



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Communication No. 2351/2014

#### Decision adopted by the Committee at its 115th session (19 October-6 November 2015)

<i>Submitted by:</i>	R.G. et al. (represented by counsel, Helge Nørrung)
<i>Alleged victim:</i>	The authors
<i>State party:</i>	Denmark
<i>Date of communication:</i>	4 March 2014 (initial submission)
<i>Document references:</i>	Special Rapporteur's decision under rules 92 and 97, transmitted to the State party on 5 March 2014 (not issued in a document form)
<i>Date of adoption of decision:</i>	2 November 2015
<i>Subject matter:</i>	Deportation to Pakistan
<i>Procedural issues:</i>	Level of substantiation of claims
<i>Substantive issues:</i>	Right to life; risk of torture and ill-treatment; freedom of religion.
<i>Articles of the Covenant:</i>	6, 7 and 18
<i>Articles of the Optional Protocol:</i>	2



## Annex

### **Decision of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights (115th session)**

concerning

#### **Communication No. 2351/2014\***

*Submitted by:* R.G. et al. (represented by counsel,  
Helge Nørrung)

*Alleged victim:* The authors

*State party:* Denmark

*Date of communication:* 4 March 2014 (initial submission)

*The Human Rights Committee*, established under article 28 of the International Covenant on Civil and Political Rights,

*Meeting* on 2 November 2015,

*Having concluded* its consideration of communication No. 2351/2014, submitted to it under the Optional Protocol to the International Covenant on Civil and Political Rights,

*Having taken into account* all written information made available to it by the authors of the communication and the State party,

*Adopts* the following:

#### **Decision on admissibility**

1.1 The authors of the communication are R.G. and her adult son, I.G., born in 1966 and 1994, respectively. They submit the complaint on their own behalf and on behalf of R.G.'s two minor daughters. The authors are nationals of Pakistan, members of the Christian minority. The authors claim that if Denmark proceeds with their deportation to Pakistan, it would amount to a violation of their rights under articles 6, 7 and 18 of the Covenant, as they fear being exposed to threats to their lives. The authors are represented by counsel. The Optional Protocol entered into force for Denmark on 23 March 1976.

1.2 The communication was registered on 5 March 2014. Pursuant to rule 92 of its rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, requested the State party to refrain from deporting the authors to Pakistan while their case is under consideration by the Committee. On 10 March 2014, the Danish Refugee Appeals Board suspended the time limit for the authors'

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\* The following members of the Committee participated in the examination of the present communication: Yadh Ben Achour, Lazhari Bouzid, Sarah Cleveland, Ahmed Amin Fathalla, Olivier de Frouville, Yuji Iwasawa, Ivana Jelić, Duncan Laki Muhumuza, Photini Pazartzis, Mauro Politi, Sir Nigel Rodley, Víctor Manuel Rodríguez-Rescia, Fabián Omar Salvioli, Dheerujlall Seetulsingh, Anja Seibert-Fohr, Yuval Shany, Konstantine Vardzelashvili and Margo Waterval.

departure until further notice, in accordance with the Committee's request. On 5 September 2014, the State party requested the Committee to lift the interim measures with respect to the authors, arguing that they had failed to establish a prima facie case for the purpose of admissibility and that the communication was not sufficiently substantiated. On 24 November 2014, the Committee denied the State party's request to lift the interim measures.<sup>1</sup> The authors currently reside in Denmark.

### **The facts as submitted by the author**

2.1 The authors claim that they were subjected to harassment in Pakistan because of their Christian background. They claim that on 25 May 2012, I.G. was accused of preaching Christianity to Muslims and beaten by older Muslim schoolmates while in school. The following Sunday, 27 May 2012, the whole family was attacked by four young men, two of whom were among the older schoolmates of I.G. who had attacked him at school, and two other, slightly older men, who attacked the family as they were on their way home from church. One of I.G.'s minor sisters was bleeding as a result of the beating. The men threatened to kill I.G. and to kidnap his sisters. Later the same night, the authors' house was set on fire. The family immediately fled to the mother's cousin in Karachi, who helped them to leave the country on 18 June 2012 for Denmark.

2.2 The authors did not file a complaint with the police in Pakistan as they had no confidence in the authorities and feared reprisals. They also claim that although they were not harassed because of their religious beliefs prior to these events, public reports referring to other attacks around the country demonstrate that Muslim militants will not shy away from killing non-Muslims who have been targeted. In this connection, the authors claim that the risks described stem from their religious beliefs and that, if returned to Pakistan, they will be forced to hide their beliefs and will be hindered in the free exercise of their religion.

2.3 The authors entered Denmark on 9 July 2012, without valid travel documents. They applied for asylum, but their request for a residence permit under section 7 of the Aliens Act was refused by the Danish Immigration Service on 22 March 2013. On 13 June 2013, the Danish Refugee Appeals Board upheld the refusal of the Danish Immigration Service to grant asylum to the authors.<sup>2</sup> The authors have indicated as grounds for asylum their fear that if they are returned to Pakistan they will be killed by the group of young Muslim men who had threatened I.G. and his family. They further fear that the minor daughters will be assaulted and raped. In a letter dated 12 August 2013, the author's counsel requested the Board to reopen the authors' asylum proceedings. The authors were called to the police station on 12 February 2014, where they decided to agree in writing to a voluntary return in order to avoid being detained at the Ellebæk detention centre prior to their deportation, which was planned for 5 March 2014, on a flight departing at 7.10 p.m.<sup>3</sup> On 3 March 2014, the Board decided that it had found no basis for reopening the asylum proceedings, nor did it find any reasons for extending the time limit for the authors' departure, as no substantial new information or views had been submitted beyond the information available at the initial hearing by the Board. The Board reaffirmed its negative decision of 13 June 2013.

2.4 In its decision of 13 June 2013, the Board noted that the authors and their family had not been members of any political or religious associations or organizations, nor had they been politically active in any other way. They had not had any conflicts with the Pakistani

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<sup>1</sup> The State party requested that interim measures be lifted because the authors had failed to substantiate that, if returned to Pakistan, they would be at risk of suffering irreparable harm.

<sup>2</sup> The authors' cases have been treated jointly by the Danish Immigration Service and the Board.

<sup>3</sup> The deportation was scheduled within 24 hours after the receipt of the initial complaint.

authorities. The Board found no basis for rejecting the statement of the applicant's son, I.G., that he had been accosted and beaten by older boys from the same school, or for rejecting the applicants' statement to the effect that, on leaving church the following Sunday, the family had been sought out by two of the older pupils and two other, slightly older, men, who had hit R.G. and I.G. and pushed R.G.'s daughters. The Board stated, however, that R.G.'s statement about the fire appeared uncertain and fabricated for the occasion. The Board took into account that it was difficult for R.G. to determine exactly and consistently when and how she had discovered that one of the rooms in the house was on fire, but it could not consider it to have been established as fact that the applicant's home was set on fire on 27 May 2012.<sup>4</sup> The Board also noted that the authors had not reported the incidents at the school and outside the church to the authorities. It found that the isolated incidents referred to by the authors related to disagreements between the author's son and some of his schoolmates and could not be the basis for granting the authors protection status under section 7 of the Aliens Act. The Board considered that the issue was a private law conflict that was not of an intensity or nature that could justify the granting of asylum on the basis of a risk of persecution or abuse under sections 7 (1) or 7 (2) of the Aliens Act, should the authors be returned to Pakistan. The Board therefore upheld the decision of the Danish Immigration Service of 22 March 2013.

2.5 The authors further report that in April 2012, G, another of R.G.'s sons, had married a Muslim woman, who later converted to Christianity. The authors' family broke off its relations with G in 2011 because they were offended that he would have a relationship with a non-Christian woman. The authors claim that in May and November 2011, G was shot at on several occasions because of the relationship. He therefore left Pakistan with the woman on an unspecified date, after marrying her. On 24 June 2013, the couple was granted asylum in Denmark under section 7 (1) of the Danish Aliens Act because of the harassment they had suffered from the woman's family and the local population in Islamabad, where they lived, after her conversion to Christianity.<sup>5</sup> In deliberating on the couple's application for asylum, the Board accepted the assumption that the father of G's wife was probably behind the shooting attacks of 2011.

2.6 It was only after G. and his wife were granted a residence permit that the authors reconciled with them in Denmark, and the whole family was reunited. The reconciliation made it possible for the counsels of the authors and of G and his wife, and the asylum authorities, to compare information relating to the two cases. The authors submit that there is a great risk that the situation of G and his wife could have a negative impact on their own situation if they were returned to Pakistan because the authors, including the young daughters, would be at risk of escalated harassment, threats, violence and even rape. The authors also claim that the harassment they suffered in May 2012 was connected to the persecution suffered by G and his wife in 2011 as a result of their relationship and marriage in April 2012, only one month before the author's family was attacked.

2.7 On 12 August 2013, the authors requested the Board to reconsider its decision to reject their asylum application. In their request, they recounted for the first time the story of G and his wife, and claimed that it could not be excluded that the attacks they suffered were because of G's marriage. The authors also argued that the fact that G had been persecuted

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<sup>4</sup> According to the Board's assessment of facts in the context of its decision of 13 June 2013, the author was asleep in the afternoon or evening when a fire was set in the family's house. The Board emphasized in particular that R.G. had difficulty in determining precisely when she discovered a fire in one room, as she had not been able precisely and consistently to explain where in the house she was when she discovered the fire. The Board thus could not find ground to accept that the authors' home had been set on fire on 27 May 2012.

<sup>5</sup> G and his wife entered Denmark separately from the authors.

before leaving Pakistan demonstrated that there was a real risk that they would be persecuted if they were returned to Pakistan.

2.8 In its decision of 3 March 2014, the Board stated that it had found it surprising that only after two refusals, in two instances, and only after G and his wife had been granted a residence permit, did the authors decide to refer to their situation in the request to reopen the asylum proceedings. The Board further recalled that G had had no relationship with the authors since 2011 and that G's wife's family had never visited the authors prior to their departure from Pakistan in June 2012. Lastly, the Board noted that being a Christian in Pakistan was not in itself a sufficient ground for protection under the Danish Aliens Act; that the authors had not had any conflicts with the Pakistani authorities; and that the general situation in Pakistan did not have any impact on its decision. In accordance with the Board's decision of 13 June 2013, the authors were therefore under the obligation to leave the country.

2.9 The authors further argue that the Board did not call them for a new hearing but only adopted a written decision, thereby jumping to a hasty conclusion concerning their sincerity and credibility. The authors submit that the Board acknowledged that the attacks at I.G.'s school had taken place on 25 May 2012; that the attack on the authors on their way home from church had taken place on Sunday, 27 May 2012; and that the attempted shooting of the son G in May and November 2011, on the basis of which the Board had decided to grant asylum to G and his wife, had probably been initiated by the wife's father, who resided in England. In the light of the foregoing, the authors argue that they would be at even greater risk upon their return to Pakistan because G's wife's family would probably harass them in order to discover her whereabouts, as G's location in Denmark had been kept secret. The authors further argue that the background information on the situation in Pakistan with regard to Christians in general, and converts in particular, supports the real basis of their fears.

2.10 The authors submit that they have exhausted all available domestic remedies as no judicial review of the Board's decision is available. They also indicate that the same subject matter is not being examined under another procedure of international investigation or settlement.

### **The complaint**

3.1 The authors claim that by forcibly returning them to Pakistan, Denmark would violate their rights under articles 6, 7 and 18 of the Covenant as they would again be exposed to threats to their lives because they are Christians and because of their family links with G and his wife, who were subjected to violent attacks in 2011. They claim that the risk of harassment they would face upon their return to Pakistan is higher than the one they faced before leaving the country.

3.2 The authors also claim that the violent attacks they themselves suffered in May 2012 and the shooting incidents of May and November 2011 involving G demonstrate that they face a real risk of losing their lives or being exposed to inhuman and degrading treatment, in violation of articles 6 (1) and 7 of the Covenant, if deported to Pakistan. The authors argue that their fears are supported by the background information available on the situation of Christians, especially converts, in Pakistan. The authors further argue that, if returned to Pakistan, they will be obliged to hide their religious convictions and thus be hindered in the free exercise of their religion, in violation of article 18 of the Covenant.

3.3 The authors finally argue that the risk of their being harassed upon their return to Pakistan is greater because of the deteriorating overall situation in the country, a result of the recent amendments to the country's blasphemy laws.

**State party's observations on admissibility and the merits**

4.1 On 5 September 2014, the State party submitted its observations on the admissibility and the merits of the communication. The State party considers that the authors have failed to substantiate a risk of irreparable harm if returned to Pakistan, and for the same reasons considers the communication inadmissible as manifestly ill-founded due to a lack of substantiation.

4.2 Regarding the claims under article 6 of the Covenant, the State party submits that this provision includes the right of a person not to be deprived of his life arbitrarily or unlawfully by the State or its agents, or by private persons or non-State entities in violation of the positive obligation that States parties incur to adopt measures to protect the life of the people.<sup>6</sup>

4.3 Concerning article 7 of the Covenant, the State party refers to the jurisprudence of the Committee according to which States parties are under an obligation not to extradite, deport, expel or otherwise remove a person from their territory where the necessary and foreseeable consequence of the deportation would be a real risk of irreparable harm, such as that contemplated by article 7 of the Covenant, whether in the country to which removal is to be effected, or in any country to which the person may subsequently be removed. The State party recalls that under the Committee's jurisprudence, the risk must be personal, and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.<sup>7</sup> The State party notes that its obligations under articles 6 and 7 of the Covenant are reflected in section 7 (2) of the Aliens Act, under which a residence permit will be issued to an alien upon application if the alien risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment should he be returned to his country of origin.

4.4 As regards articles 6 and 7 of the Covenant, the State party also submits, for the reasons stated below, that the authors have failed to establish a prima facie case for the purpose of admissibility of their communication because it has not been established that there are substantial grounds for believing that the authors will be in danger of being deprived of their lives or subjected to torture or cruel, inhuman or degrading treatment or punishment if returned to Pakistan. The State party therefore considers that this part of the communication is not sufficiently substantiated and should be declared inadmissible.

4.5 Concerning article 18 of the Covenant, the State party submits that the authors have failed to establish a prima facie case for the purpose of admissibility of their communication under article 18 of the Covenant because they have not demonstrated that there are substantial grounds for believing that their rights in this regard have been violated. Thus, the State party considers that this part of the communication should also be held inadmissible.

4.6 Should the Committee find the communication admissible, the State party submits that the authors have not sufficiently established that their deportation to Pakistan would amount to a violation of articles 6, 7 and 18 of the Covenant. It argues that the authors, in their communication of 4 March 2014, do not provide any essential new information or views on their circumstances beyond the information and views already relied upon in connection with their request to reopen their asylum proceedings, and that the Board

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<sup>6</sup> In this connection, the State party refers to paragraphs 1 and 5 of the Committee's general comment No. 6 (1982) on the right to life.

<sup>7</sup> See, for example, communication No. 2007/2010, *J.J.M. v. Denmark*, Views adopted on 26 March 2014, para. 9.2.

already considered the same information and views in its decision of 3 March 2014.<sup>8</sup> The State party further submits that the authors are in fact trying to use the Committee as an appellate body to have the factual circumstances of their claim for asylum reassessed. The State party emphasizes that the Committee must give considerable weight to the findings of fact of the Board, which is better placed than the Committee to assess the facts in the authors' case. The Board is a collegial body of a quasi-judicial nature. It made its decisions on the basis of a procedure during which the authors had the opportunity to present their views, in writing and orally, with the assistance of legal counsel, and conducted a comprehensive and thorough examination of the evidence in the case.

4.7 The State party submits that the criterion according to which the Board considers the conditions for granting a residence permit under section 7 (1) of the Aliens Act to be met can generally be expressed as a requirement that the relevant asylum seeker has a well-founded fear of being subjected to specific, individual persecution of a certain severity if returned to his country of origin.

4.8 As regards the harassment described by I.G., the Board, in its decision of 13 June 2013, found it to be a fact that he had been accosted and beaten by slightly older boys from his school on Friday, 25 May 2012 after he had replied to questions about Christian traditions during a school break earlier in the day. Moreover, the Board found to be factual the authors' statements that they had been sought out after church the following Sunday, 27 May 2012 by two senior pupils from the school and two slightly older men, who had hit the authors and pushed R.G.'s two minor daughters. The State party, however, recalls the Board's conclusion that the authors had not had any conflicts with the Pakistani authorities, nor had they reported the two incidents to the authorities, and that the isolated incidents relating to I.G.'s disagreement with a few schoolmates could not lead to the authors being granted protection status under section 7 of the Aliens Act or under the 1951 Convention relating to the Status of Refugees, since the conflict was of a private nature and was not of an intensity or nature that could justify asylum.

4.9 The Board could not find factual the authors' statements about the arson attack on the family's home that had allegedly taken place after church on 27 May 2012. The Board found that R.G.'s statements about the fire had appeared uncertain and fabricated for the occasion, especially because R.G. had not been able to accurately and consistently explain where she was in her home when she discovered that one of the rooms was on fire, when the fire took place, the whereabouts of the individual family members when the fire started, whether R.G. had witnessed the arson attack and whether she knew the perpetrators' identities. The State party observes that both R.G. and I.G. had their statements read out to them at the interviews conducted by the Danish Immigration Service on 16 August 2012, 29 January 2013 and 11 February 2013 and that neither of them had experienced any problem of interpretation or made comments related to the inconsistencies referred to by the Board. The State party therefore relies entirely on the decisions made by the Board on 13 June 2013, according to which R.G.'s detailed statement about the circumstances concerning the fire, which is a crucial part of the authors' grounds for seeking asylum, appeared to be so incoherent, inaccurate and on certain points inconsistent that the details could not be found to be factual.

4.10 In connection with the authors' request to have their asylum proceedings reopened by the Board, the State party argues that the authors referred to the conflict experienced by G and his wife. The authors' counsel observed that the authors' conflict in their country of origin in May 2012 and the wedding ceremony of G and his wife in April 2012 took place at almost the same time and that it could therefore not be ruled out that the authors' conflict

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<sup>8</sup> The decision by which the Board refused to reopen the authors' asylum proceedings.

in Pakistan was connected with G and his wife's conflict with her family. As indicated by the State party, counsel further stated that, at least at present, there was a great risk that the authors would suffer abuse at the hands of family members of G's wife if they returned to Pakistan. In the communication, the authors allege that they will be even more exposed than before if they return to Pakistan because G and his wife had obtained protection in Denmark as a result of their conflict with her family. The State party observes on this point that the Board, in its decision of 3 March 2014, found that the observation that the authors feared conflicts with G's wife's family because of G's marriage would not have led to a different assessment of the case. The Board considered it remarkable that the authors had not referred to the conflict with G's wife's family until after G and his wife had been granted residence under section 7 (1) of the Aliens Act. In its assessment, the Board took into account that G had not lived with the family since 2011 and that there had been no contact between them in the subsequent period. The Board also took into account that, according to the information available, the authors had not at any time been contacted or sought out by G's wife's family, even after the marriage was contracted in April 2012, when the authors were still living in their home town.

4.11 The State party finds no reason to contest the assessment made by the Board. It cannot be considered as a fact that the incident on 25 May 2012 in which I.G. was accosted by schoolmates and the incident on 27 May 2012 in which the authors were assaulted by four young men on their way home from church were in any way connected to the conflicts resulting in the granting of asylum to G and his wife or that, if they returned, the authors would be exposed to a risk of abuse by the family of G's wife because of the marriage.

4.12 The State party perceives the authors' fear of G's wife's family to be based solely on speculation, since the authors were not in contact with members of that family either on the occasion of the marriage or before their departure in June 2012, and since the authors have not given any reasonable explanation of why they did not refer to their fear of abuse by that family should they return to Pakistan until after the Board had decided to grant asylum to G and his wife. The State party refers to the fact that the Committee has stated on several occasions that it is generally for the courts of the States parties to evaluate facts and evidence of a particular case, unless it is found that the evaluation was clearly arbitrary or amounted to a denial of justice. The State party finds that the Board included all relevant information in its decisions and that the submission of the communication to the Committee has not brought to light any information substantiating that upon return to Pakistan the authors would risk persecution or abuse relevant for the purpose of granting asylum.

4.13 As regards the authors' claim that, if they return to Pakistan, they will not be able to exercise their religion in public and that it will be necessary for them to hide their religion, the State party points to the preliminary ruling of the Court of Justice of the European Union,<sup>9</sup> in which it was established that the competent authorities must ascertain, in the light of the personal circumstances of the person concerned, whether that person, as a result of exercising his or her freedom of religion in his or her country of origin, runs a genuine risk of being persecuted or subject to inhuman or degrading treatment or punishment justifying asylum. Persons concerned will thus have a well-founded fear of persecution or treatment justifying asylum if it may reasonably be thought that, upon their return to their country of origin, they will engage in religious practices that will expose them to a real risk of persecution or treatment justifying asylum. Under such circumstances, the competent authorities cannot reasonably expect the person concerned to abstain from those religious practices. The State party observes on this point that even though the authors cannot be

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<sup>9</sup> Joined cases C-71/11 and C-99/11, *Federal Republic of Germany v. Y (C-71/11) and Z (C-99/11)*, judgement of 5 September 2012.



required to hide or keep secret their religious beliefs in order to avoid problems in their country of origin as a consequence of their religious beliefs, it still remains crucial for the granting of asylum to the authors that they have a well-founded fear of persecution by authorities or private individuals in Pakistan as a consequence of their religious beliefs. The Board found that this was not the case.

4.14 In this connection, the State party refers to the fact that, according to the Board's background information, including the Country of Origin Information published by the Home Office of the United Kingdom of Great Britain and Northern Ireland, an estimated 3-4 million Christians live in Pakistan. It also appears from the background information that discrimination and abuse are committed against the Christian community in Pakistan.<sup>10</sup>

4.15 Nevertheless, the background information available to the Board suggests that the authorities in Pakistan do not initiate court actions against persons for the sole reason that they are Christians. Blasphemy cases are sometimes initiated by local religious communities or persons supported by such communities who are in conflict with Christians at the local level, although the real motive for such cases is not always religious but the desire for private gain, achieved for example by forcing a person to leave a property. According to the applicable provisions on blasphemy under Pakistani law, the first investigation report does not automatically result in an indictment and imprisonment.<sup>11</sup>

4.16 In that connection, the State party refers to the fact that, in its decision of 3 March 2014, the Board expressly considered the importance of the general situation for Christians in Pakistan and in that connection Board found that the fact that the authors were Christians did not in itself mean that they met the conditions for being granted asylum in Denmark. The State party relies on the Board's decisions of 13 June 2013 and 3 March 2014 and therefore submits that there are no grounds for establishing that the return of the authors to Pakistan will amount to a breach of article 18 of the Covenant.

4.17 The State party submits that the authors have failed to establish a prima facie case for the purpose of admissibility of their communication under articles 6, 7 and 18 of the Covenant,<sup>12</sup> as the communication is not sufficiently substantiated. Should the Committee find the communication admissible, the Government submits that it has not been established that there are substantial grounds for believing that the authors will be in danger of being deprived of their lives or subjected to torture or to cruel, inhuman or degrading treatment or punishment if returned to Pakistan. The return of the authors to Pakistan will therefore not amount to a violation of article 6 or 7 of the Covenant. The State party considers that the authors have not substantiated a well-founded fear of persecution by authorities or private individuals in Pakistan as a consequence of their religious beliefs and therefore submits that the authors have failed to establish that they have been deprived of their rights under article 18 of the Covenant.

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<sup>10</sup> See United Kingdom Home Office ,Country of Origin Information of 9 August 2013, sect. 19.180, and Landinfo – Country of Origin Information Centre (Norway), “Thematic memorandum on Pakistan: situation for Christians” (in Norwegian), 20 June 2013.

<sup>11</sup> The State party refers in this connection to the Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan of 14 May 2012 issued by the Office of the United Nations High Commissioner for Refugees (UNHCR), particularly pp. 25 et seq. The Guidelines indicate that members of the Christian minority in Pakistan are subject to recurrent discrimination and harassment, as well as acts of religiously motivated violence, at the hands of militant groups and fundamentalist elements. Criminal provisions, particularly the blasphemy laws, are reportedly used by militant organizations and members of some Muslim communities to intimidate and harass Christians, as well as to exact revenge or settle personal or business disputes.

<sup>12</sup> See rule 96 (b) of the Committee's rules of procedure.

**Author's comments on the State party's observations**

5.1 On 13 October 2014, the authors' counsel submitted his comments on the State party's observations on the admissibility and merits. As regards the request by the State party to lift interim measures, the authors argue that their need for protection has remained unchanged since their initial submission. They reiterate that, if returned to Pakistan they will be at high risk of losing their lives or being exposed to serious harm, including rape of the minor girls. The authors also claim that the State party does not provide any specific reason to support the contention that the danger to the authors' life is not real.

5.2 On 13 November 2014, the authors submitted additional comments. They claim that the domestic remedies were exhausted with the Board's decision, since the Aliens Act does not provide for an appeal to ordinary courts. Counsel raises two fair-hearing issues with regard to the functioning of the Board: the membership of an employee of the Ministry of Justice on the five-member board, which calls into question the neutrality of the Board as the Ministry oversees the functioning of the Danish Immigration Service; and the fact that the Immigration Service and the Board have no educational requirement for interpreters. Moreover, the authors argue that the lack of a written form for them to fill out in the present asylum case meant that no direct statement, in the applicant's own language, was available; such a form could have eliminated any alleged credibility problems.

5.3 The authors also claim that the reason for R.G.'s dissociation from her son G in Pakistan was concern for her own and her children's safety after G married a Muslim woman. That was why the mother only knew of the shooting episode in G's case remotely. In fact, counsels of both families had facilitated the reunification of the family after the Board hearing of 13 June 2013, which led to the authors' acquiring more detailed knowledge of the attacks against G and his wife. The authors' counsel also claims that the general level of religious persecution in Pakistan has increased since the authors fled the country and that a great number of Christians have been abducted, raped and killed.<sup>13</sup> The authors also refer to the UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan, which state: "The Christian minority in Pakistan is subject to recurrent discrimination and harassment, as well as acts of religiously motivated violence, at the hands of militant groups and fundamentalist elements. Criminal provisions, particularly the blasphemy laws, are reportedly used by militant organizations and members of some Muslim communities to intimidate and harass Christians" (pp. 25-26). The rising level of religious persecution is due not only to the so-called blasphemy laws, but also lately to the fact that the terror group "Islamic State" has spread its influence to Pakistan.

5.4 The authors consider that they have established a prima facie case for the purpose of admissibility of their communication under articles 6, 7 and 18 of the Covenant. They object to the observations of the State party that the Board is better placed to assess the facts of the authors' cases, referring to the weakness of the Danish asylum system for the reasons stated above and alluding in particular to the way in which these weaknesses may have undermined the assessment of the authors' credibility. Moreover, concerning credibility, counsel refers to the UNHCR publication *Beyond Proof: Credibility Assessment in EU Asylum Systems*, which urges the use of caution in credibility assessments because of geographical and cultural differences. With reference to the State party's arguments concerning the failure of the authors to report the acts of harassment at the school and in the streets to the authorities, the reason why the authors did not go to the police after the incidents was that in their experience, which is supported by the general background

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<sup>13</sup> <http://voiceofthepersecuted.wordpress.com/2013/11/20/persecuted-christians-message-to-the-west-and-the-unhcr/>.

material on the situation of human rights in Pakistan, when Christians approach the police to file complaints about religious persecution, no assistance is provided, and the situation of the people reporting such harassment may even worsen.

5.5 In addition, the authors claim that the Board's rejection of the information about the fire rests on feeble grounds. Even though the same date of the fire was referred to throughout the proceedings, namely 27 May 2012, the State party found it contradictory that one interview referred to the "evening" while the Board's decision mentions that it was "still light outside, and the time was about 4 p.m." or "late in the day". R.G. who made the last statement, is a relatively elderly lady who suffers from psychological trauma because of her experiences. Moreover, evening in Pakistan is normally considered to be between 5 and 9 p.m., so it can still be light outside when "evening" begins, and the difference between 4 and 5 p.m. is not significant. The authors' counsel submits that R.G.'s explanations of where she was when she noticed the fire are not contradictory; all the explanations correspond with the fact that she was with her family in their house. I.G. and one of his sisters were asleep, and the other son and daughter were awake. R.G. was the first to notice the fire, when she was in the kitchen. After that, R.G. got the son and daughter who were awake to help extinguish the fire and, in the meantime, the other son and daughter had woken up and helped to put out the fire. It appeared to R.G. that the fire had been started by something that was thrown in from the window, and it was an obvious assumption that this attack was carried out by the same people who had harassed the family earlier the same Sunday, because the family had no other enemies.

5.6 In conclusion, the authors maintain that the State party, by upholding the decision to reject their asylum claim, placed them at a great risk of being exposed to deprivation of life or to torture or other degrading treatment, and that their deportation to Pakistan would therefore amount to a breach of articles 6, 7 and 18 of the Covenant.

#### **State party's additional observations**

6. On 7 July 2015, the State party submitted additional observations, in which it reiterated its main claims on the admissibility and merits of the communication of 5 September 2014, reporting that the authors' submissions of 13 October 2014 and 13 November 2014 did not give rise to any further comments by the State party. Thus, the State party maintains, as stated in its observations of 5 September 2014, that the communication is not sufficiently substantiated and should be declared inadmissible. Should the Committee find the communication admissible, the State party further maintains that the return of the author to Pakistan would not constitute a violation of the provisions of the Covenant.

#### **Issues and proceedings before the Committee**

##### *Consideration of admissibility*

7.1 Before considering any claims contained in a communication, the Committee must decide, in accordance with rule 93 of its rules of procedure, whether it is admissible under the Optional Protocol to the Covenant.

7.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement. It also notes that the authors have exhausted all available domestic remedies, as required by article 5 (2) (b) of the Optional Protocol.

7.3 The Committee notes the authors' allegations under articles 6 and 7 that, if returned to Pakistan, their lives would be at risk, that they would also be at risk of serious harm, including rape of the minor girls, and that they would be forced to hide their religious beliefs in violation of article 18. The Committee notes, however, the State party's argument

that the authors' claims with respect to articles 6, 7 and 18 of the Covenant should be declared inadmissible because they have failed to establish a prima facie case for the purpose of admissibility of their communication because it has not been established that there are substantial grounds for believing that the authors will be in danger of being deprived of their lives, subjected to persecution or ill-treatment as a consequence of their religious beliefs and deprived of the right to exercise their religion in public if returned to Pakistan. The Committee furthermore notes the State party's argument that the authors have tried to use the Committee as an appellate body to re-evaluate the facts and circumstances of the asylum claim that was adjudicated by national authorities.

7.4 The Committee recalls its general comment No. 31(2004) on the nature of the general legal obligation imposed on States parties to the Covenant in which it refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory when there are substantial grounds for believing that there is a real risk of irreparable harm such as that contemplated by articles 6 and 7 of the Covenant.<sup>14</sup> The Committee has also indicated that the risk must be personal<sup>15</sup> and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.<sup>16</sup> In making this assessment, all relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin.<sup>17</sup> The Committee further recalls its jurisprudence that considerable weight should be given to the assessment conducted by the State party, unless it is found that the evaluation was clearly arbitrary or amounted to a denial of justice,<sup>18</sup> and that it is generally for organs of States parties to the Covenant to review or evaluate facts and evidence in order to determine whether such a risk exists.<sup>19</sup>

7.5 The Committee notes the authors' claims that they were subjected to harassment in Pakistan because of their Christian background. In this connection, the Committee notes that the authors point to the attack suffered by I.G. on 25 May 2012 and to the attack against the whole family by four young men on their way home from church on Sunday, 27 May 2012. The authors also refer to the alleged arson attack on their home on 27 May 2012 and to the attempted shooting of G in May and November 2011. The Committee further notes the authors' fear that they will be at a high risk of being exposed to threats to life and serious harm, including rape of the minor girls; persecution or ill-treatment by the authorities or private individuals as a consequence of their religious beliefs; and hindrance in the free exercise of their religion, as they will be forced to hide, contrary to articles 6, 7 and 18 of the Covenant, if they were to be forcibly returned to Pakistan. The Committee notes, however, the Board's findings that R.G.'s statement on the circumstances concerning the fire, which is a crucial part of the authors' grounds for seeking asylum, appear to be so incoherent, inaccurate and on certain points inconsistent that the details could not be established as facts; that the authors did not refer to G and his wife's conflict with her family until after the couple had been granted residence under section 7 (1) of the Aliens Act; and that they did not establish that they would be exposed to a risk of abuse by the wife's family as a consequence of G's marriage. The Committee also notes the State party's argument that the authors allege fear of suffering harm at the hands of private individuals,

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<sup>14</sup> See general comment No. 31, para. 12.

<sup>15</sup> See, for example, *J.J.M. v. Denmark*, para. 9.2.

<sup>16</sup> See, for example, *J.J.M. v. Denmark*, para. 9.2 and communication No. 1833/2008, *X. v. Sweden*, Views adopted on 1 November 2011, para. 5.18.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.* See also communication No. 541/1993, *Simms v. Jamaica*, decision of inadmissibility adopted on 3 April 1995, para. 6.2.

<sup>19</sup> See communications No. 1763/2008, *Pillai et al. v. Canada*, Views adopted on 25 March 2011, para. 11.4 and No. 1957/2010, *Lin v. Australia*, Views adopted on 21 March 2013, para. 9.3.

without the involvement of the State or its agents, and that it was not established that the Pakistani authorities would be unwilling or unable to protect the authors from such risks, taking into account that the authors did not file a complaint with the police in Pakistan after the attacks. The Committee also notes that it is uncontested that the authors were not harassed because of their religious beliefs prior to the events of May 2012, but that they argue that the risk of harassment if they are deported is greater due to the generally deteriorating situation in Pakistan for Christians and the increased threat posed by the country's blasphemy laws.

7.6 The Committee considers that the Board conducted a comprehensive and thorough examination of the evidence in the case and concluded that the authors had not had any conflict with the Pakistani authorities, and that the isolated incidents related to I.G.'s disagreement with some schoolmates and could not lead to the authors being granted protection status under section 7 of the Aliens Act because the conflict was not of such intensity or nature that it could justify the granting of asylum. Although the authors challenged the Board's composition and the quality of the translations and the interpretation of statements presented to it, their claims in that regard are of a general nature and do not establish that evaluation of their asylum application by the Danish authorities was clearly arbitrary or amounted to a denial of justice.

7.7 As regards the Board's decision dated 3 March 2014 to refuse to reopen the asylum proceedings, the Committee notes the State party's argument that the authors had substantially changed their statements to the Danish Immigration Service and the Board about a risk of abuse by G's wife's family if they returned to Pakistan, but have not presented any new information substantiating that they would risk persecution or abuse relevant for the purpose of granting asylum upon return to Pakistan. The Committee observes that the authors disagree with the factual conclusions of the State party's authorities, but the information before the Committee does not show that those findings are manifestly unreasonable.

7.8 Consequently, the Committee considers that the authors have not sufficiently substantiated their claims that the State party's authorities failed to duly assess the risk they would face should they return to Pakistan. The Committee also considers that the information before it does not prima facie reveal the existence for the authors of a personal risk to their lives or of torture or ill-treatment, or of hindrance in the free exercise of their religion following their return to Pakistan. The Committee therefore finds the claims that the State party would violate its obligations under articles 6, 7 or 18 of the Covenant by removing the authors to Pakistan as not sufficiently substantiated for the purposes of admissibility and concludes that the present communication is inadmissible under article 2 of the Optional Protocol.

8. The Committee therefore decides:

- (a) That the communication is inadmissible under article 2 of the Optional Protocol;
  - (b) That the decision shall be transmitted to the State party and to the authors.
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