



Australian Government

Immigration Assessment Authority

Decision and Reasons

Referred application

PAKISTAN
IAA reference: IAA19/07647

Date and time of decision: 14 February 2020 09:39:00
D Power, Reviewer

Decision

The IAA affirms the decision not to grant the referred applicant a protection visa.

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 473EC(2) of the Migration Act 1958 and replaced with generic information which does not allow the identification of a referred applicant, or their relative or other dependant.

Background to the review

Visa application

1. The referred applicant (the applicant) claims to be a Shia from Pakistan. On 8 June 2017 he lodged an application for a Safe Haven Enterprise visa (SHEV).
2. On 10 December 2019 a delegate of the Minister for Immigration refused to grant the visa. The delegate found that the applicant had a well-founded fear of persecution in Quetta but that he could reasonably relocate to other cities such as Islamabad or Karachi where he did not have a well-founded fear of harm or a real risk of significant harm on the basis of his faith.

Information before the IAA

3. I have had regard to the material given by the Secretary under s.473CB of the *Migration Act 1958* (the Act).
4. On 15 January 2020, the IAA received submissions from the applicant's agent. The submission addresses the delegate's findings that the applicant could relocate within Pakistan to avoid harm and why it would be reasonable for him to do so. I have had regard to these submissions.
5. The agent also makes some other claims on the applicant's behalf that are new information. The agent states that the applicant will have "an overwhelming desire" to return his family once in Pakistan and that the knowledge he could not visit his family would cause the applicant "great emotional and psychological trauma". However, the applicant explicitly addressed the question of residing somewhere else in Pakistan outside Quetta in the written claims accompanying his SHEV application. He noted the fact that he is unfamiliar with other places in Pakistan and the lack of family members outside Quetta. However, he did not previously indicate that he would have an overwhelming desire to return to his family in Quetta on return to Pakistan or that living separately from them in Pakistan would traumatise him. I note that the applicant has now been separated from his family for over seven years, but has not put forward any medical advice or other information to suggest that he has suffered trauma stemming from that extended separation here in Australia.
6. The applicant was also advised at the commencement of the interview with the delegate that he should put forward all the information that he wished to rely on in relation to his claims and that he may not have another chance to do so. I note that the applicant's migration agent was present at the interview and that the applicant was afforded a break in the interview to confer with the agent before the interview concluded. I consider that the applicant was well aware that the delegate was considering the possibility that he could relocate elsewhere in Pakistan to avoid harm and that he (and his agent) had ample opportunity to put forward any information he wished in regard to this issue, both at interview and in the two months that then elapsed before the delegate made a decision. I also have concerns about the credibility of this claim, given that it is only now being put forward despite multiple opportunities to raise these issues with the delegate. Given all of the above, I am not satisfied that there exceptional circumstances that justify consideration of this information.

Applicant's claims for protection

7. The applicant's claims can be summarised as follows:

- The applicant is a Shia from Quetta in Balochistan province.
- The applicant's father had a [business] and when the applicant left school he assisted him in the [business].
- When the applicant was about [age] years old there was a bomb blast that killed police, followed by a second blast nearby at a mosque. The blasts killed many people including people that lived in the applicant's district. The applicant was told that the anti-Shia extremist group Lashkar-e-Jhangvi was responsible.
- "Over many weeks" there were target killings, passengers taken from buses and shot, and further bomb blasts.
- The applicant used to volunteer at the mosque during Moharram (a holy month for Shias), assisting those who attended to pray and providing security by preventing strangers from entering the mosque.
- As a result of this work, the applicant started receiving threats from unknown people. Somehow they had obtained his telephone number and threatened to kill him.
- Many people were leaving Quetta for safety reasons and travelling to Australia. The applicant also decided to leave Pakistan.
- The applicant's family remain in Quetta but do not feel safe there. The applicant cannot relocate elsewhere in Pakistan. His facial features and his name will identify him as a Shia and he will be targeted by those who hate Shias. It would also be difficult for him to relocate as he does not know anything about other parts of Pakistan and would be without family support.

Refugee assessment

8. Section 5H(1) of the Act provides that a person is a refugee if, in a case where the person has a nationality, he or she is outside the country of his or her nationality and, owing to a well-founded fear of persecution, is unable or unwilling to avail himself or herself of the protection of that country; or in a case where the person does not have a nationality—is outside the country of his or her former habitual residence and owing to a well-founded fear of persecution, is unable or unwilling to return to it.

Well-founded fear of persecution

9. Under s.5J of the Act 'well-founded fear of persecution' involves a number of components which include that:

- the person fears persecution and there is a real chance that the person would be persecuted
- the real chance of persecution relates to all areas of the receiving country
- the persecution involves serious harm and systematic and discriminatory conduct
- the essential and significant reason (or reasons) for the persecution is race, religion, nationality, membership of a particular social group or political opinion

- the person does not have a well-founded fear of persecution if effective protection measures are available to the person, and
- the person does not have a well-founded fear of persecution if they could take reasonable steps to modify their behaviour, other than certain types of modification.

10. I accept that the applicant is a Shia from Quetta in Pakistan. The applicant has given a consistent account of his identity and provided a range of documents confirming both his personal particulars and his claim to originate from Quetta in Balochistan province. The applicant seemed to indicate that his tribal affiliation was [People Group 1]. However, the applicant provided a letter from the President of the [Shia Organisation 1] in which the applicant is identified as a member of the [Tribe 1]. There was an extended discussion on this point at the protection interview, with the applicant affirming that he is known as a member of a group he designated as [People Group 1], and that in the distant past (the applicant indicated that this occurred well prior to the formation of Pakistan as a nation) his clan had come to Pakistan from the [specified] region of Afghanistan. The applicant's ethnicity was somewhat less clear. The applicant's written claims state that he is "Tajik by nationality". However, further on his written claims state that the applicant "didn't call myself Tajik". At interview, the applicant seemed to indicate that his surname was also a tribal affiliation and that that his surname (or tribal name) and the term Tajik are sometimes used interchangeably. The distinction made by the applicant between clan, tribal affiliation, and ethnicity is not entirely clear. To the extent that such considerations are relevant to his claims, they are discussed further in this review at the relevant juncture. However, I accept that the applicant is a Shia from Quetta as claimed, that he is a national of Pakistan, and that Pakistan is his receiving country for the purposes of this review.

11. The applicant was born in Quetta in Balochistan province. The applicant's parents and siblings remain in Quetta. The applicant stated that he lived in Quetta for his entire adult life prior to coming to Australia, working there in a [business] owned by his father.

12. In his written claims, the applicant stated that when he was [age] consecutive bomb blasts took place in Quetta. The first killed police officers, and was followed by another bombing at a mosque. These attacks killed many people, including individuals from the applicant's own district. He also describes in general terms a period of "many weeks" in which there were target killings, bombings, and people being taken off buses and shot.

13. The applicant states that he was told Lashkar-e-Jhangvi (LeJ) were responsible for the double bombing described in his claims and that he still fears this group. The LeJ are a Sunni paramilitary group known for attacks targeting the Shia community¹.

14. The applicant also expanded on a claim made in his written statement that he was involved in a volunteer capacity with his mosque during the Shia holy month of Muharram, providing security and assisting those who attended the mosque. The applicant claims that because of his work assisting the mosque, he was threatened. He also seemed to indicate that his volunteer work with the [Shia Organisation 1] may have contributed to his being threatened.

15. The applicant claims that he had provided security and did other volunteer work for the mosque for two or three years. He indicates that once the threats began he continued to receive them for a while. The applicant provided a letter purporting to be from the President of

¹ Department of Foreign Affairs and Trade (DFAT), "DFAT Country Information Report Pakistan", 20 February 2019, 20190220093409

[Shia Organisation 1] attesting to his volunteer work with the organisation and for his local mosque. The letter also specifically mentions the two extremist groups as the source of the threats, LeJ and another anti-Shia militant group called Sipah-e-Sahaba².

16. However, he does not indicate that he was ever physically harmed during this time or that anyone ever attempted to physically harm him. When asked if he had ever come face-to-face with any extremists, the applicant said that he had not. If the threats did come from the LeJ, it is not clear why they only came after the applicant had already been performing volunteer security for years or why the LeJ would continue to threaten him for an extended period without ever taking direct action against him.
17. The applicant was also clearly not the only person providing security for the mosque during Muharram. He uses the pronouns “we” and “us” when he discusses blocking the roads at night and being pushed and threatened by strangers who attempted to enter the mosque. However, the applicant did not indicate at interview that anyone else involved in protecting the mosque had received threats or been targeted or harmed in any way. It is not clear why extremists would repeatedly threaten just the applicant and not anyone else volunteering at the Mosque or with the [Shia Organisation 1].
18. At interview, the applicant indicated that his father also received phone calls about his volunteer work. The applicant also indicated that his house was just five or ten minutes from the mosque by foot. Yet he did not indicate that anyone ever came to the house or asked after him. He also stated that no-one had directly targeted his family, either while he was in Pakistan or at any time since his departure. Similarly, he did not indicate that anyone had asked about him since he left.
19. Notwithstanding the above, I am prepared to accept that the applicant was threatened by persons unknown. However, no direct action was ever taken against him. After receiving the threats he eventually stopped volunteering at the mosque and left the country. Additionally, it has now been over seven years since his departure from Pakistan. I do not accept that he is currently of interest or actively sought by any extremist group in Pakistan or that he has any sort of profile with such groups.
20. However, Balochistan continues to suffer from extremist violence. In addition to sectarian attacks, particularly among the applicant’s Shia community in Quetta, the region is also grappling with a separatist insurgency³. Balochistan was the only province to record an increase in terrorist incidents and fatalities in 2018 (compared to 2017)⁴. It also had the highest number of terrorism-related casualties in Pakistan as a whole - the 354 deaths there account for more than half of all terrorist-related deaths in Pakistan⁵. Quetta itself bore the brunt of those attacks. More than a third of all terrorist attacks in Balochistan occurred in Quetta, resulting in 111 fatalities⁶.
21. As previously noted, Balochistan continues to grapple with separatist insurgent elements and only a portion of terrorist incidents in Quetta, and the province more generally, were sectarian in nature⁷. However, terrorist attacks continue to occur in Quetta with some regularity and

² DFAT, “DFAT Country Information Report Pakistan”, 20 February 2019, 20190220093409

³ Pakistan Institute for Peace Studies (PIPS), “Pakistan Security Report 2018”, 6 January 2019, 20190121110758

⁴ Ibid

⁵ Ibid

⁶ Ibid

⁷ Ibid

there have also been attacks on the Shia community⁸. There were 38 separate incidents identified as terrorist attacks in Quetta in 2018⁹. While the anti-Shia extremist group LeJ has singled out Hazaras as a target group, they have also made threats against Shias more generally¹⁰. I note that the applicant's family remain in Quetta. However, given the recent incidence of sectarian attacks on Shias in Quetta, not limited solely to Hazaras, and the persistent threat of terrorist activity overall, I am satisfied that the applicant faces a small but nonetheless real chance of serious harm if he were to return to Quetta.

22. However, s.5J(1)(c) of the Act requires that the real chance of persecution relates to all areas of the receiving country. For the following reasons, I am not satisfied that this is the case. I consider that the applicant could safely relocate to cities such as Islamabad and Karachi, where there is not a real chance that he would suffer harm.
23. In his written claims, the applicant referred to a bombing that occurred in Quetta when he was [age] years old. He also included with his application a letter from the President of the [Shia Organisation 1]. Although the letter references the applicant's work with [this organisation], it makes some general comments about sectarian violence against Shias, giving a figure of 950 Shias who died in the last twelve years. The letter from the [Shia Organisation 1] dates from 2012. The attack in Quetta referred to by the applicant would have occurred sometime around 2005, given he was born in [year] and the attack was said to have occurred when he was [age]. It is not disputed that there was significant sectarian violence in parts of Pakistan in those years, including in Balochistan¹¹. It is also understandable that the applicant was significantly affected by the terrorist attacks at that time and that it continues to shape his view of the situation in Pakistan.
24. However, the security situation in Pakistan has also changed considerably since that time. DFAT states that in the wake of an attack on an army school in Peshawar in December 2014 that killed over 140 children¹², the Government introduced the National Action Plan (NAP) that same month. The implementation of the NAP had (and continues to have) a significant impact on Pakistan's security environment. The NAP and associated military operations are credited with a significant reduction in violent incidents and terrorist attacks in Pakistan¹³.
25. In particular, the country information indicates that Karachi and Islamabad (and nearby Rawalpindi) are safe cities with a stable security outlook. The European Asylum Support Office (EASO) quotes figures that indicate there were just three terrorist attacks in 2017 in the entire Islamabad Capital Territory (in which Islamabad is sited), with the same number recorded in 2016¹⁴. The Pakistan Institute for Peace Studies (PIPS) did not record a single terrorist attack in Islamabad itself in 2018¹⁵. These figures must also be considered against the sizeable population of Islamabad. DFAT notes an approximate population of two million people (including migrants from all over the country)¹⁶ for Islamabad city alone. PIPS noted just one terrorist attack in nearby Rawalpindi in 2018 that killed two people. The Government maintains a strong security presence in Islamabad, making it relatively less prone to violent crime¹⁷. DFAT notes that for 2018, there were just four terrorist attacks (resulting in 18 deaths)

⁸ PIPS, "Pakistan Security Report 2018", 6 January 2019, 20190121110758

⁹ Ibid

¹⁰ DFAT, "DFAT Country Information Report Pakistan", 20 February 2019, 20190220093409

¹¹ DFAT, "DFAT Thematic Report Hazaras in Afghanistan and Pakistan 26 March 2014", 26 March 2014, CIS2F827D91264

¹² DFAT, "DFAT Country Information Report Pakistan", 20 February 2019, 20190220093409

¹³ Ibid

¹⁴ EASO, "EASO Country of Origin Information Report - Pakistan Security Situation", 16 October 2018, CIS7B8394110560

¹⁵ PIPS, "Pakistan Security Report 2018", 6 January 2019, 20190121110758

¹⁶ DFAT, "Pakistan Country Information Report 1 September 2017", 1 September 2017, CISED50AD5515

¹⁷ Ibid

for the whole of Punjab province (which includes Rawalpindi and borders Islamabad)¹⁸. Violent civilian fatalities of any kind were also relatively rare in Punjab as a whole with just 32 such civilian deaths in total there in 2017¹⁹. It is also important to view those figures in the context of Punjab's enormous provincial population (110 million) which accounts for more than half of Pakistan.

26. Similarly, recent country information does not support the view that sectarian violence is widespread in Karachi. In its 2018 report, the United States Commission on International Religious Freedom (USCIRF) continues to note a volatile environment for minorities but also positively notes a decrease in targeted killings of Muslims in Karachi²⁰. This improving trend has been evident in Karachi for some time. In its 2017 report, DFAT quotes the Center for Research and Security Studies (CRSS) as noting that fatalities from sectarian violence in Karachi fell from 216 deaths in 2014 to 38 deaths in 2016. DFAT notes just one reported sectarian death in Karachi in the first six months of 2017. For 2018, PIPS noted just 9 terrorist incidents in Karachi resulting in the deaths of 18 people. None of those attacks had a clear sectarian motivation and the majority of those 18 fatalities were security and law enforcement officials or militants. For the entire population of Sindh province (which includes Karachi), there were just six civilian deaths from terrorist attacks. Any death from violence is regrettable. However, Karachi is one of world's most populous cities, with a resident population of more than 20 million people²¹. The population of Sindh province approaches 50 million people²². The relatively small number of civilian fatalities of any kind (and exceedingly low incidence of targeted sectarian attacks) in Karachi must again be viewed in light of the extraordinary size of Karachi's population.
27. The applicant has highlighted the threat to Shias from LeJ, among others, and attached information about that group to his application. That information states that the LeJ is "virulently anti-Shiite", a characterisation I do not dispute. The information lists major attacks by the LeJ although none more current than 2014. I note that at interview the applicant claimed that his name would be a strong indication that he was Shia. That may be true. However, the country information above indicates that the chance of the applicant being targeted by anti-Shia sectarian violence in Karachi or Islamabad, whether at the hands of the LeJ or other extremist groups, is remote.
28. I also consider that the current evidence before me indicates that the Pakistani authorities are both willing and able to offer protection to Shias. DFAT has noted that Shias are at their most vulnerable when gathered in large numbers, such as Ashura processions (a major Shia religious event)²³. Ashura processions have concluded without incident for the past few years, including in 2019²⁴. News reports have detailed the significant efforts of the authorities over the past few years to protect Shia religious celebrations (such as Ashura) across Pakistan, including the deployment of a strong security presence, aerial surveillance by helicopters, special security deployments along procession routes and at imambargahs, temporarily closing the Pakistan-

¹⁸ DFAT, "DFAT Country Information Report Pakistan", 20 February 2019, 20190220093409

¹⁹ EASO, "EASO Country of Origin Information Report - Pakistan Security Situation", 16 October 2018, CIS7B8394110560

²⁰ USCIRF, "United States Commission on International Religious Freedom Annual Report 2018", 25 April 2018, CIS7B83941863

²¹ DFAT, "Pakistan Country Information Report 1 September 2017", 1 September 2017, CISED50AD5515

²² DFAT, "DFAT Country Information Report Pakistan", 20 February 2019, 20190220093409

²³ Ibid

²⁴ Dawn (Pakistan), "Ashura observed across Pakistan amid tight security arrangements", 10 September 2019, 20191022152039; Global Voices, "Muharram in Pakistan: Daring to observe Ashura", 14 September 2019, 20191022151801

Afghan border, and shutting down the mobile network²⁵. I note PIPS reported that in May 2018 security forces killed Salman Badini, a key LeJ leader allegedly responsible for the targeted killing of more than 100 Hazara Shias and policemen²⁶. This would appear to further underscore the commitment of Pakistan authorities to combat anti-Shia extremism, and the pernicious influence of the LeJ in particular.

29. I accept that the applicant previously assisted with the security of his local mosque. He stated at interview that he continues to do occasional volunteering at his Imambargah in Australia, as well as further volunteer work for [Welfare Group 1]. At interview, the applicant said that his religious faith obliges him to help others. The applicant's representative said that the applicant was active in his mosque in Pakistan before his departure and that he would want to do the same thing if he returned. Given his history of volunteer work in Pakistan and Australia, it is possible that the applicant would again feel obliged to assist at his local mosque wherever he settles in Pakistan. However, I consider that the country information indicates that the chance of the applicant being called on to defend his local mosque or otherwise being forced to respond to violence in either Karachi or Islamabad is very remote.
30. DFAT notes that Article 15 of the Pakistani constitution guarantees the right to freedom of movement in Pakistan, and internal relocation is a matter of practical reality²⁷. In its 2016 report, DFAT noted specifically that Shias relocate "with relative ease and frequency"²⁸. Although that report is now some years old, the most recent DFAT report confirms that internal migration remains "widespread and common". It also notes that large cities such as Karachi and Islamabad "have ethnically and religiously diverse populations" and offer a degree of anonymity for those fleeing extremist violence²⁹.
31. I note that the applicant is a Shia. On his tribal affiliation and ethnicity the applicant gave detailed but sometimes contradictory information. The applicant seemed to indicate his ethnicity was not Tajik. He drew a distinction between himself and the Hazara and Punjabi residents of Quetta and seemed to nominate [People Group 1] as his ethnicity and [Tribe 1] as his tribal affiliation. In any event, the applicant does not indicate in his written claims that he fears harm due to his ethnicity. At interview the applicant did not put forward any instance where he had been targeted or experienced any harm on the basis of his ethnicity. The available country information does not indicate that Tajiks or [People Group 1] are the subject of adverse attention from any group in Pakistan on the basis of their ethnicity alone or that either ethnicity contributes to greater risk of harm, either in Karachi or Islamabad or in Pakistan more generally.
32. Although the applicant is a Shia from Quetta, a city noted for its large Hazara Shia population, he does not claim to be Hazara. However, in his written claims the applicant states a number of times that his facial features would identify him as a Shia Muslim. DFAT assesses that Hazaras face a higher risk than other Shia, in part because of their distinctive appearance. However as

²⁵ Express Tribune (Pakistan), "Ashura processions culminate peacefully in different districts", 3 October 2017, CXC90406614861; Dawn (Pakistan), "Mobile services suspended in parts of Karachi ahead of Ashura", 19 September 2018, CXBB8A1DA35716; Dawn (Pakistan), "Ashura being observed across Pakistan amid tight security", 21 September 2018, CXBB8A1DA35775; Geo TV (News), "Ashura processions culminate countrywide, majalis under way", 21 September 2018, CXBB8A1DA35780; The International News, "Muslims mark Ashura across Pakistan", 22 September 2018, CXBB8A1DA35779; Dawn (Pakistan), "Ashura observed peacefully amid tight security in KP", 23 September 2018, CXBB8A1DA35781

²⁶ PIPS, "Pakistan Security Report 2018", 6 January 2019, 20190121110758

²⁷ DFAT, "DFAT Country Information Report Pakistan", 20 February 2019, 20190220093409

²⁸ DFAT, "DFAT Thematic Report - Shias in Pakistan January 2016", 15 January 2016, CIS38A801265

²⁹ DFAT, "DFAT Country Information Report Pakistan", 20 February 2019, 20190220093409

he does not claim to be Hazara, or to be identified or perceived as Hazara, it is not clear on what basis he claims a heightened risk of being targeted due to his appearance.

33. DFAT indicates that Hazaras residing outside of the Quetta enclaves face a moderate risk of discrimination, and refers to reports of officials refusing to amend CNICs for Hazaras relocating internally, thus preventing them from applying for passports and accessing services, although it does not indicate how often this occurs³⁰. However, I do not accept that the applicant, who is not Hazara, would be subjected to the discrimination faced by Hazaras when relocating. I note the applicant successfully applied for a passport previously and did not report any issues in doing so. He has not previously indicated any previous instances where he was mistaken for someone of Hazara ethnicity.
34. Karachi and Islamabad are among the favoured destinations for Shias relocating internally³¹. DFAT has previously observed that large cities offer better economic opportunities³² and in Karachi and Islamabad the applicant will be moving to cities with a significant resident population of Shias³³. DFAT also states that it has no evidence that Shias face systemic discrimination finding employment in the public service, police, military or public sector³⁴. While noting Ahmadis and Hazaras as an exception, DFAT assesses that “Pakistanis are generally able to practise their religion without official interference or discrimination”³⁵. Shias are also well-represented in Parliament³⁶. DFAT assesses that Shias who are not Hazara or Turi do not face discrimination based on their religion in seeking employment. As noted above, the applicant is not Hazara and has not advanced any instances in which he was mistaken for someone of Hazara ethnicity.
35. He stated at interview that he had been employed since October 2015 at a [business] here in Australia, and that he was currently working towards a degree in [subject]. In Pakistan, the applicant worked for some years in his father’s [business]. At [age] years of age, he still has the majority of his working life ahead of him. The applicant has also shown a consistent ability to develop networks within the Shia community wherever he found himself, taking a leading role in his mosque, becoming a valued member of the [Shia Organisation 1], and continuing to perform volunteer work with his mosque or Imambargah here in Australia and with the [Welfare Group 1]. I consider that he has demonstrated that he is a resilient and resourceful individual. Pakistan’s official unemployment rate is relatively low at 6% and the growth rate relatively high (5.7% in 2017 and projected to be 5.8% in 2018)³⁷. Given his work history, language skills, general adaptability and demonstrated capacity to support himself away from his family, I consider that the applicant is well-placed to establish a network in either Islamabad or Karachi, cities with known Shia populations. I am also satisfied that he will be able to obtain employment in Islamabad or Karachi.
36. The applicant has not made any claim to fear harm in Pakistan as a result of his extended stay in Australia or due to the fact that he has sought protection here, nor do I consider that such a claim arises on the facts. I note that the delegate did not make any findings on these issues in the written decision, and neither the applicant nor his agent has made any submission to the IAA on these matters.

³⁰ DFAT, “DFAT Country Information Report Pakistan”, 20 February 2019, 20190220093409

³¹ Ibid

³² DFAT, “Pakistan Country Information Report 1 September 2017”, 1 September 2017, CISED50AD5515

³³ DFAT, “Pakistan Country Information Report 1 September 2017”, 1 September 2017, CISED50AD5515; DFAT, “DFAT Country Information Report Pakistan”, 20 February 2019, 20190220093409

³⁴ Ibid

³⁵ Ibid

³⁶ Ibid

³⁷ DFAT, “DFAT Country Information Report Pakistan”, 20 February 2019, 20190220093409

37. I am not satisfied that there is a real chance the applicant would face any harm whether on account of his religion or ethnicity or due to the general security situation, or that he would face discrimination or be unable to subsist in Karachi or Islamabad.
38. The applicant does not have a well-founded fear of persecution.

Refugee: conclusion

39. The applicant does not meet the requirements of the definition of refugee in s.5H(1). The applicant does not meet s.36(2)(a).

Complementary protection assessment

40. A criterion for a protection visa is that the applicant is a non-citizen in Australia (other than a person who is a refugee) in respect of whom the Minister (or Reviewer) is satisfied Australia has protection obligations because there are substantial grounds for believing that, as a necessary and foreseeable consequence of the person being removed from Australia to a receiving country, there is a real risk that the person will suffer significant harm.

Real risk of significant harm

41. Under s.36(2A), a person will suffer 'significant harm' if:
- the person will be arbitrarily deprived of his or her life
 - the death penalty will be carried out on the person
 - the person will be subjected to torture
 - the person will be subjected to cruel or inhuman treatment or punishment, or
 - the person will be subjected to degrading treatment or punishment.
42. The expressions 'torture', 'cruel or inhuman treatment or punishment' and 'degrading treatment or punishment' are in turn defined in s.5(1) of the Act.
43. In accordance with s.36(2B) of the Act, there is taken not to be a real risk of significant harm if it would be reasonable for the person to relocate to another area of the country where there would not be a real risk of significant harm. I have accepted that, having regard to the level of sectarian violence in Quetta, the applicant faces a real chance of serious harm if he were to return there, but that that risk does not extend to the entire country and the applicant would not face a real chance of harm in Islamabad or Karachi. For the same reasons, I am not satisfied that he would face a real risk of significant harm in Islamabad or Karachi.
44. The applicant has stated that it would be impossible for him to relocate within Pakistan because he would be identifiable (and targeted) as a Shia wherever he went. He also indicated that he would be vulnerable in another area of Pakistan without his family or other support networks. However, as set out above, I do not accept he will be identified and targeted wherever he went. For the following reasons, I am also satisfied it is reasonable, in the sense of practicable, for the applicant to relocate to Islamabad or Karachi.

45. In his written claims the applicant referred to the difficulty of relocating to an unfamiliar city without family support, a point taken by his representative in her submission to the IAA. At interview, the applicant stated that it would be hard to start “from zero” again in another city in Pakistan. As noted above, DFAT makes reference to difficulties faced by Hazaras in having their CNICs amended and accessing employment when relocating within Pakistan. However, the applicant is not Hazara. DFAT also notes the significant Shia populations in Karachi and Islamabad, which indicates that the applicant would be among a large Shia community. The applicant has been able to procure employment and accommodation here in Australia without the benefit of his family network or other community supports and in a culture that must initially have been considerably less familiar than the one to which he will return. He has also shown a consistent ability to build networks in his local Shia community both in Pakistan and here in Australia. The applicant also indicated on his SHEV application that he speaks Pashto, Urdu, and Dari. He stated at interview that he had been employed for four or five years at a [business] here in Australia, and that he was currently working towards a degree in [subject]. In Pakistan, the applicant worked for some years in his father’s [business]. At [age] years of age, he is still relatively young and demonstrably able to work. The applicant is also unmarried and will not have the additional responsibility of caring for a wife or children. I consider that the applicant is a resilient and adaptable individual who can sustain himself without the support of his family. Country information cited above notes that Sunni and Shia communities are generally well integrated in Karachi and Islamabad, and that Shias do not face discrimination in seeking employment. I am satisfied that the applicant would be able to obtain employment in Islamabad or Karachi.
46. In the submission to the IAA, the applicant’s agent states that it is unreasonable to expect the applicant to return to Pakistan but live apart from his family in another city and never see them. The agent notes the applicant’s extended absence from his family in Australia but states that if he does not return to his family in Pakistan and something happens to them, he would be devastated. The applicant further asks that the applicant be granted a temporary protection visa so that he can visit his family if they are able to go to Iran or another country to meet him.
47. I do not wish to downplay the difficulty the applicant faces in being separated from his family for so long. Nonetheless, the logic of this argument is difficult to see. The applicant has been separated from his family for seven years now. The fact that he has made an application for a SHEV, which if granted would see him remain in Australia for another five years, indicates his preparedness to continue living apart from them for an extended period. If something happened to his family and the applicant was not there, it would certainly be devastating for him but it is not apparent why this would be more devastating for the applicant if he was in Karachi or Islamabad than if he was in [Australia]. The representative has said that the applicant does not have extremists targeting him here in Australia. However, I consider that the country information above indicates that the possibility of the applicant being targeted or caught up in sectarian (or any other kind) of violence in Karachi or Islamabad is remote. In the event that the family were willing to go to Iran, it is not clear why such a rendezvous could not be arranged from Pakistan. However, if the family were willing to temporarily depart Quetta, it would also be an option to travel to Islamabad or Karachi and see the applicant there. As set out above, I consider these cities to be safe and stable and the logistical overhead in meeting with his family in one of those cities would be considerably less than that involved in the applicant flying from Australia to somewhere like Iran.
48. The applicant has stated that he could not relocate to Karachi or Islamabad because the Shia minority is targeted everywhere in Pakistan. I have considered the concerns raised about sectarian violence in other parts of Pakistan. However, country information cited earlier indicates that Islamabad and Karachi are now considered safe. Both cities suffered very few

attacks of any kind in the past few years. In 2018 there were no attacks at all in the capital. The nine terrorist incidents in Karachi in 2018 mostly involved militants and security personnel with just a handful of civilian deaths there. Country information noted earlier indicates that the security situation in these cities is stable and contained, especially relative to their size.

49. Information set out above also confirms the constitutional right to freedom of movement for Pakistani citizens and that internal relocation is widespread in Pakistan. Islamabad is serviced by its own airport as is Karachi³⁸. As set out above, there is a possibility that the applicant maybe detained for several hours if the applicant re-enters Pakistan through Karachi airport. However there is nothing in the country information before me to suggest that those detained are mistreated in any way during this process and I do not consider that being detained for this relatively brief period would amount to significant harm. There is nothing in the country information before me to suggest that there are any barriers to the applicant accessing Islamabad or Karachi on return.
50. Taking into account all the applicant's circumstances and the country information before me, I am satisfied that in the circumstances it is reasonable for the applicant to relocate to Islamabad or Karachi, an area of the country where there is not a real risk that he will suffer significant harm.

Complementary protection: conclusion

51. There are not substantial grounds for believing that, as a necessary and foreseeable consequence of being returned from Australia to a receiving country, there is a real risk that the applicant will suffer significant harm. The applicant does not meet s.36(2)(aa).

Decision

The IAA affirms the decision not to grant the referred applicant a protection visa.

³⁸ DFAT, "DFAT Country Information Report Pakistan", 20 February 2019, 20190220093409

Applicable law

Migration Act 1958

5 (1) Interpretation

In this Act, unless the contrary intention appears:

...

bogus document, in relation to a person, means a document that the Minister reasonably suspects is a document that:

- (a) purports to have been, but was not, issued in respect of the person; or
- (b) is counterfeit or has been altered by a person who does not have authority to do so; or
- (c) was obtained because of a false or misleading statement, whether or not made knowingly

...

cruel or inhuman treatment or punishment means an act or omission by which:

- (a) severe pain or suffering, whether physical or mental, is intentionally inflicted on a person; or
- (b) pain or suffering, whether physical or mental, is intentionally inflicted on a person so long as, in all the circumstances, the act or omission could reasonably be regarded as cruel or inhuman in nature;

but does not include an act or omission:

- (c) that is not inconsistent with Article 7 of the Covenant; or
- (d) arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

degrading treatment or punishment means an act or omission that causes, and is intended to cause, extreme humiliation which is unreasonable, but does not include an act or omission:

- (a) that is not inconsistent with Article 7 of the Covenant; or
- (b) that causes, and is intended to cause, extreme humiliation arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

receiving country, in relation to a non-citizen, means:

- (a) a country of which the non-citizen is a national, to be determined solely by reference to the law of the relevant country; or
- (b) if the non-citizen has no country of nationality—a country of his or her former habitual residence, regardless of whether it would be possible to return the non-citizen to the country.

...

torture means an act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person:

- (a) for the purpose of obtaining from the person or from a third person information or a confession; or
- (b) for the purpose of punishing the person for an act which that person or a third person has committed or is suspected of having committed; or
- (c) for the purpose of intimidating or coercing the person or a third person; or
- (d) for a purpose related to a purpose mentioned in paragraph (a), (b) or (c); or
- (e) for any reason based on discrimination that is inconsistent with the Articles of the Covenant;

but does not include an act or omission arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

5H Meaning of refugee

(1) For the purposes of the application of this Act and the regulations to a particular person in Australia, the person is a refugee if the person:

- (a) in a case where the person has a nationality—is outside the country of his or her nationality and, owing to a well-founded fear of persecution, is unable or unwilling to avail himself or herself of the protection of that country; or
- (b) in a case where the person does not have a nationality—is outside the country of his or her former habitual residence and owing to a well-founded fear of persecution, is unable or unwilling to return to it.

Note: For the meaning of *well-founded fear of persecution*, see section 5J.

...

5J Meaning of well-founded fear of persecution

- (1) For the purposes of the application of this Act and the regulations to a particular person, the person has a well-founded fear of persecution if:
 - (a) the person fears being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; and
 - (b) there is a real chance that, if the person returned to the receiving country, the person would be persecuted for one or more of the reasons mentioned in paragraph (a); and
 - (c) the real chance of persecution relates to all areas of a receiving country.

Note: For membership of a particular social group, see sections 5K and 5L.
- (2) A person does not have a well-founded fear of persecution if effective protection measures are available to the person in a receiving country.

Note: For effective protection measures, see section 5LA.
- (3) A person does not have a well-founded fear of persecution if the person could take reasonable steps to modify his or her behaviour so as to avoid a real chance of persecution in a receiving country, other than a modification that would:
 - (a) conflict with a characteristic that is fundamental to the person's identity or conscience; or
 - (b) conceal an innate or immutable characteristic of the person; or
 - (c) without limiting paragraph (a) or (b), require the person to do any of the following:
 - (i) alter his or her religious beliefs, including by renouncing a religious conversion, or conceal his or her true religious beliefs, or cease to be involved in the practice of his or her faith;
 - (ii) conceal his or her true race, ethnicity, nationality or country of origin;
 - (iii) alter his or her political beliefs or conceal his or her true political beliefs;
 - (iv) conceal a physical, psychological or intellectual disability;
 - (v) enter into or remain in a marriage to which that person is opposed, or accept the forced marriage of a child;
 - (vi) alter his or her sexual orientation or gender identity or conceal his or her true sexual orientation, gender identity or intersex status.
- (4) If a person fears persecution for one or more of the reasons mentioned in paragraph (1)(a):
 - (a) that reason must be the essential and significant reason, or those reasons must be the essential and significant reasons, for the persecution; and
 - (b) the persecution must involve serious harm to the person; and
 - (c) the persecution must involve systematic and discriminatory conduct.
- (5) Without limiting what is serious harm for the purposes of paragraph (4)(b), the following are instances of **serious harm** for the purposes of that paragraph:
 - (a) a threat to the person's life or liberty;
 - (b) significant physical harassment of the person;
 - (c) significant physical ill-treatment of the person;
 - (d) significant economic hardship that threatens the person's capacity to subsist;
 - (e) denial of access to basic services, where the denial threatens the person's capacity to subsist;
 - (f) denial of capacity to earn a livelihood of any kind, where the denial threatens the person's capacity to subsist.
- (6) In determining whether the person has a **well-founded fear of persecution** for one or more of the reasons mentioned in paragraph (1)(a), any conduct engaged in by the person in Australia is to be disregarded unless the person satisfies the Minister that the person engaged in the conduct otherwise than for the purpose of strengthening the person's claim to be a refugee.

5K Membership of a particular social group consisting of family

For the purposes of the application of this Act and the regulations to a particular person (the **first person**), in determining whether the first person has a well-founded fear of persecution for the reason of membership of a particular social group that consists of the first person's family:

- (a) disregard any fear of persecution, or any persecution, that any other member or former member (whether alive or dead) of the family has ever experienced, where the reason for the fear or persecution is not a reason mentioned in paragraph 5J(1)(a); and
- (b) disregard any fear of persecution, or any persecution, that:
 - (i) the first person has ever experienced; or

- (ii) any other member or former member (whether alive or dead) of the family has ever experienced;

where it is reasonable to conclude that the fear or persecution would not exist if it were assumed that the fear or persecution mentioned in paragraph (a) had never existed.

Note: Section 5G may be relevant for determining family relationships for the purposes of this section.

5L Membership of a particular social group other than family

For the purposes of the application of this Act and the regulations to a particular person, the person is to be treated as a member of a particular social group (other than the person's family) if:

- (a) a characteristic is shared by each member of the group; and
- (b) the person shares, or is perceived as sharing, the characteristic; and
- (c) any of the following apply:
 - (i) the characteristic is an innate or immutable characteristic;
 - (ii) the characteristic is so fundamental to a member's identity or conscience, the member should not be forced to renounce it;
 - (iii) the characteristic distinguishes the group from society; and
- (d) the characteristic is not a fear of persecution.

5LA Effective protection measures

- (1) For the purposes of the application of this Act and the regulations to a particular person, effective protection measures are available to the person in a receiving country if:
 - (a) protection against persecution could be provided to the person by:
 - (i) the relevant State; or
 - (ii) a party or organisation, including an international organisation, that controls the relevant State or a substantial part of the territory of the relevant State; and
 - (b) the relevant State, party or organisation mentioned in paragraph (a) is willing and able to offer such protection.
- (2) A relevant State, party or organisation mentioned in paragraph (1)(a) is taken to be able to offer protection against persecution to a person if:
 - (a) the person can access the protection; and
 - (b) the protection is durable; and
 - (c) in the case of protection provided by the relevant State—the protection consists of an appropriate criminal law, a reasonably effective police force and an impartial judicial system.

...

36 Protection visas – criteria provided for by this Act

...

- (2) A criterion for a protection visa is that the applicant for the visa is:
 - (a) a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the person is a refugee; or
 - (aa) a non-citizen in Australia (other than a non-citizen mentioned in paragraph (a)) in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen being removed from Australia to a receiving country, there is a real risk that the non-citizen will suffer significant harm; or
 - (b) a non-citizen in Australia who is a member of the same family unit as a non-citizen who:
 - (i) is mentioned in paragraph (a); and
 - (ii) holds a protection visa of the same class as that applied for by the applicant; or
 - (c) a non-citizen in Australia who is a member of the same family unit as a non-citizen who:
 - (i) is mentioned in paragraph (aa); and
 - (ii) holds a protection visa of the same class as that applied for by the applicant.
- (2A) A non-citizen will suffer **significant harm** if:
 - (a) the non-citizen will be arbitrarily deprived of his or her life; or
 - (b) the death penalty will be carried out on the non-citizen; or
 - (c) the non-citizen will be subjected to torture; or
 - (d) the non-citizen will be subjected to cruel or inhuman treatment or punishment; or
 - (e) the non-citizen will be subjected to degrading treatment or punishment.

- (2B) However, there is taken not to be a real risk that a non-citizen will suffer significant harm in a country if the Minister is satisfied that:
- (a) it would be reasonable for the non-citizen to relocate to an area of the country where there would not be a real risk that the non-citizen will suffer significant harm; or
 - (b) the non-citizen could obtain, from an authority of the country, protection such that there would not be a real risk that the non-citizen will suffer significant harm; or
 - (c) the real risk is one faced by the population of the country generally and is not faced by the non-citizen personally.

...

Protection obligations

- (3) Australia is taken not to have protection obligations in respect of a non-citizen who has not taken all possible steps to avail himself or herself of a right to enter and reside in, whether temporarily or permanently and however that right arose or is expressed, any country apart from Australia, including countries of which the non-citizen is a national.
- (4) However, subsection (3) does not apply in relation to a country in respect of which:
- (a) the non-citizen has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; or
 - (b) the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen availing himself or herself of a right mentioned in subsection (3), there would be a real risk that the non-citizen will suffer significant harm in relation to the country.
- (5) Subsection (3) does not apply in relation to a country if the non-citizen has a well-founded fear that:
- (a) the country will return the non-citizen to another country; and
 - (b) the non-citizen will be persecuted in that other country for reasons of race, religion, nationality, membership of a particular social group or political opinion.
- (5A) Also, subsection (3) does not apply in relation to a country if:
- (a) the non-citizen has a well-founded fear that the country will return the non-citizen to another country; and
 - (b) the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen availing himself or herself of a right mentioned in subsection (3), there would be a real risk that the non-citizen will suffer significant harm in relation to the other country.

Determining nationality

- (6) For the purposes of subsection (3), the question of whether a non-citizen is a national of a particular country must be determined solely by reference to the law of that country.
- (7) Subsection (6) does not, by implication, affect the interpretation of any other provision of this Act.