adherents who are ‘evangelical’ or ‘active’ and those who are considered not to be and fails to recognise that faith, as it informs identity, permeates and is exhibited in all aspects of individual life and communal life.³⁴¹

Nettleship states that, as the concept of a private/public divide in relation to the holding or professing of a religious faith - as exists in the UK - is simply an alien concept in Pakistan, religion in Pakistan will be more manifest than in a westernised secular society like the UK.³⁴² It is an error to classify a wider group as ‘active’ and ‘quiet’ or similar because it distracts from individual assessment; it is a false dichotomy and history is not a useful guide where the persecution has caused the persecuted group to modify its behaviour in the past.³⁴³ Just because persecution has been effective at suppressing and oppressing the persecuted group so that manifestations of the protected characteristic are rare (and perhaps therefore rarely punished), this does not make it any less persecutory.³⁴⁴ Any real appreciation that being a ‘born again’ Christian involves a spiritual transformation that is broader than religious conversion and more *innate* in its manifestation is absent from the judgement as is, therefore, an understanding that faith is an inherent aspect of the applicants’ identity, core personality and reflects what God is calling them to do at that particular point in time.³⁴⁵

³³⁷ *ibid*

³³⁸ See Paul Nettleship submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³³⁹ *AK and SK (Christians: risk) Pakistan CG v. Secretary of State for the Home Department*, para 242

³⁴⁰ Such a focus may be inconsistent with case law regarding the recognition of sexuality as a part of core identity and a recognition of sexual identity as a protected characteristic. From such a starting point, any interference, or inability to realise such a characteristic is prohibited and potentially persecutory : *HJ (Iran) & HT (Cameroon) v Secretary of State for the Home Department* [2010] UKSC 31

³⁴¹ See Paul Nettleship submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁴² *Ibid*

³⁴³ As set out in *AK & SK's* counsel's written submissions to the Court of Appeal

³⁴⁴ *ibid*

³⁴⁵ *ibid*

Christian Solidarity Worldwide (CSW) also stated that, in their experience of working on over 30 cases concerning Pakistani Christian asylum seekers, the Home Office guideline case of AK and SK is not a typical case due to its focus on persecution of evangelicals in Pakistan whereas most of the cases they had dealt with have focused on Pakistani Catholics and are related to blasphemy charges. The APPG for IForB echoes the above concerns regarding the use of the AK and SK case to determine the fate of all Pakistani Christian asylum seekers.

The UNHCR's comment on the Home Office assessment must be noted: "2.3.5 *The tendency to reject or disbelieve every aspect of an applicant's claim discussed above, besides being a reflection of a misapplication of the law, suggests that there may be a culture of refusal amongst caseworkers. This may lead to claims not being considered on their individual merits*".³⁴⁶ Given the unpredictable nature of violence, accusations of blasphemy and other actions against Christians in Pakistan, as para 2.1.1 of the CIG recognises, it is very important that individual circumstances are taken into account in a robust and sensible manner.³⁴⁷ If an individual's account is not in compliance with the Country Report, this should not in itself undermine the credibility of the person's account.³⁴⁸ Organisations submitting evidence to the APPG for IForB raised their concern about guidance which states that where claims based on Christianity fall to be refused they are likely to be certifiable as 'clearly unfounded'.³⁴⁹ Notwithstanding wider concerns about Section 94 powers, which, given the strength and reach of sectarian groups and the levels of violence that they are currently perpetrating in Pakistan, results in such blanket guidance being inappropriate.³⁵⁰

Furthermore, perhaps because the appellants AK & SK were comprehensively disbelieved in relation to their account of past persecution in Pakistan, the Tribunal did not assess risk outside the narrow parameters of state persecution as, on the facts, no need to assess risk outside such parameters arose. As focus was therefore on the risk of becoming a victim of a blasphemy charge, the AK & SK case cannot be said to provide guidance to the effect that a blasphemy charge is the only medium of persecution by extremist Islamist groups. The threats from extremists are legion and manifest in kidnapping,³⁵¹ extra-judicial killings,³⁵² terrorist attacks,³⁵³ violence,³⁵⁴ mob attacks,³⁵⁵ sexual and gender-based violence³⁵⁶, all of which are being carried out with impunity.³⁵⁷

³⁴⁶ UNHCR, Quality Initiative Project: Second Report to the Minister, available at:

<http://www.unhcr.org.uk/fileadmin/user_upload/pdf/QI_Second_Report.pdf>, (accessed: 15/12/15)

³⁴⁷ Home Office (2015) *UK Country Information and Guidance for Pakistan: Christians and Christian Converts*. Home Office, February 2015, para 2.2.1., (accessed at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/402591/cig_pakistan_christians_and_christian_converters_v1_o_2015_02_10.pdf)

³⁴⁸ See Ken Mafnam submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁴⁹ See Amnesty International submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁵⁰ *ibid*

³⁵¹ AK and SK (Christians: risk) Pakistan CG v. Secretary of State for the Home Department, paras. 140, 237

³⁵² *Ibid* - 84

³⁵³ 85, 227

³⁵⁴ 101, 157, 207

³⁵⁵ 226

³⁵⁶ 102, 128

³⁵⁷ 101

It is far too narrow a reading of *AK & SK* to say that Christians are only at risk from extremist groups through the penal code/blasphemy charges, although there is a risk that it will be read as such.³⁵⁸ *AK & SK* did not need to consider the risk from non state agents as the appellant's claims to have been targeted by such groups was completely rejected. Properly read, therefore, *AK & SK* is concerned almost exclusively with the consequences to Christians of accusations of blasphemy brought by a militant Islamic group and is thus concerned with persecution by the state (through persecutory laws enacted by the government) and not with direct persecution by non-state actors / those targeted at large by extremist groups.³⁵⁹

This potentially too narrow a reading has now been expressly recognised by the Upper Tribunal in a judgment in April 2015 regarding a Christian family who were targeted by extremists and found to be at risk despite it never being part of their account that they had suffered or were at risk of (legalised) persecution from the state through the medium of the blasphemy laws - there were rumours of such a charge, but these rumours did not eventuate.³⁶⁰ While this later judgement is indeed useful for remedying potential issues with the reading of the *AK and SK* case, it does not inform the currently operative February 2015 CIG on Christians and Christian converts.

Moreover, the CIG guidance, beyond the *AK and SK* case, conflicts with conclusions made in FCO Human Rights and Democracy reports. In the 2014 FCO Human Rights and Democracy Report, published in March 2015, it states that: “Shia, Hazara, Christian, Ahmadiyya, Hindu, Sikh, Kalash, Ismaili and Sufi communities reported intimidation and violence, kidnap, forced conversion and marriage, attacks on their places of worship, and other forms of targeted persecution.”³⁶¹ The 2012 and 2013 reports made almost identical conclusions.³⁶² Resulting from his evidence sessions in Thailand with Pakistani Christians, Lord Alton advanced that: “If a systematic campaign of bombings, killings, the burning alive of people and their homes, the rape and forced marriage of Christian girls and a

³⁵⁸ See Paul Nettleship submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁵⁹ *ibid*

³⁶⁰ See attached redacted judgment wherein the Upper Tribunal expressly rejected a contention by the Home Office (para 60) that ‘A charge of blasphemy is at the top end of the scale of risk and there is a clear inference that if you fall below that level there would be a sufficiency of protection and an option of internal relocation.’, expressing the limitations of *AK & SK* as follows:

‘61. *AK and SK* were concerned with appellants who had not been found to be credible and the assessment of risk was made on that basis. The focus of the country guidance was to address the risk to Christians in Pakistan generally and not those who it is accepted have been subject to violent attack. At paragraph 226 the Tribunal said:

“This does not mean that the evidence establishes that the authorities never protect minorities...however predominantly the evidence suggests that there is a failure to protect Christians from attacks and the consequences of abusive allegations of blasphemy.... overall there has been and there continues to be an insufficiency of state protection in cases where serious allegations of blasphemy are made and pursued regardless of the religious faith of the accused.”

³⁶¹ *Human Rights and Democracy: The 2014 Foreign & Commonwealth Office Report*, 12 March 2015 (accessed at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415910/AHRR_2014_Final_to_TS_O.pdf), (accessed: 14/15/15)

³⁶² *Human Rights and Democracy: The 2013 Foreign & Commonwealth Office Report*, 24 June 2014 (accessed at: <https://www.gov.uk/government/publications/human-rights-and-democracy-report-2013/human-rights-and-democracy-report-2013>), (accessed: 14/15/15); *Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report*, 15 April 2013 (accessed at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/408376/Cm_8593_Accessible_complete.pdf), (accessed: 14/15/15)

systematic campaign whipping up hatred doesn't amount to persecution, it is hard to imagine what would have to happen before the Home Office described it as persecution".³⁶³

BPCA add that AK and SK (para. 214) statement regarding the differences in treatment towards affluent and poor Christians is unfounded.³⁶⁴ While the higher wealth of the individual may allow some immediate protection, their apparent wealth may even draw attention to them and cause them to be charged with blasphemy, to which the rules after such a charge remain the same for all status of Christian.³⁶⁵ Even so, para 2.3.1. of the CIG, which assesses that individuals are not in danger until a formal charge of blasphemy has been made, shows treating blasphemy as a self-contained phenomenon and the reality of circumstances on the ground have not been fully appreciated.³⁶⁶ Furthermore, regarding forced conversion, another factor that Pakistani Christians might face, the understanding that 'Pakistani law strictly forbids forced conversions' and that the Pakistani Supreme Court's forbidding of forced conversions might be sufficient in itself also demonstrates a lack of reflection of the reality, especially for individuals involved in the vast majority of cases involving forced conversion at lower courts at which judges can be intimidated or manipulated.³⁶⁷

Additionally, the UK Visa and Immigration department continue to place too great a reliance on the capacity or willingness of the Pakistani authorities to provide a sufficiency of protection to those targeted by violent sectarian groups.³⁶⁸ This is particularly pronounced in the 'Policy Summary' section of the Christian and Christian Convert CIG which, based on the Country Guidance AK and SK case, makes unwarranted claims that "in general, the government is willing and able to provide protection against such attacks and internal relocation is a viable option".³⁶⁹ Not only is this statement a contradiction with the FCO's own statement in its CIG on Christian and Christian converts: "There is not much protection of religious minorities from the Government – there is a Ministry of Minorities, but it is felt that it engages in "fire fighting" rather than taking any proactive steps to protect the community", but it also contradicts the finding of many other organisations and individuals working in and on Pakistan.³⁷⁰

³⁶³ Taylor, F. (2015) 'UK policy towards Pakistan dangerous for Christians, say campaigners', *Christian Today*, 18 September 2015 (accessed at: <http://www.christiantoday.com/article/uk.policy.towards.pakistan.dangerous.for.christians.say.campaigners/65140.htm>).

³⁶⁴ See British Pakistani Christian Association submissions to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁶⁵ *ibid*

³⁶⁶ See Ken Mafnam submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁶⁷ See Morris Johns submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁶⁸ See Amnesty International submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁶⁹ Home Office (2015) *UK Country Information and Guidance for Pakistan: Christians and Christian Converts*. Home Office, February 2015, (accessed at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/402591/cig_pakistan_christians_and_christian_converters_v1_o_2015_02_10.pdf)

³⁷⁰ Home Office (2015) *UK Country Information and Guidance for Pakistan: Christians and Christian Converts*. Home Office, February 2015, p.15, (accessed at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/402591/cig_pakistan_christians_and_christian_converters_v1_o_2015_02_10.pdf); See Pakistan Minorities Rights Organisation submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

In its policy recommendations to the US President in its 2015 Annual Report, USCIRF confirmed that: "The Pakistani government's failure to effectively intervene against violence targeting the Shia minority community, as well as against Christians, Hindus and Ahamdis, continued during the reporting period... with few concrete actions taken by federal or provincial officials to ensure their protection".³⁷¹ For instance, USCIRF writes that, 'after the 2013 mob attack on the Christian village Joseph Colony in Punjab, the provincial government provided some reparations but all of the attackers were released on bail; the only person serving a prison sentence is a Christian falsely accused of blasphemy, who was sentenced to death'.³⁷² On 19 June 2014, the Pakistani Supreme Court ordered the government to fully compensate the families of the victims of the September 2013 bombing of Peshawar's All Saints Church that killed at least 83 and injured more than 146 but noted that the government had delayed financial compensation to the families.³⁷³ At the end of 2014, the church reported that families had yet to receive full compensation.³⁷⁴ USCIRF's October 2015 International Religious Freedom (IRF) report submitted to Congress that in 2014, government policies in Pakistan:

"... did not afford equal protection to members of majority and minority religious groups, and due to discriminatory legislation, minorities often were afraid to profess freely their religious beliefs. Media and nongovernmental organizations (NGOs) also reported killings of religious minorities by police".³⁷⁵

In his visit to Lahore in May 2014, informed by a Christian activist, Archbishop Justin Welby, raised the case of a seven-year old Christian girl who was reportedly gang raped on her way to church in a village near the Indian border.³⁷⁶ Due to her faith, the police had refused to register her case and a local hospital refused to treat her, forcing the Christian community to scramble to find enough blood donations to keep her alive.³⁷⁷

Finally, with regard to internal relocation, Christian Solidarity Worldwide (CSW) submits that in all the 30 plus cases that its representatives have worked on as expert witnesses, Home Office presenters have continued to erroneously suggest that re-location is the option that immigration judges should offer to asylum seekers when their appeals are rejected.³⁷⁸ In CSW's experience in working with partners in Pakistan, internal relocation is an unsafe option; especially given new communications

³⁷¹ United States Commission on International Religious Freedom, *USCIRF Annual Report 2015 - Tier 1 CPCs recommended by USCIRF: Pakistan*, 1 May 2015

³⁷² *ibid*

³⁷³ See Prof. Desmond Fernandes submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁷⁴ *ibid*

³⁷⁵ USCIRF, 2014 Report on International Religious Freedom, (14 October 2014), available at: <<http://www.state.gov/j/drl/rls/irf/2014/sca/238504.htm>>, (accessed: 15/12/15)

³⁷⁶ Houreld, K. (2014) 'Anglican leader says minorities in Pakistan under siege', *Reuters*, 28 May 2014 (accessed at: <http://www.reuters.com/article/2014/05/28/us-pakistan-archbishop-idUSKBN0E81A920140528#Gz9HsSylzAurdddF.97>)

³⁷⁷ Houreld, K. (2014) 'Anglican leader says minorities in Pakistan under siege', *Reuters*, 28 May 2014 (accessed at: <http://www.reuters.com/article/2014/05/28/us-pakistan-archbishop-idUSKBN0E81A920140528#Gz9HsSylzAurdddF.97>)

³⁷⁸ See Christian Solidarity Worldwide submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

technology developments which allow information of those targeted by extremist groups to be passed on even if they move across the country.³⁷⁹

Moreover, as mentioned earlier, every Pakistani citizen is required to carry a national identity card (NADRA) which contains an electronic chip with personal information such as a person's date of birth, home address, fingerprints and religion. This card has to be shown to the police upon request and must be used when purchasing various goods and services. Due to the close links between the police and extremists any prospects of safe internal relocation would not be feasible as information of the whereabouts of potential targets is often shared. While the anti-terrorism measures which nationally required all mobile phones to be registered to a named person with an address with their fingerprints on data files, has made it easy to trace and locate individuals. The infiltration of extremists into police and security services has created a situation where such sensitive information is readily available for militants.³⁸⁰ Internal relocation is thus not currently a viable option for any individual who is perceived as having challenged Islamic principles. If recent reports of the growth of extremist organisations in Pakistan, linked with other extremist groups including Daesh, do increasingly target Christians and their social spaces, internal relocation will continue to be an unviable option in the foreseeable future.³⁸¹

Conclusions & Recommendations:

The APPG has deep concerns about the Home Office CIG on Pakistani Christians and Christian converts, which has been used by the UNHCR in Bangkok detention camp to justify unduly delaying the granting of asylum to Christians fleeing Pakistan.³⁸² This CIG's findings rest on the AK and SK country guidance case and the judgements contained within this case.³⁸³ Unlike AK and SK's findings, and thus those outlined in the Home Office CIG on Christians and Christian Converts, the APPG submits that, like Pakistani Ahmadis, members of Pakistan's Christian communities are at 'real risk of persecution'. In light of the evidence heard at the 10-11 November 2015 evidence sessions in Parliament alongside additional research and legal guidance, the APPG adopts the position that following that the findings in the AK & SK case, which are reflected in the Home Office CIG on Pakistani Christians and Christian converts, need to be reviewed:

- *That 'Christians in Pakistan are a religious minority and, in general, suffer discrimination but this is not sufficient to amount to a real risk of persecution' (AK and SK, Summary, para.1; para.240)*

The APPG submits that the UK Upper Tribunal (Immigration and Asylum Chamber) has misconstrued the meaning of 'real risk of persecution' as provided in the guidelines and jurisprudence of the UNHCR. Christians in Pakistan face real threats of persecution in the form of physical violence and psychological torture at the hands of State- and non-State actors. The APPG further submits that in

³⁷⁹ *ibid*

³⁸⁰ *ibid*

³⁸¹ Franklin, Lawrence A, 'Pakistan: ISIS Plans Terrorist Campaign against Christians', 22 September 2015, <<http://www.gatestoneinstitute.org/6551/pakistan-isis-christians>>, (accessed: 18/12/15)

³⁸² See Section 6 of the full online report for full details regarding Lord Alton's findings with the unofficial policy used in Bangkok's Detention camp.

³⁸³ See: *AK and SK (Christians: risk) Pakistan CG v. Secretary of State for the Home Department*

light of the UNHCR guidelines, persistent ‘cumulative grounds’ of discrimination such as those faced by Christians in Pakistan (and detailed in Section of the full online report), amount to ‘persecution’. See Sections 1 and 5 of the full online report.

- *‘Unlike the position of Ahmadis, Christians in general are permitted to practise the faith, can attend church, participate in religious activities and have their own schools and hospitals’ (AK and SK, Summary para.2; para.241)*

Based on the evidence presented at the hearings, the APPG is of the opinion that the Upper Tribunal erred in its assessment of the prevailing circumstances in Pakistan. Christians are unable to practise their faith in public or to manifest their religion or belief in teaching, practice, worship and observance as guaranteed by the UDHR and ICCPR. See Section 5 of the full online report.

- *Evangelism by its very nature involves some obligation to proselytise. Someone who seeks to broadcast their faith to strangers so as to encourage them to convert may find themselves facing a charge of blasphemy. In that way, evangelical Christians face a greater risk than those Christians who are not publicly active. It will be for the judicial fact-finder to assess on a case-by-case basis whether, notwithstanding attendance at an evangelical church, it is important to the individual to behave in evangelical ways that may lead to a real risk of persecution (AK and SK, Summary para.3; para.242)*

The APPG believes that the Upper Tribunal focused too narrowly on the persecution of evangelical Christians in Pakistan whereas most cases relate to either Christian Catholics or various other denominations of Christians. Based on evidence received during the hearings, the APPG submits that the Upper Tribunal constructed an overly narrow paradigm of assessment of risk in its judgement. The Tribunal has done so, firstly, by focusing on limited aspects of religious practice - i.e. ‘behav[ing] in evangelical ways’ (para 242) - as encapsulating what it is to be an adherent of the Christian faith, rather than the wider concept of ‘being’ a Christian, i.e. faith as religious observance rather than as a core component of identity. Such a focus may be inconsistent with case law regarding, for example, the recognition of sexuality as a part of core identity and recognition of sexual identity as a protected characteristic. From such a starting point, any interference, or inability to realise such a characteristic is prohibited and potentially persecutory. It is submitted that this leads to a false dichotomy between those adherents who are ‘evangelical’ or ‘active’ and those who are considered not to be and fails to recognise that faith, as it informs identity, permeates and is exhibited in all aspects of individual and communal life. The APPG further submits on this point that the understanding of ‘proselytism’ has been misconstrued as an action that primarily involves aggressive conversion and not that it may also constitute part of individuals’ everyday expression of their beliefs. See Section 5 of the full online report.

- *The risk of interpreting the AK & SK case as only applying in blasphemy cases*

The APPG submits that it is far too narrow a reading of AK & SK to suggest that Christians are only at risk from extremist groups through blasphemy charges, although there is a probability that it will be taken as such. On its facts, AK & SK may appear to be almost exclusively concerned with the consequences to Christians of accusations of blasphemy brought by a militant Islamic group and is thus not concerned with persecution by the State (through persecutory laws enacted by the

government). In addition, the Court did not address direct and violent persecution of Christians outside the sphere of Blasphemy; such violence and persecution by non-State actors/extremist groups carries a real and substantial threat to Christians and should have been considered on a factual basis by the Court. See Sections 4-5 of the full online report.

- *Along with Christians, Sunnis, Shias, Ahmadis, and Hindus may all potentially be charged with blasphemy. Those citizens who are more marginalised and occupy low standing social positions, may be less able to deal with the consequences of such proceedings (AK and SK, para.243)*

The APPG submits that AK and SK's (para. 214, 243) statement regarding the differences in treatment of affluent and poor Christians is unfounded. While the higher wealth of the individual may allow some immediate protection, their apparent wealth may even draw attention to them and cause them to be charged with blasphemy, to which the rules after such a charge remain the same for all Christians. See Sections 4-5 of the full online report.

- *The apparent lack of understanding of the reality of practices within Pakistan (AK and SK, para.61)*

The APPG submits that AK and SK misconstrued the law and judicial practices of Pakistan. The fact that 'Pakistani law strictly forbids forced conversions' and the Pakistani Supreme Court has supported this might be sufficient to believe that forced conversions are not condoned in Pakistan, demonstrates a lack of reflection of the reality. This is especially evident for individuals involved in the vast majority of cases in lower courts relating to forced conversion, whose judges have and can be intimidated or manipulated. See Sections 4-5 of the full online report.

- *That relocation is normally a viable option unless an individual is accused of blasphemy which is being seriously pursued; in that situation there is, in general, no internal relocation alternative (AK and SK, Summary para.8; para.247)*

Based on the evidence presented, the APPG submits that the Home Office presenters have continued to erroneously suggest that relocation is the option that immigration judges should offer to asylum seekers when their appeals are rejected. Evidence received by the APPG establishes that internal relocation is an unsafe option, especially given new communication technologies developments, which allow information on those targeted by extremist groups to be passed on even if they move across the country. See Sections 7-8 of the full online report.

- *'Like other women in Pakistan, Christian women, in general, face discrimination and may be at a heightened risk but this falls short of a generalised risk. The need for a fact-sensitive analysis is critical in their case. Facts such as their age, place of residence and socio-economic milieu are all relevant factors when assessing the risk of abduction, conversion and forced marriages (AK and SK, para.246)*

The APPG submits that Christian women face persecution and discrimination because they are Christian. Christian women, alongside women of other religious minorities, face a real risk of abduction and are a target of conversion and forced marriage because of their faith. Radical sections

of the society, often with impunity from State officials, view conversions of Christian women and their forced marriage to Muslim men as a positive and righteous action. The risk and dangers which women from non-Muslim faiths face are much more direct and substantial. See Sections 4-5 of the full online report.

In light of the above findings and given that the appellants in *AK and SK* have exhausted their right of appeal, the UK Home Office should initiate the process for bringing forward a new country guidance case that can be used to reassess the situation for all Christians and Christian converts in Pakistan. At the very least, the APPG urges the Home Office to limit the use of the *AK and SK* case's conclusions to providing guidance on its facts – i.e. only providing guidance for the consideration of asylum cases regarding Pakistani Evangelical Christians facing blasphemy charges lodged by non-State actors.

SECTION 8

PROCEDURAL ISSUES WITH THE UK ASYLUM PROCESS

From his extensive experience in working on asylum cases with the Home Office, in the APPG for IForB evidence hearing sessions, Morris Johns, also Secretary of the Pakistani Minorities Rights Organisation, outlined the issues he has witnessed with the interviewing officers, legal representatives, interpreters and decision makers that are involved with the process of accepting or rejecting asylum claims.

With regard to the interviewing officers, the first and the most important person who deals with the asylum application, these individuals are often under-trained with regard to what constitutes religious persecution, tending instead to look at religion from a secularised Western point of view i.e. that the religion is very much a personal choice, rather than as it is regarded in Muslim countries - an affirmation of the loyalty to the nation and the country.³⁸⁴ During interviews, applicants, who may have been traumatized by past incidents, are questioned to provide the exact dates, locations and details of various incidents, as well as proof of their occurrence, sometimes in reverse chronological order with any vagueness damaging their credibility.³⁸⁵ Questions about the applicants' faith do not necessarily distinguish between the teachings of different religious denominations and would thus not be familiar to all applicants. Given also that many Pakistani Christians are poor and illiterate with little opportunity to teach Christian doctrine, as for example was the case with Asia Bibi, the Home Office interviewers' questions, using the Bible, are not always an appropriate determination of the individuals' beliefs.³⁸⁶ Given also that many practising Christians in the UK would also not necessarily know the answer to all the questions the Home Office asks, the determination of the applicant's credibility ought not to place a heavy emphasis on their doctrinal knowledge of the religion.

Asylum Seekers' legal representatives, who are not necessarily qualified solicitors, do not always deem it necessary to be at the applicant's interview, telling the applicant to answer the questions as best as they can.³⁸⁷ Applicants find that representatives do not necessarily spend much time with them or advise them appropriately with what to expect in the interviews. In Johns' experience, only one interview with an applicant had been recorded for the legal representative's benefit.³⁸⁸ In other cases, the difference in religion of the applicant and legal representative can lead to difficulties, for instance Johns has written of one legal-aid-funded Muslim solicitor questioning why the Christian convert applicant had left the 'true' faith.³⁸⁹ Needless to say such bias can make it difficult for an appellant to fully disclose the extent of their persecution. Other times there seems to be a lack of interest shown in the case on the part of the solicitor.³⁹⁰

³⁸⁴ See Morris Johns submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁸⁵ *ibid*

³⁸⁶ See Centre for Legal Aid, Assistance and Settlement submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁸⁷ See Morris Johns submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁸⁸ *ibid*

³⁸⁹ *ibid*

³⁹⁰ *ibid*

When requiring a Home Office interpreter, the applicant can ask for a male or female interpreter - as well as Interviewing Officer – but cannot ask for one of same faith. More than 95% of the Urdu interpreters on the Home Office list are Muslim interpreters.³⁹¹ The words chosen by the interpreters can have critical influence on the asylum claims. There have been persistent claims by the asylum seekers that the words used by some interpreters have been detrimental to their case; for example Johns was told by a Sikh, that when he was asked by the interviewer the names and reasons for different prayers, the interpreter was not able to convey the reply properly, resulting in a failed claim. With some applicants having been through discriminatory or persecutory incidents in Pakistan, some non-Muslim applicants and especially converts from Islam, are wary of the interpreter’s potential bias if they are from a Muslim background. Consequently, they may ask instead for a Punjabi interpreter (to avoid a Muslim interpreter) so that they feel that they can speak more freely.³⁹² Theoretically, an asylum seeker can complain about misinterpretation, however this risks the complaint being used against the applicant as proof of their untrustworthiness and their being too demanding.³⁹³

During the judgement, the burden of proof, unlike in criminal and civil cases, is placed upon the asylum seeker for their having been persecuted.³⁹⁴ Applicants are often asked why they did not claim asylum upon the first opportunity when arriving at a UK airport, despite their potential lack of knowledge as to how or where to apply for asylum. They are also asked to provide solid proofs of any threats received, however, threats may have been verbal or over the phone making it difficult to record these threats and demonstrate the situation that has built up for them over time in Pakistan to provide a well-founded fear of persecution. In one case, one reason given for refusing to grant the applicant asylum was that their name had been spelt differently at the hospital they had attended after being attacked.³⁹⁵ With some documents forged by local police officers to state that they had investigated incidents at the time, relying on police to testify that whether the applicant is being truthful or not is not necessarily a reliable test.

The Ahmadiyya International Human Rights Committee have raised further concerns about the processing of asylum claims, with the lack of consistency in decisions as well as the length of time it takes to process asylum cases.³⁹⁶ Whilst there are also provisions for the UK to take Ahmadis through the ‘Gateway’ and ‘Mandate Schemes’, the Ahmadiyya International Human Rights Committee understand that none have yet been taken. The Home Office ought to liaise with the UNHCR in this regard and just as Canada has a formal resettlement programme, the UK should implement a similar process for Ahmadis as well as adherents of other religions who are at a real risk of persecution.³⁹⁷ Even when the Home Office grants a person leave to remain on the grounds of persecution, it takes at least 3-6 months for their dependents’ applications to be processed and to be granted a visa to join the primary applicant as well. While it is of course welcome that the dependents are permitted to settle, it is a time of extreme concern for the primary applicant with their dependents remaining in

³⁹¹ *ibid*

³⁹² *ibid*

³⁹³ *ibid*

³⁹⁴ *ibid*

³⁹⁵ *ibid*

³⁹⁶ See International Human Rights Committee submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

³⁹⁷ *ibid*

danger during this time.³⁹⁸ Fast tracking such cases so that dependents may join the primary applicant, would reduce the risk of further harm towards the dependents in Pakistan.

Finally, Amnesty International raised concerns about the ‘Detained Fast Track’ (DFT) system, a form of ‘accelerated procedure’ that the UK used for determining asylum claims that were considered by the Home Office to be capable of being resolved quickly. Individuals in the DFT were detained during the processing of their asylum claim and put through a highly accelerated determination and appeal procedure, which in effect produced a refusal rate at first instance of around 99%.³⁹⁹ This system was found in a series of judgments of the High Court and Court of Appeal to be operating in a fundamentally unfair and therefore unlawful manner⁴⁰⁰ and was suspended by the Minister of Immigration in a statement to the House on 2nd July 2015.⁴⁰¹

In the years prior to its suspension, individuals claiming asylum from Pakistan were by far the single largest nationality group put through the DFT system, and were put through in quantities disproportionate to their overall asylum-seeking numbers.⁴⁰² They are therefore likely to have been disproportionately affected by the unfairness found to be inherent in the DFT system as it had been operating prior to its suspension. It is not possible to discern from Home Office statistics the numbers of people from Pakistan put through the DFT system whose claims involved issues relating to religious minority status, however there is no reason to think that they would have been spared this process.⁴⁰³

While the Home Office pursues its attempt to appeal the cases to the Supreme Court, the DFT, at present, remains suspended. The Minister for Immigration has, however, stated that the Home Office intend to reintroduce a reformed version of the DFT at an unspecified future date.⁴⁰⁴ Amnesty International has serious concerns about this prospect and believes that the DFT should be permanently halted. It will be imperative that any reintroduction of a reformed DFT system is closely monitored, both for religious minority claimants from Pakistan and all other asylum claimants.⁴⁰⁵

Recommendations:

- The UK Home Office should ensure that its Presenting Officers possess a depth of cultural contextual understanding for Pakistani asylum cases, including the widespread challenges for religious minorities in accessing justice in Pakistan.

³⁹⁸ Personal email from Ahmadiyya Muslim Association UK (21/01/16)

³⁹⁹ See Amnesty International submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>

⁴⁰⁰ See e.g. *Lord Chancellor v Detention Action*, [2015] EWCA Civ 840; *R(Detention Action) v SSHD* [2014] EWCA Civ 1634

⁴⁰¹ Rt Hon. James Brokenshire MP, House of Commons: Written Statement (HCWS83), 2nd July 2015, <http://www.parliament.uk/documents/commons-vote-office/July%202015/2%20July/6-Home-Asylum.pdf>

⁴⁰² Immigration Statistics, Q2 – April to June 2015, <https://www.gov.uk/government/publications/immigration-statistics-april-to-june-2015/asylum#asylum-appeals>

⁴⁰³ See Amnesty International submission to the APPG at: <https://freedomdeclared.org/in-parliament/pakistan-report/>; Dunt, Ian, ‘Home Office in Turmoil Following Asylum Ruling’, (29 July 2015), available at: <<http://www.politics.co.uk/news/2015/07/29/home-office-in-turmoil-following-asylum-ruling>>, (accessed: 15/12/15)

⁴⁰⁴ *ibid*

⁴⁰⁵ *ibid*

- Ensuring that guidance given to UKVI asylum decision makers should accurately reflect both the relevant case-law and wider country information. Excessive reliance on state protection and internal-relocation alternatives should be avoided.
- The UK Home Office should ensure that all Home Office staff involved in asylum cases, including interviewers, interpreters, case workers and presenting officers, are sufficiently sensitised to and trained in the different religious doctrines and terminologies of religious denominations in Pakistan, as well as the cultural contexts which have enabled and supported the persecution of members of Pakistan's minority religious communities. This depth of understanding is particularly needed so that the religious and cultural contextual meaning behind the asylum applicant's words can be clearly conveyed and understood.
- In cases where individuals have been granted asylum on grounds of religious persecution, the UK Home Office should fast-track dependents' applications and visas for them to join the successful applicant. While it is of course welcome that dependents are permitted to settle outside Pakistan, the current 3 – 6 month processing period of dependents' applications is a time during which the applicants may also be at real risk of persecution.
- All asylum seekers should have their asylum claims fully and fairly determined, with full appeal rights. Certification of asylum claims as 'clearly unfounded' should cease.
- Applicants should be offered a choice whether they would like to have a solicitor/interpreter of certain faith – perhaps the Home Office could make it clear that they will try to comply with the person's choice without guaranteeing that they will be able to provide them.
- Apostates should not be deported to Pakistan, given the ease of passing on information about the applicant and the death penalty charge that faces such individuals in Pakistan.
- The suspension of the Detained Fast Track asylum system should be made permanent and, in the case that it is not, any reintroduction of a DFT process should be closely monitored by Parliamentarians.

CONCLUSIONS

Enabling Pakistan to flourish in the way that Muhammad Ali Jinnah desired requires the above findings, predicated on the research and evidence outlined in the full online report, to be noted and used to inform Home Office and other UK Government departments' policy and action. Change is also required within current national and provincial legislation in Pakistan as well as within the deeply-embedded cultural norms that have given rise to suspicion and hatred of those with different religious beliefs. Both State and non-State actors' pursuit of homogeneity in religious and ideological thought via the suppression of alternative beliefs in Pakistan have not only failed to realise Jinnah's vision for the country, but have enabled a persistent state of insecurity. Grim & Finke's research finds that religious freedom is a key ingredient to peace and stability, as measured by the absence of violent religious persecution and conflict.⁴⁰⁶ When religious freedom is denied through the regulation of religious profession or practice, Grim and Finke find that "violent religious persecution and conflict will increase.

Conversely, the lifting of restrictions on religious profession or practice should result in less persecution and conflict and consequently more peace and security" – which naturally leads to stability in a state.⁴⁰⁷ As the Institute for Global Engagement's Dr Chris Seiple finds, by "introducing religious freedom into a society, religious institutions, communities, and individuals are permitted to grow openly in a healthy and constructive manner, which reinforces engagement with governance and the legitimacy of the state. In other words, there is a link between religious freedom and the degree of broader political liberalization and stability within a nation."⁴⁰⁸

In their November 2015 New Aid Strategy - 'UK Aid: Tackling Global Challenges in the National Interest' - DfID and HM Treasury set four strategic objectives that include 'Strengthening global peace, security and governance' and 'Promoting global prosperity'.⁴⁰⁹ In light of the above research undertaken by Grim, Finke and Seiple, the APPG argues that promoting freedom of religion or belief, and thus religious plurality – in line with Pakistan's international legal obligations - should be prioritised by DfID when engaging with Pakistan. Indeed, Pakistan is one of the main recipients of DfID's financial aid, with the operational plan budget in Pakistan set at £324 million for 2015/16.⁴¹⁰ In order to fill its strategic objectives, the APPG calls on DfID to ensure that where aid is provided or contracts awarded in Pakistan, it is channelled to civil-society organisations and government programmes that can demonstrate a sophisticated understanding of freedom of religion or belief, and can show how their work will have a positive rather than negative impact in this area.

The APPG further submits that, due to its role in enabling stability, advancing freedom of religion or belief is also necessary within a nation for achieving DfID's strategic objective of 'promoting global

⁴⁰⁶ Grim, B. & Finke, R., *The Price of Freedom Denied: Religious Persecution and Conflict in the 21st Century*, (Cambridge: CUP, 2011), p.217

⁴⁰⁷ *ibid*, p.6

⁴⁰⁸ Hertzke, A.D., *The Future of Religious Freedom: Global Challenges*, (Oxford: OUP, 2013), p.324

⁴⁰⁹ HM Treasury, Department for International Development, *UK Aid: Tackling Global Challenges in the National Interest*, (Nov. 2015), p.3, available at:

<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478834/ODA_strategy_fina_l_web_0905.pdf>, (accessed: 12/12/15)

⁴¹⁰ UK Aid, 'Development Tracker: Pakistan', available at: <<https://devtracker.dfid.gov.uk/countries/PK>>, (accessed: 12/12/15)

prosperity’ as well as Sustainable Development Goals 8 and 16.⁴¹¹ As Georgetown and Brigham Young Universities’ research finds, stability is particularly important for business and, in turn, economic prosperity because stability leads to more opportunity to invest and conduct normal and predictable business operations, especially in emerging and new markets.⁴¹² The research, which looked at GDP growth for 173 countries in 2011 and controlled for two dozen different financial, social and regulatory influences, found a positive correlation between religious freedom and global competitiveness, as measured by the World Economic Forum’s Global Competitiveness Index. One mechanism for this, according to the study, is that entrepreneurs are pushed to take their talents elsewhere because limited religious freedom is also associated with more conflict, less stability, higher overall restrictions on intellectual property rights and other important freedoms. Religious hostilities and restrictions create climates that can drive away local and foreign investment, undermine sustainable development, and disrupt huge sectors of economies. Without pursuing and establishing freedom of religion or belief in Pakistan, which happily helps meet DfID’s New Aid Strategy’s strategic objectives, the APPG believes that Jinnah’s vision of Pakistan will never be realised.

⁴¹¹ United Nations Development Programme, ‘Goal 8: Decent Work and Economic Growth – Promote Inclusive and Sustainable Economic Growth, employment and Decent Work for All’, available at: <<http://www.undp.org/content/undp/en/home/sdgooverview/post-2015-development-agenda/goal-8.html>>, (accessed: 02/02/16) ; United Nations Development Programme, ‘Goal 16: Peace, Justice and Strong Institutions - Promote Just, Peaceful and Inclusive Societies’, available at: <<http://www.undp.org/content/undp/en/home/sdgooverview/post-2015-development-agenda/goal-16.html>>, (accessed: 02/02/16)

⁴¹² Grim, B., *supra* n.1

Annex 1⁴¹³

S T A T U T O R Y I N S T R U M E N T S

2006 No. 2525 IMMIGRATION

The Refugee or Person in Need of International Protection (Qualification) Regulations 2006

Made

11th September 2006

*Laid before Parliament
2006*

18th September

*Coming into force
2006*

9th October

The Secretary of State is a Minister designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to measures relating to immigration, asylum, refugees and displaced persons, and in exercise of the powers conferred on him by that section, makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as The Refugee or Person in Need of International Protection (Qualification) Regulations 2006 and shall come into force on 9th October 2006.

(2) These Regulations apply to any application for asylum which has not been decided and any immigration appeal brought under the Immigration Acts (as defined in section 64(2) of the Immigration, Asylum and Nationality Act 2006(3)) which has not been finally determined.

Interpretation

2. In these Regulations—

“application for asylum” means the request of a person to be recognised as a refugee under the Geneva Convention;

“Geneva Convention” means the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951 and the New York Protocol of 31 January 1967(4);

“immigration rules” means rules made under section 3(2) of the Immigration Act 1971(5);

“persecution” means an act of persecution within the meaning of Article 1(A) of the Geneva Convention;

“person eligible for humanitarian protection” means a person who is eligible for a grant of humanitarian protection under the immigration rules;

“refugee” means a person who falls within Article 1(A) of the Geneva Convention and to whom regulation 7 does not apply;

⁴¹³ *The Refugee or Person in Need of International Protection (Qualification) Regulations 2006* [United Kingdom of Great Britain and Northern Ireland], Statutory Instrument 2006 No. 2525, (18 September 2006).

“residence permit” means a document confirming that a person has leave to enter or remain in the United Kingdom whether limited or indefinite;

“serious harm” means serious harm as defined in the immigration rules;

“person” means any person who is not a British citizen.

Actors of persecution or serious harm

3. In deciding whether a person is a refugee or a person eligible for humanitarian protection, persecution or serious harm can be committed by:

- (a) the State;
- (b) any party or organisation controlling the State or a substantial part of the territory of the State;
- (c) any non-State actor if it can be demonstrated that the actors mentioned in paragraphs (a) and (b), including any international organisation, are unable or unwilling to provide protection against persecution or serious harm.

Actors of protection

4.—(1) In deciding whether a person is a refugee or a person eligible for humanitarian protection, protection from persecution or serious harm can be provided by:

- (a) the State; or
- (b) any party or organisation, including any international organisation, controlling the State or a substantial part of the territory of the State.

(2) Protection shall be regarded as generally provided when the actors mentioned in paragraph (1)(a) and (b) take reasonable steps to prevent the persecution or suffering of serious harm by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the person mentioned in paragraph (1) has access to such protection.

(3) In deciding whether a person is a refugee or a person eligible for humanitarian protection the Secretary of State may assess whether an international organisation controls a State or a substantial part of its territory and provides protection as described in paragraph (2).

Act of persecution

5.—(1) In deciding whether a person is a refugee an act of persecution must be:

- (a) sufficiently serious by its nature or repetition as to constitute a severe violation of a basic human right, in particular a right from which derogation cannot be made under Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms(6); or
- (b) an accumulation of various measures, including a violation of a human right which is sufficiently severe as to affect an individual in a similar manner as specified in (a).

(2) An act of persecution may, for example, take the form of:

- (a) an act of physical or mental violence, including an act of sexual violence;
- (b) a legal, administrative, police, or judicial measure which in itself is discriminatory or which is implemented in a discriminatory manner;
- (c) prosecution or punishment, which is disproportionate or discriminatory;
- (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;

(e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under regulation 7.

(3) An act of persecution must be committed for at least one of the reasons in Article 1(A) of the Geneva Convention.

Reasons for persecution

6.—(1) In deciding whether a person is a refugee:

(a) the concept of race shall include consideration of, for example, colour, descent, or membership of a particular ethnic group;

(b) the concept of religion shall include, for example, the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;

(c) the concept of nationality shall not be confined to citizenship or lack thereof but shall include, for example, membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another State;

(d) a group shall be considered to form a particular social group where, for example:

(i) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and

(ii) that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society;

(e) a particular social group might include a group based on a common characteristic of sexual orientation but sexual orientation cannot be understood to include acts considered to be criminal in accordance with national law of the United Kingdom;

(f) the concept of political opinion shall include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution mentioned in regulation 3 and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the person.

(2) In deciding whether a person has a well-founded fear of being persecuted, it is immaterial whether he actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to him by the actor of persecution.

Exclusion

7.—(1) A person is not a refugee, if he falls within the scope of Article 1 D, 1E or 1F of the Geneva Convention.

(2) In the construction and application of Article 1F(b) of the Geneva Convention:

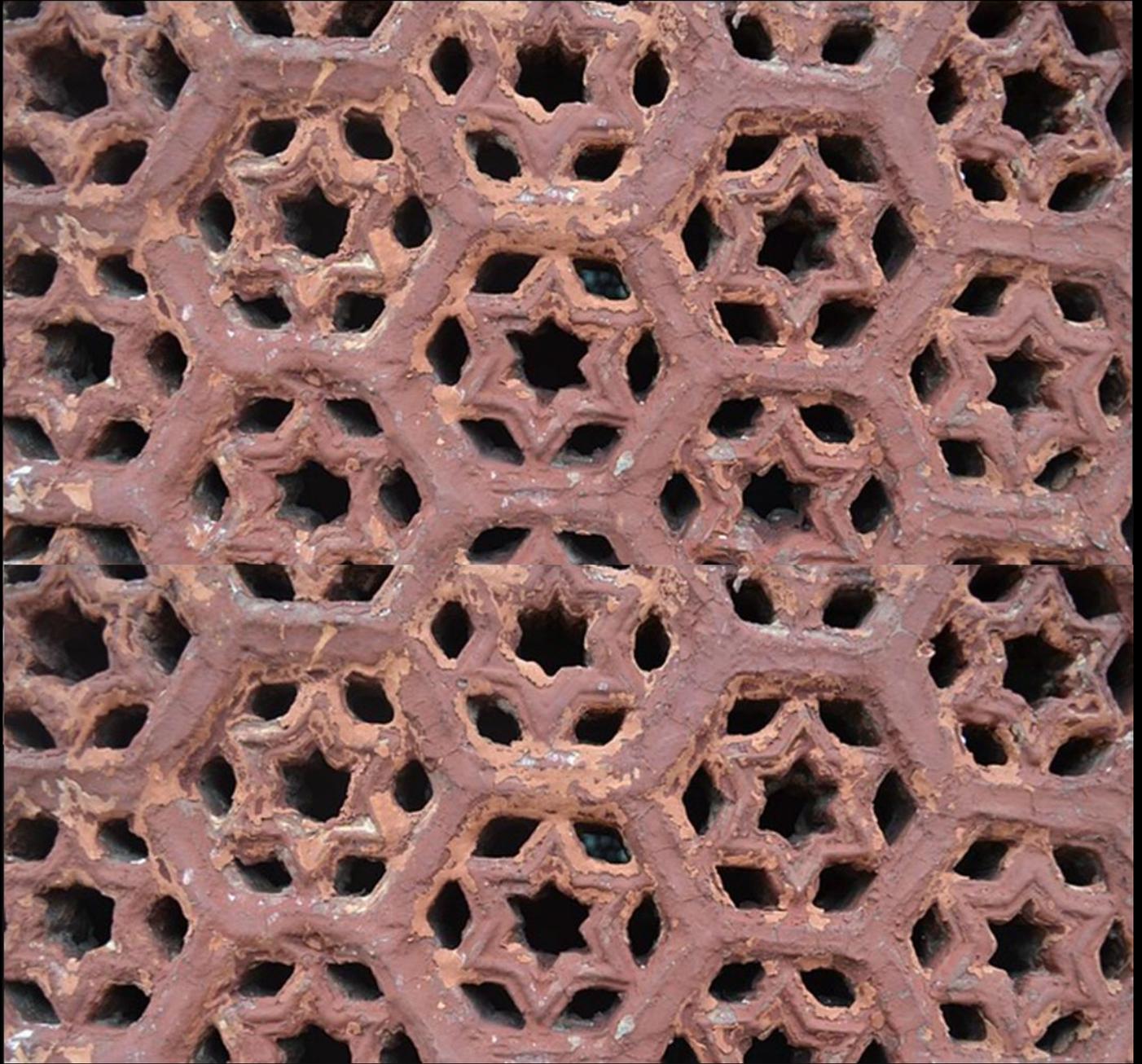
(a) the reference to serious non-political crime includes a particularly cruel action, even if it is committed with an allegedly political objective;

(b) the reference to the crime being committed outside the country of refuge prior to his admission as a refugee shall be taken to mean the time up to and including the day on which a residence permit is issued.

(3) Article 1F(a) and (b) of the Geneva Convention shall apply to a person who instigates or otherwise participates in the commission of the crimes or acts specified in those provisions.

Liam Byrne
Minister of State

Home Office



FREEDOM DECLARED

All Party Parliamentary
Group for International
Freedom of Religion or Belief



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