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AFGHANISTAN

COUNTRY OF ORIGIN INFORMATION (COI) REPORT

COI Service

15 February 2013

SECURING OUR BORDER CONTROLLING MIGRATION

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Preface

i This Country of Origin Information (COI) report has been produced by the COI Service, UK Border Agency, for use by officials involved in the asylum/human rights determination process. The report provides background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. **The main body of the report includes information available up to 15 October 2012. The report was issued on 15 February 2013.**

ii The report is compiled wholly from material produced by a wide range of external information sources and does not contain any UK Border Agency opinion or policy. All information in the report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

iii The report aims to provide a compilation of extracts from the source material identified, focusing on the main issues raised in asylum and human rights applications. In some sections where the topics covered arise infrequently in asylum/human rights claims only web links may be provided. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

iv The structure and format of the report reflects the way it is used by UK Border Agency decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the report.

v The information included in this report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated. Similarly, the absence of information does not necessarily mean that, for example, a particular event or action did not occur.

vi As noted above, the report is a compilation of extracts produced by a number of information sources. In compiling the report no attempt has been made to resolve discrepancies between information provided in different source documents though COI Service will bring the discrepancies together and aim to provide a range of sources, where available, to ensure that a balanced picture is presented. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. Reports do not aim to bring consistency of spelling but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term ‘sic’ has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

vii The report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because

they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this report was issued.

viii This report and the accompanying source material are public documents. All reports are published on the UK Border Agency website and the great majority of the source material for the report is readily available in the public domain. Where the source documents identified are available in electronic form, the relevant weblink has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from COI Service upon request.

ix Reports are published regularly on the top 20 asylum intake countries. Reports on countries outside the top 20 countries may also be produced if there is a particular operational need. UK Border Agency officials also have constant access to an information request service for specific enquiries.

x In producing this report, COI Service has sought to provide an accurate, up to date, balanced and impartial compilation of extracts of the available source material. Any comments regarding this report or suggestions for additional source material are very welcome and should be submitted to COI Service as below.

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INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the UK Border Agency's COI material. The IAGCI welcomes feedback on UK Border Agency's COI reports and other COI material. Information about the IAGCI's work can be found on the Independent Chief Inspector's website at http://icinspector.independent.gov.uk/country-information-reviews/

xii In the course of its work the IAGCI reviews the content of selected UK Border Agency COI documents and makes recommendations specific to those documents and of a more general nature. A list of the reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UK Border Agency's COI material from September 2003 to October 2008) is available at http://icinspector.independent.gov.uk/country-information-reviews/

xiii Please note: it is not the function of the IAGCI to endorse any UK Border Agency material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of

the decision or proposal to designate a particular country for NSA, nor of the NSA process itself. The IAGCI can be contacted at:

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Background Information

1. GEOGRAPHY

1.01 The Islamic Republic of Afghanistan is located in southern Asia. With an area covering 652,230 sq km, it shares borders, spanning 5,529 km, with Turkmenistan (744 km), Uzbekistan (137 km) and Tajikistan (1,206 km) to the north, Iran (936 km) to the west, the People's Republic of China (76 km) to the north-east and Pakistan (2,430 km) to the east and south. Afghanistan has a mostly rugged mountainous terrain with plains in the north and southwest. (Central Intelligence Agency (CIA) World Factbook, Afghanistan, updated 18 January 2012, accessed on 3 February 2012) [1a] (Government) Afghanistan has 34 provinces – see map in paragraph 17. The principal towns include Kabul (capital), Kandahar, Herat, Mazar-e-Sharif, Jalalabad, and Konduz (US Department of State, Background Note: Afghanistan, updated 28 November 2011, accessed 3 February 2012) [58e]

1.02 The Economist Intelligence Unit's Country Report on Afghanistan, dated 10 January 2012 and accessed on 8 February 2012, provided the following population statistics for some of Afghanistan's main towns:

'Kabul 2,536,300 (Central Statistics Organisation, 2006)
Kandahar 450,300 (Central Statistics Organisation, 2006)
Herat 349,000 (Central Statistics Organisation, 2006)' [16]

1.03 The CIA World Factbook, updated 18 January 2012, accessed on 3 February 2012, noted that Afghanistan had a population of 29,835,392. Pushtuns made up the largest ethnic group at 42 per cent, followed by Tajiks (27 per cent), Hazaras (9 per cent), Uzbek (9 per cent) and Aimak (4 per cent). Other smaller groups included Turkmen and Baluch. [1a] (People) Further demographic data can be obtained on the website of the Afghan Government's Central Statistics Organisation: http://cso.gov.af/en/page/6449

(See also Section 22: Ethnic groups)

1.04 The US Department of State's Background Note: Afghanistan, updated on 28 November 2011 and accessed on 3 February 2012, noted, 'Dari (Afghan Farsi) and Pashto are official languages. Dari is spoken by more than one-third of the population as a first language and serves as a lingua franca for most Afghans, though Pashto is spoken throughout the Pashtun areas of eastern and southern Afghanistan. Tajik and Turkic languages are spoken widely in the north. Smaller groups throughout the country also speak more than 70 other languages and numerous dialects.' [58e] (People)

1.05 US State Department's Background Note: Afghanistan, updated 28 November 2011, stated, 'Afghanistan is an Islamic country. An estimated 80% of the population is Sunni, following the Hanafi school of jurisprudence; the remainder of the population--and primarily the Hazara ethnic group--is predominantly Shi'a. Despite attempts during the years of communist rule to secularize Afghan society, Islamic practices pervade all aspects of life.' [58e] (People)

(See also section on freedom of religion)

1.06 Europa World Online, accessed 6 February 2012, noted that, 'The Afghan year 1390 runs from 21 March 2011 to 20 March 2012, and the year 1391 runs from 21 March 2012 to 20 March 2013.' [3a] Public holidays include:

'2012 4 February* (Roze-Maulud, Birth of Prophet Muhammad); 15 February (Liberation Day, commemoration of mujahidin struggle against Soviet occupation and withdrawal of Soviet troops in 1989); 21 March (Nauroz: New Year's Day, Iranian calendar); 28 April (Victory Day, commemoration of mujahidin victory over the communist regime in 1992); 1 May (Workers' Day); 19 July* (first day of Ramadan); 18 August* (Id al-Fitr, end of Ramadan); 19 August (National Day); 25 October* (Id al-Adha, Feast of the Sacrifice); 23 November* (Ashura, Martyrdom of Imam Husayn).

'* These holidays are dependent on the Islamic lunar calendar and may vary by one or two days from the dates given.' (Europa World Online, accessed 6 February 2012) [3a]

The Afghanistan Evaluation and Research Unit's A to Z Guide to Afghanistan Assistance, 2012 edition, May 2012, including socio-economic profiles of all Afghanistan provinces, is available here: http://www.areu.org.af/Uploads/EditionPdfs/1208E-A%20to%20Z%202012.pdf

KABUL (CAPITAL CITY)

1.07 The United Nations Development Programme, Regional Rural Economic Regeneration Assessement and Strategies Study, Provincial Profile, Kabul, undated, accessed 6 February 2012, described the capital as 'Located in a valley, Kabul city is one of the highest capitals in the world situated at an elevation of… 1,800 m. surrounded by the Lowgar and Paghman mountains in the south-east, Qrough mountain in the south-west, Shirdarwaza in the north east, Charikar in the north and the Tangi Gharow mountains in the west.' [4a]

1.08 Eurasianet, updated 1 February 2011 and accessed 6 February 2012, provided the following information about the housing shortage in Kabul:

'The lack of affordable housing - driven by a rapidly rising population spurred by rural to urban migration, the wartime destruction of neighborhoods, and an influx of well-heeled foreign contractors occupying choice locations - has become one of the biggest social problems in Kabul. Critics say not enough is being done by city authorities to address the issue…Kabul Mayor Muhammad Younus Nawandish highlights the population issue. "Kabul had a population of some 1.5 million in 2001, and now the number of its inhabitants exceeds 5 million," he says, adding that the vast majority are unable to find housing in the capital. The subsequent demand for rental homes and flats has caused rental prices to skyrocket, as have property prices. New homes have cropped up in pockets where land prices are within reach, but they tend to lack formal urban planning, and critics says new housing projects tend to cater to the more wealthy… a three-room apartment in an average area of Kabul that rented for about $200 per month five years ago, now costs a minimum of [US] $500.

'Middle-class Afghans' incomes, however, have not kept pace. With few exceptions, public-sector workers' wages range between $50 and $250 a month.' [5]

1.09 However, the Economist Intelligence Unit in their Afghanistan report, dated January 2012 and accessed 6 February 2012, stated:

'In a further sign of economic weakness, house prices in Kabul have started to fall after years of inflated house prices and rents. Real estate agents in the capital have complained that the announcement of the first phase of the transition of ISAF forces marked the tipping point, with house prices droppingby 20-40% over the summer of

2011. Property dealers have also expressed concerns that Kabul is becoming increasingly segregated along ethnic lines; inparticular, Pashtuns are said to be congregating in areas of the city with easier access to the Pashtun-dominated east and south of the country.' [7a]

1.10 The International Organisation of Migration Country Sheet on Afghanistan, updated 13 November 2009 and accessed 6 February 2012, further added, 'Buses, donated to Afghanistan by India, Japan, Iran (around 600), all operate in Kabul at the moment. A typical bus fare for transportation within the city is around AFA 5. Private transportation companies also exist. Fares are higher than on public buses. Taxis in Kabul (AFA 100 – 150 depending on the distance – much more for out-of-city destinations).' [6a] (p16)

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INFRASTRUCTURE

1.11 The Afghanistan Research and Evaluation Unit (AREU) report, 'Local Governance in Afghanistan: A View from the Ground,' dated June 2011, focused on research carried out in the six provinces of Samangan, Jawzjan, Sar-i-Pul, Day Kundi, Laghman and Wardak. The report noted, 'Despite the increasing level of conflict, major positive changes have happened over the past ten years. A great deal of road construction has taken place across the country and a paved ring road is nearing completion. Airports have been improved.' [8a] (p8)

1.13 Jane's Security Country Risk Assessment report on Afghanistan's infrastructure, updated 3 February 2011, accessed on 7 February 2012, stated that:

'Before the Soviet invasion, Afghanistan had approximately 18,000 km of roads. Over two decades of war and neglect have destroyed most of the inadequate network. Afghanistan requires at least 30,000 km of paved roads to create a reasonable commercial and social transport network, and since the US invasion foreign assistance has enabled the Karzai government to begin some projects. These include a 1,200 km highway linking Kabul with Herat and Kandahar, which is being funded by Saudi Arabia, Japan and the US. Germany agreed to finance a road from Jalalabad to Torkham on the Afghan-Pakistani border, but insurgent and US military operations have disrupted progress. In 2006, the two US companies Black & Veatch and the Louis Berger Group won a USD1.4 billion contract to rebuild roads, power lines and water supply systems in Afghanistan… Figures published by the World Bank in December 2010 indicated that over 10,370 km of roads have been rehabilitated under the National Emergency Rural Access Programme.' [9a] (Infrastructure)

1.14 The Congressional Research Service (CRS) report, 'Afghanistan: Post-Taliban Governance, Security, and U.S. Policy,' dated 22 September 2011, accessed on 7 February 2012, stated:

'Afghanistan does not currently have any functioning railway. However, three railway projects are under way. One, from Mazar-i-Sharif to Hairaton, on the border with Uzbekistan, was completed in March 2011 with $165 million from the Asian Development Bank. It is to become operational in summer 2011. With funding from Japan and China, other rail lines will extend from Iran to Herat Province, and from the Tajikistan border down to Konduz. The various segments are eventually to link up and parallel the Ring Road that circles Afghanistan. The railway will integrate Afghanistan to

the former Soviet railway system in Central Asia, increasing Afghanistan's economic integration in the region.' [10a] (p67)

(See also Section on Economy)

1.15 With regards to airlines, the CRS Report added, 'The 52-year-old national airline, Ariana, is said to be in significant financial trouble due to corruption that has affected its safety ratings and left it unable to service a heavy debt load. However, there are new privately run airlines, such as Safi Air (run by the Safi Group, which has built a modern mall in Kabul), and Kam Air. Another, Pamir, was ordered closed in 2010 due to safety concerns.' [10a] (p 70)

1.16 The CRS Report of 21 December 2011 further noted:

'Several Afghan telecommunications firms have been formed. With startup funds from the Agha Khan Foundation (the Agha Khan is leader of the Isma'ili community, which is prevalent in northern Afghanistan), the highly successful Roshan cellphone company was founded. Another Afghan cellphone firm is Afghan Wireless. The most significant post-Taliban media network is Tolo Television, owned by Moby Media. U.S. funds are being used to supplement the private investment; a $4 million U.S. grant, in partnership with the Asia Consultancy Group, is being used to construct communication towers in Bamiyan and Ghor provinces. The Afghan government says it plans to link all major cities by fiber optic cable by the end of 2011.' [10a] (p70)

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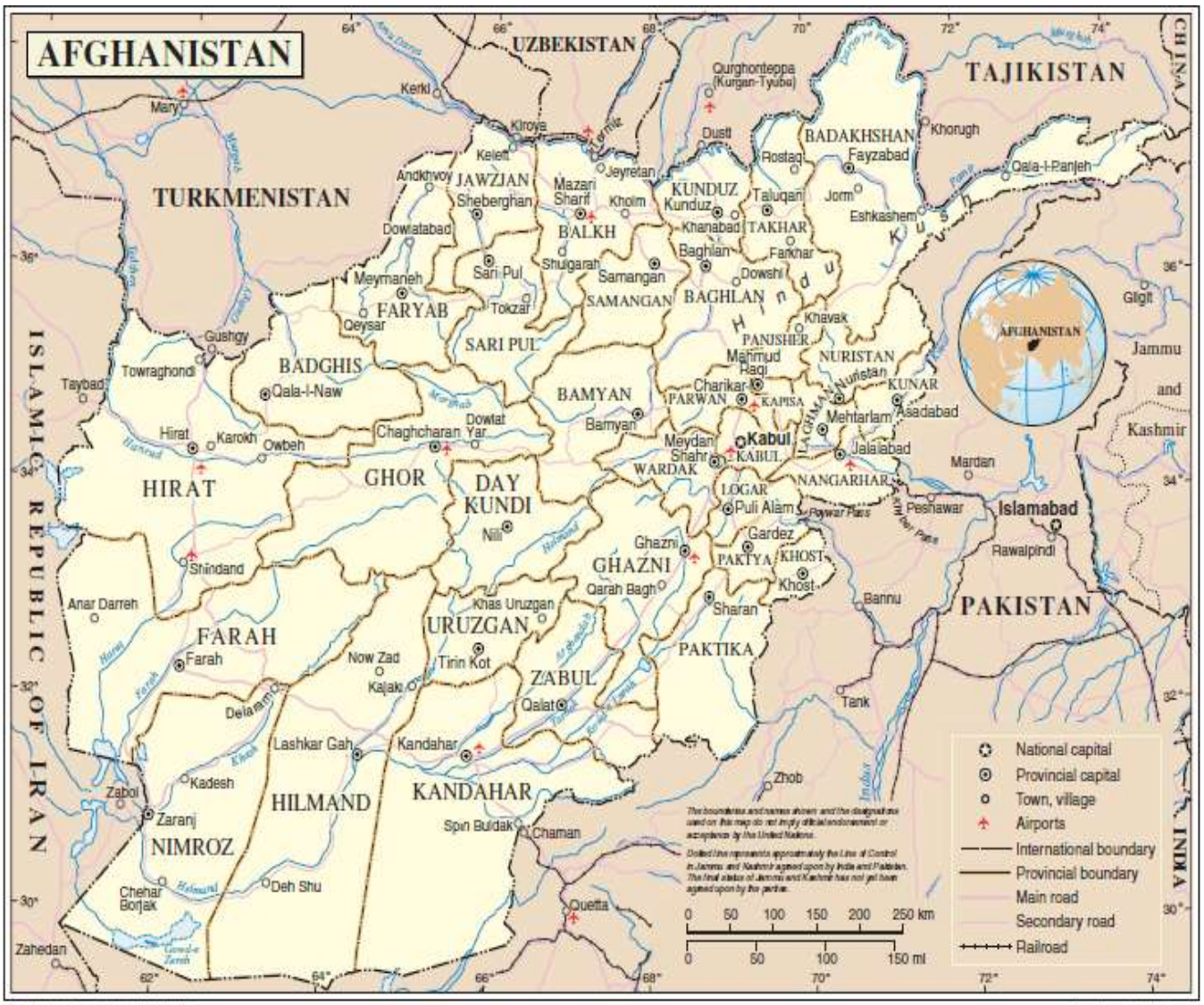
MAP

1.17 United Nations Cartographic Section Map of Afghanistan, July 2009

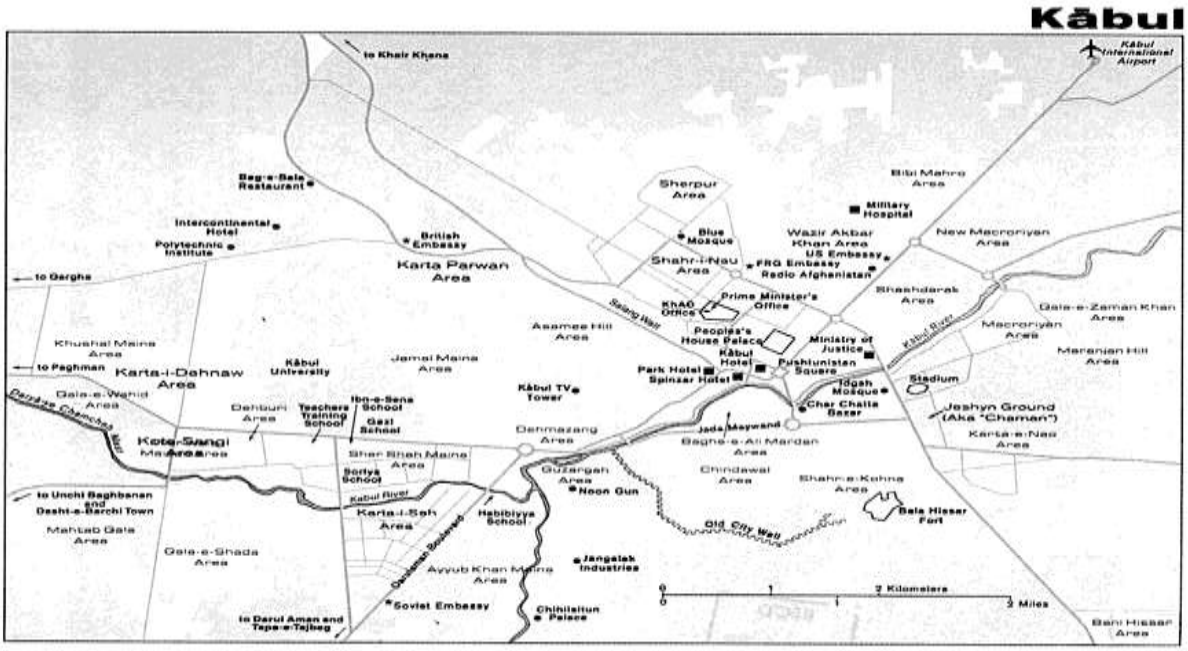


Map No. 3958 Rev. 6 UNITED NATIONS
July 2009

Department of Field Support
Cartographic Section

UN Cartographic Section, July 2009 [11a]

1.18 Map of Kabul



Map available at Afghana! Website, Map of Cities: Kabul 4, undated and accessed on 7 February 2012. [12a]

The University of Texas and the UK Ministry of Defence websites also provide maps of Afghanistan, including city maps, historical maps and links to further maps. [13a]

2. ECONOMY

2.01 The Foreign and Commonwealth Office (FCO) Afghanistan Country Profile, updated on 24 August 2012, accessed on 23 January 2013, noted:

'Afghanistan's economy has been seriously damaged by decades of war. The main activity remains agriculture (which involves around 80% of the population), both subsistence and some commercial. The main traditional crops are grain, rice, fruit, nuts and vegetables. But all have been severely affected by drought in recent years. Industry is small scale and includes handicrafts, textiles, carpets, and some food processing. Exports consist of mainly fruit, nuts, vegetables and carpets…

'Afghanistan possesses a wide variety of mineral resources including natural gas, coal, oil and gemstones, but the security situation has precluded their effective utilisation. Drugs, mainly opium, dominate illegal exports and, coupled with smuggling to adjacent countries, underpin a large black economy.' [37a]

2.02 The Central Intelligence Agency (CIA) World Factbook, Afghanistan, updated 28 February 2012, accessed on 8 March 2012, noted:

'Afghanistan's economy is recovering from decades of conflict. The economy has improved significantly since the fall of the Taliban regime in 2001 largely because of the infusion of international assistance, the recovery of the agricultural sector, and service sector growth. Despite the progress of the past few years, Afghanistan is extremely poor, landlocked, and highly dependent on foreign aid. Much of the population continues to suffer from shortages of housing, clean water, electricity, medical care, and

jobs. Criminality, insecurity, weak governance, and the Afghan Government's difficulty in extending rule of law to all parts of the country pose challenges to future economic growth. Afghanistan's living standards are among the lowest in the world. While the international community remains committed to Afghanistan's development, pledging over $67 billion at nine donors' conferences between 2003-10, the Government of Afghanistan will need to overcome a number of challenges, including low revenue collection, anemic job creation, high levels of corruption, weak government capacity, and poor public infrastructure.' [1b]

2.03 The CIA World Factbook, updated 28 February 2012, also provided the following information:

'GDP – real growth rate:

'7.1% (2011 est.)

'country comparison to the world: 18

'8.2% (2010 est.)

'20.9% (2009 est.)

'GDP – per capita ([purchasing power parity] PPP):

'$1,000 (2011 est.) country comparison to the world: 212

'$900 (2010 est.)

'$900 (2009 est.)

'note: data are in 2011 US dollars

'Labour force – by occupation:

'agriculture: 78.6%

'industry: 5.7%

'services: 15.7% (FY08/09 est.)

'Unemployment rate:

35% (2008 est.) country comparison to the world: 180

40% (2005 est.)

'Population below poverty line:

36% (FY08/09)

'Inflation rate (consumer prices):

7.7% (2011 est.) country comparison to the world: 162

0.9% (2010 est.)

'Exchange rates: afghanis (AFA) per US dollar -

'45.37 (2011)

'46.45 (2010)' [1b]

2.04 The US Department of State provided the following information about the Afghan economy in its Background Note: Afghanistan, updated 28 November 2011:

'GDP (2010 est., purchasing power parity): $27.36 billion.

'GDP growth (2010-2011): 8.2%.

;GDP per capita (2009 est.): $900.

'Natural resources: Natural gas, oil, coal, petroleum, copper, chromite, talc, barites, sulfur, lead, zinc, iron ore, salt, precious and semiprecious stones.

'Agriculture (estimated 31.6% of GDP): Products--wheat, opium, sheepskins, lambskins, corn, barley, rice, cotton, fruit, nuts, karakul pelts, wool, and mutton.

'Industry (estimated 26.3% of GDP): Types--small-scale production of textiles, soap, furniture, shoes, fertilizer, cement; hand-woven carpets; natural gas, coal, and copper.

'Services (estimated 42.1% of GDP): Transport, retail, and telecommunications.

'Trade (2010-2011): Exports--$252 million (does not include opium): fruits and nuts, hand-woven carpets, wool, cotton, hides and pelts, precious and semiprecious gems. Major markets--Central Asian republics, United States, Russia, Pakistan, India. Imports--$2.9 billion: food, petroleum products, textiles, machinery, and consumer goods. Major suppliers--Central Asian republics, Pakistan, China, India.

'Currency: The currency is the afghani, which was reintroduced as Afghanistan's new currency in January 2003. As of November 21, 2011, $1 U.S. equaled approximately 48.28 afghanis.' [58e]

2.05 The World Bank report, Afghanistan Economic Update, October 2011, stated:

'Afghanistan's economy is growing strongly. The growth drivers in recent years have been above-average agricultural production, strong growth in construction and transportation, and security spending enabled by large aid flows, especially in FY2009/10. Real GDP growth reached 8.4 percent in FY2010/11.

'The Kabul Bank crisis has over-shadowed the dialogue between the Government and its development partners in the last several months. Satisfactory resolution of Kabul Bank's problems is a critical condition for the IMF-supported Extended Credit Facility (ECF) and, the lack of a resolution has had a negative impact on multi-donor assistance particularly through the Afghanistan Reconstruction Trust Fund (ARTF)…

'Afghanistan's fiscal position is strengthening…The country moved from sharp deflation to double-digit inflation in one year. The strong inflation trend is mainly explained by a increase for prices in food, electricity and fuels and reflect international price trends, disruptions in trade flows with Iran and Pakistan over the past year as well as a bad

harvest in the 2Q2011 which limits the possibilities for food import substitution by households.

'Medium-term prospects are moderately good and will depend on the Government's ability to successfully manage the transfer of security control from international to national forces, and ensure political stability and fiscal sustainability. Long-term growth prospects will depend on the extent to which mining can be used to foster development in agriculture and services, which are crucial to food security, employment and poverty-reduction, and export revenue.' [36a] (p1)

2.06 The same World Bank report added:

'Estimates indicate that 36 percent of the Afghan population is poor, meaning that approximately 9 million Afghans are unable to meet their minimum basic needs. Based on the National Risk and Vulnerability Assessment (NRVA, 2007/08) data, a recent poverty assessment suggests figures are even higher for vulnerable groups, such as the Kuchis, at 54 percent poor. Similarly, a large share of the population is vulnerable to negative shocks (over half of the population consumes at less than 20 percent above the poverty line). In addition, the mapping of poverty throughout the country shows the striking finding that the most poverty-afflicted areas are not those in conflict.' [36a] (p 6-7)

2.07 The US Department of State's Country Report on Human Rights Practices 2010, Afghanistan, published on 8 April 2011, noted that 'The minimum wage for government workers was 4,000 afghanis ([US]$80) per month. There is no minimum wage in the private sector.' [58b] (Section 7e)

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3. HISTORY (1921 TO DECEMBER 2011)

This section provides a brief overview of recent Afghan history focussing on political events since the fall of the Taliban government in 2001. Background on the civil conflict since 2001 is available in the Security situation section, though the focus is on the current situation. Further information on the history of the country is available in the Library of Congress – Federal Research Division, Country Profile: Afghanistan, August 2008: http://lcweb2.loc.gov/frd/cs/profiles/Afghanistan.pdf

Additionally, a timeline of major events provided by the BBC is available in Annex A.

INDEPENDENCE (1921) TO FALL OF THE TALIBAN (DECEMBER 2001)

3.01 The Freedom House (FH) report, Freedom in the World 2012, Afghanistan, covering events in 2011, published on 22 March 2012 (Freedom House 2012 Report), stated that:

'After decades of intermittent attempts to assert control and ward off Russian influence in the country, Britain recognized Afghanistan as a fully independent monarchy in 1921. Muhammad Zahir Shah ruled from 1933 until he was deposed in a 1973 coup and a republic was declared. Afghanistan entered a period of continuous civil conflict in 1978, when a Marxist faction staged a coup and set out to transform the country's highly traditional society. The Soviet Union invaded to support its allies in 1979, but was defeated by U.S.-backed guerrillas and forced to withdraw in 1989.' [38c]

COMMUNIST PARTY RULE (1978-1992)

3.02 The Congressional Research Service (CRS) report, 'Afghanistan: Post-Taliban Governance, Security, and U.S. Policy,' dated 4 April 2012 (CRS report of April 2012), stated:

'Afghanistan's slide into instability began in the 1970s, during the Nixon Administration, when the diametrically opposed Communist Party and Islamic movements grew in strength. While receiving medical treatment in Italy, Zahir Shah was overthrown by his cousin, Mohammad Daoud, a military leader who established a dictatorship with strong state involvement in the economy. Daoud was overthrown and killed1 in April 1978, during the Carter Administration, by People's Democratic Party of Afghanistan (PDPA, Communist party) military officers under the direction of two PDPA (Khalq faction) leaders, Hafizullah Amin and Nur Mohammad Taraki, in what is called the Saur (April) Revolution. Taraki became president, but he was displaced in September 1979 by Amin. Both leaders drew their strength from rural ethnic Pashtuns and tried to impose radical socialist change on a traditional society, in part by redistributing land and bringing more women into government. The attempt at rapid modernization sparked rebellion by Islamic parties opposed to such moves.

'The Soviet Union sent troops into Afghanistan on December 27, 1979, to prevent further gains by the Islamic militias, known as the mujahedin (Islamic fighters). Upon their invasion, the Soviets replaced Amin with another PDPA leader perceived as pliable, Babrak Karmal (Parcham faction of the PDPA), who was part of the 1978 PDPA takeover but was exiled by Taraki and Amin.

'Soviet occupation forces numbered about 120,000. They were assisted by Democratic Republic of Afghanistan (DRA) military forces of about 25,000-40,000, supplemented by about 20,000 paramilitary and tribal militia forces, including the PDPA-dominated organization called the Sarandoy. The combined Soviet and Afghan forces were never able to pacify the outlying areas of the country. DRA forces were consistently plagued by desertions and its effectiveness on behalf of the Soviets was limited. The mujahedin benefited from U.S. weapons and assistance, provided through the Central Intelligence Agency (CIA) in cooperation with Pakistan's Inter-Service Intelligence directorate (ISI).' [10f] (p2)

3.03 The CRS Report of 4 April 2012 further noted:

'… the Soviet Union's losses mounted—about 13,400 Soviet soldiers were killed in the war, according to Soviet figures—turning Soviet domestic opinion against the war… On April 14, 1988, Gorbachev agreed to a U.N.-brokered accord (the Geneva Accords) requiring it to withdraw. The withdrawal was completed by February 15, 1989, leaving in place the weak Najibullah government. A warming of relations moved the United States and Soviet Union to try for a political settlement to the Afghan conflict, a trend accelerated by the 1991 collapse of the Soviet Union, which reduced Moscow's capacity for supporting communist regimes in the Third World. On September 13, 1991, Moscow and Washington agreed to a joint cutoff of military aid to the Afghan combatants.' [10f] (p 3)

THE MUJAHIDEEN GOVERNMENT AND RISE AND FALL OF THE TALIBAN (1992 TO 2001)

3.04 The CRS Report of 4 April 2012 noted:

'With Soviet backing withdrawn, Najibullah rallied Afghan forces and successfully beat back the first post-Soviet withdrawal mujahedin offensives. Although Najibullah defied expectations that his government would immediately collapse after a Soviet withdrawal, military defections continued and his position weakened in subsequent years. On March 18, 1992, Najibullah publicly agreed to step down once an interim government was formed. That announcement set off a wave of rebellions primarily by Uzbek and Tajik militia commanders in northern Afghanistan - particularly Abdul Rashid Dostam, who joined prominent mujahedin commander Ahmad Shah Masud of the Islamic Society, a largely Tajik party headed by Burhannudin Rabbani. Masud had earned a reputation as a brilliant strategist by preventing the Soviets from occupying his power base in the Panjshir Valley of northeastern Afghanistan. Najibullah fell, and the mujahedin regime began April 18, 1992.' [10f] (p 4)

3.05 The CRS Report of 4 April 2012 stated:

'The fall of Najibullah exposed the differences among the mujahedin parties. The leader of one of the smaller parties (Afghan National Liberation Front), Islamic scholar Sibghatullah Mojadeddi, was president during April-May 1992. Under an agreement among the major parties, Rabbani became president in June 1992 with agreement that he would serve until December 1994. He refused to step down at that time, saying that political authority would disintegrate without a clear successor. That decision was strongly opposed by other mujahedin leaders, including Gulbuddin Hikmatyar, a Pashtun, and leader of the Islamist conservative Hizb-e-Islam Gulbuddin mujahedin party. Hikmatyar and several allied factions began fighting to dislodge Rabbani. Rabbani reached an agreement for Hikmatyar to serve as Prime Minister, if Hikmatyar would cease the shelling Kabul that had destroyed much of the western part of the city. However, because of Hikmatyar's distrust of Rabbani, he never formally assumed a working prime ministerial role in Kabul.

'In 1993-1994, Afghan Islamic clerics and students, mostly of rural, Pashtun origin, formed the Taliban movement. Many were former mujahedin who had become disillusioned with conflict among mujahedin parties and had moved into Pakistan to study in Islamic seminaries ("madrassas") mainly of the "Deobandi" school of Islam.4 Some say this interpretation of Islam is similar to the "Wahhabism" that is practiced in Saudi Arabia. Taliban practices were also consonant with conservative Pashtun tribal traditions. The Taliban's leader, Mullah Muhammad Umar, had been a fighter in Khalis's Hezb-i-Islam party during the anti-Soviet war—Khalis' party was generally considered moderate Islamist during the anti-Soviet war, but Khalis and his faction turned against the United States in the mid-1990s. Many of his fighters, such as Mullah Umar, followed Khalis' lead. Umar had lost an eye in the anti-Soviet war.' [10f] (p 4-5)

3.06 The same source noted:

'The Taliban viewed the Rabbani government as corrupt and anti-Pashtun, and the four years of civil war (1992-1996) created popular support for the Taliban as able to deliver stability. With the help of defections, the Taliban peacefully took control of the southern city of Qandahar in November 1994. By February 1995, it was approaching Kabul, after which an 18-month stalemate ensued. In September 1995, the Taliban captured Herat province, bordering Iran, and imprisoned its governor, Ismail Khan, ally of Rabbani and Masud, who later escaped and took refuge in Iran. In September 1996, new Taliban victories near Kabul led to the withdrawal of Rabbani and Masud to the Panjshir Valley north of Kabul with most of their heavy weapons; the Taliban took control of Kabul on

September 27, 1996. Taliban gunmen subsequently entered a U.N. facility in Kabul to seize Najibullah, his brother, and aides, and then hanged them.' [10f] (p 5)

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3.07 The CRS Report of 4 April 2012 stated:

'The Taliban regime was led by Mullah Muhammad Umar, as noted. Umar held the title of Head of State and "Commander of the Faithful," remaining in the Taliban power base in Qandahar and almost never appearing in public, although he did occasionally receive high-level foreign officials. Al Qaeda leaders Osama bin Laden relocated from Sudan to Afghanistan, where he had been a recruiter of Arab fighters during the anti-Soviet war, in May 1996. He at first was located in territory in Nangarhar province controlled by Hezb-i-Islam of Yunus Khalis (Mullah Umar's party leader) but then had free reign in Afghanistan as the Taliban captured nearly all the territory in Afghanistan. Umar reportedly forged a political and personal bond with Bin Laden and refused U.S. demands to extradite him. Like Umar, most of the senior figures in the Taliban regime were Ghilzai Pashtuns, which predominate in eastern Afghanistan. They are rivals of the Durrani Pashtuns, who are predominant in the south.' [10f] (p 5)

3.08 The US Department of State's Background Note on Afghanistan, 28 November 2011, stated that: 'The Taliban sought to impose an extreme interpretation of Islam – based upon the rural Pashtun tribal code – on the entire country and committed massive human rights violations, particularly directed against women and girls. The Taliban also committed serious atrocities against minority populations, particularly the Shi'a Hazara ethnic group, and killed noncombatants in several well-documented instances.' [58e] (Rise and Fall of the Taliban)

3.09 The CRS Report of 4 April 2012 observed:

'The Taliban lost international and domestic support as it imposed strict adherence to Islamic customs in areas it controlled and employed harsh punishments, including executions. The Taliban authorized its "Ministry for the Promotion of Virtue and the Suppression of Vice," headed by Maulvi Qalamuddin, to use physical punishments to enforce strict Islamic practices, including bans on television, Western music, and dancing. It prohibited women from attending school or working outside the home, except in health care, and it publicly executed some women for adultery. In what many consider its most extreme action, and which some say was urged by Bin Laden, in March 2001 the Taliban blew up two large Buddha statues carved into hills above Bamiyan city, considering them idols.' [10f] (p 5)

3.10 The US Department of State's Background Note on Afghanistan, updated on 28 November 2011, stated:

'From the mid-1990s the Taliban provided sanctuary to Osama bin Laden, a Saudi national who had fought with the mujahideen resistance against the Soviets, and provided a base for his and other terrorist organizations. Bin Laden provided both financial and political support to the Taliban. Bin Laden and his Al-Qaida group were charged with the bombing of the U.S. Embassies in Nairobi and Dar Es Salaam in 1998, and in August 1998 the United States launched a cruise missile attack against bin Laden's terrorist camp in southeastern Afghanistan. Bin Laden and Al-Qaida have acknowledged their responsibility for the September 11, 2001 terrorist attacks against the United States.

'Following the Taliban's repeated refusal to expel bin Laden and his group and end its support for international terrorism, the U.S. and its partners [including the Afghan Northern Alliance] in the anti-terrorist coalition began a military campaign on October 7, 2001, targeting terrorist facilities and various Taliban military and political assets within Afghanistan…. ' [58c] (Rise and Fall of the Taliban)

3.11 The CRS report of 4 April 2012 stated that:

'Major combat in Afghanistan (Operation Enduring Freedom, OEF) began on October 7, 2001. It consisted primarily of U.S. air-strikes on Taliban and Al Qaeda forces, facilitated by the cooperation between reported small numbers (about 1,000) of U.S. special operations forces and Central Intelligence Agency operatives. The purpose of these operations was to help the Northern Alliance and Pashtun anti-Taliban forces by providing information to direct U.S. air strikes against Taliban positions… The Taliban regime unraveled rapidly after it lost Mazar-e-Sharif on November 9, 2001, to forces led by Dostam. Northern Alliance (mainly the Tajik faction) forces—the commanders of which had initially promised then-Secretary of State Colin Powell that they would not enter Kabul— entered the capital on November 12, 2001, to popular jubilation. The Taliban subsequently lost the south and east to U.S.-supported Pashtun leaders, including Hamid Karzai. The end of the Taliban regime is generally dated as December 9, 2001, when the Taliban surrendered Qandahar and Mullah Umar fled the city, leaving it under Pashtun tribal law.' [10f] (p 8)

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POST-TALIBAN (DECEMBER 2001 TO DECEMBER 2011)

3.12 The Foreign and Commonwealth Office, Country Profile, Afghanistan, updated 24 August 2012, stated that: 'After the fall of the Taliban regime in November 2001, the United Nations brought together leaders of Afghan ethnic groups in Germany. The Agreement on Provisional Arrangements in Afghanistan pending the Re-establishment of Permanent Government Institutions (known as the Bonn Agreement…), signed on 5 December 2001, set out a road map for the restoration of representative government in Afghanistan. ' [37b] (History)

The full text of the Bonn Agreement can be accessed through the United Nations Assistance Mission in Afghanistan (UNAMA) website. [29e]

3.13 The Freedom House 2011 Report noted that 'As a result of the December 2001 Bonn Agreement, an interim administration took office to replace the ousted Taliban. In June 2002, the United Nations oversaw an emergency loya jirga (gathering of representatives) that appointed a Transitional Administration (TA) to rule Afghanistan for a further two years. Interim leader Hamid Karzai won the votes of more than 80 percent of the delegates to become president and head of the TA.' [38c]

3.14 The FCO Afghanistan Country Profile further noted 'A new Afghan Constitution was agreed on 4 January 2004 during the Constitutional Loya Jirga, establishing a presidential system of government with all Afghans equal before the law. It enshrined human rights and gender equality within the Afghan political system, and guaranteed a number of seats for women in both Houses of the National Assembly (Parliament). There are also provisions for minority languages and the rights of the Shia minority.' [104b]

(See also Section 5: Constitution)

3.15 The FCO Afghanistan Country Profile added, 'On 9 October 2004, Afghanistan held its first ever Presidential elections. On Wednesday 3 November [2004], Hamid Karzai was officially confirmed as the winner with 55.4% of the vote (70% turnout). This was a significant milestone in Afghanistan's history and evolution as a democracy.' [104b] (Politics)

The FCO Afghanistan Country Profile also noted, 'On 18 September 2005 the Afghan population took part in the first Parliamentary elections for 36 years. These elections were more complex and a greater logistical challenge than the Presidential elections of 2004. 12.5 million Afghan voters registered, and 2735 candidates stood for election. 51.5% of eligible voters turned out on polling day – 41% of these were women.' [104b] (Politics)

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Presidential and Provincial Council elections (20 August 2009)

3.16 The Foreign and Commonwealth Office (FCO) stated on the Afghanistan British Embassy website, updated 15 March 2011, that:

'The second Presidential and Provincial Council elections were held on 20 August 2009. Despite widespread fraud the Presidential elections were contested by 41 candidates under difficult circumstances. After fraudulent votes were investigated and removed by the Afghan Independent Election Commission (IEC) and Election Complaints Commission (ECC), the final IEC figures showed that over 4.5 million voters across Afghanistan turned out to express their political will. Millions of Afghans across the country also voted in the Provincial Council elections, held the same day.

'After the removal of fraudulent ballots the results showed President Karzai with 49.67 per cent of the vote. Because he polled less than 50 per cent, a second round run-off election was scheduled to be held between President Karzai and Dr Abdullah Abdullah, the runner up. But before the second round could go ahead, Dr. Abdullah pulled out of the race, citing concerns about corruption, and the IEC declared President Karzai the winner on 2 November. The Prime Minister congratulated Karzai on his reappointment, and discussed with him the importance of moving quickly to set out a programme for the future of Afghanistan.

'Millions of brave Afghans defied intimidation to vote and it was significant that the audit process conducted by the IEC and ECC was robust and transparent, and overseen by international and Afghan election observers (who had, for example, access to the national counting centre).' [104c]

The Electoral Complaints Commission (ECC), Final Report 2009, Presidential and Provincial Council Elections – 20 August 2009 can be located on the ECC website. [115a]

Factsheets regarding the September 2010 elections Parliamentary elections are located on the Independent Electoral Committee (IEC) website. [116a]

Parliamentary elections (18 September 2010)

3.17 The 'Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report,' published in March 2011, stated:

'The first Afghan-run parliamentary e*l*ections since the 1960s were held on 18 September [2010]. More than 2,500 candidates stood for election across 34 provinces. While by no means free of irregularities or fraud, there is general consensus that they represented a significant improvement on the 2009 presidential elections. Following polling day, cases of malpractice were investigated and the new anti-fraud mechanisms implemented by the Independent Election Commission and the Electoral Complaints Commission resulted in the disqualification of 1.3 million fraudulent ballots.' [104d] (p 120-121)

3.18 The Human Rights Watch (HRW) World Report 2011: Afghanistan, covering events of 2010, published 24 January 2011, reported on the violent events that occurred during the polling period:

'More than 30 were killed on polling day. The Taliban claimed responsibility for killing three candidates during the campaign period: Sayedullah Sayed, killed by a bomb while speaking in a mosque; Ghazni candidate Najibullah Gulisanti, abducted and, after failed demands for prisoner release, killed; and Haji Abdul Manan Noorzai, shot dead while walking to a mosque in Herat. In August five campaign workers supporting Fauwzia Gilani in Herat were abducted and killed. Women campaigners throughout the country told election observers of threats and intimidation.

'There were serious attacks on election officials; in September, 28 election staff in Baghlan were kidnapped and two were killed in Balkh. Election monitors were also threatened and abducted during the campaign period.' [15q]

Factsheets regarding the September 2010 Parliamentary elections are located on the Independent Electoral Committee (IEC) website. [116a]

3.19 The CRS report of April 2012 provides a tablulated summary of the political transition process between 2001 and 2011 (Table 1. Afghanistan Political Transition Process), and this is set out below.

'Table 1. Afghanistan Political Transition Process.

'Administration: Formed by Bonn Agreement. Headed by Hamid Karzai, an ethnic Pashtun, but key security positions dominated by mostly minority "Northern Alliance." Karzai reaffirmed as leader by June 2002 "emergency loya jirga." (A jirga is a traditional Afghan assembly.)

'Constitution: Approved by January 2004 "Constitutional Loya Jirga" (CLJ). Set up strong presidency, a rebuke to Northern Alliance that wanted prime ministership to balance presidential power, but gave parliament significant powers to compensate. Gives men and women equal rights under the law, allows for political parties as long as they are not "un-Islamic;" allows for court rulings according to Hanafi (Sunni) Islam (Chapter 7, Article 15). Set out electoral roadmap for simultaneous (if possible) presidential, provincial, and district elections by June 2004. Named ex-King Zahir Shah to non-hereditary position of "Father of the Nation;" he died July 23, 2007.

'Presidential Election: Elections for president and two vice presidents, for five-year term, held October 9, 2004. Turnout was 80% of 10.5 million registered. Karzai and running mates (Ahmad Zia Masud, a Tajik and brother of legendary mujahedin commander Ahmad Shah Masud, who was assassinated by Al Qaeda two days before the Sept. 11 attacks, and Karim Khalili, a Hazara) elected with 55% against 16 opponents. Second

highest vote getter, Northern Alliance figure (and Education Minister) Yunus Qanooni (16%). One female ran. Funded with $90 million from donors, including $40 million from U.S. (FY2004, P.L. 108-106).

'First Parliamentary Elections: Elections held September 18, 2005, on "Single Non-Transferable Vote" System; candidates stood as individuals, not in party list. Parliament consists of a 249 elected lower house (Wolesi Jirga, House of the People) and a selected 102 seat upper house (Meshrano Jirga, House of Elders). 2,815 candidates for Wolesi Jirga, including 347 women. Turnout was 57% (6.8 million voters) of 12.5 million registered. Upper house is appointed by Karzai (34 seats, half of which are to be women), and by the provincial councils (68 seats). When district councils are elected, they will appoint 34 of the seats. Funded by $160 million in international aid, including $45 million from U.S. (FY2005 supplemental, P.L. 109-13).

'First Provincial Elections/District Elections: Provincial elections held September 18, 2005, simultaneous with parliamentary elections. Exact powers vague, but now taking lead in deciding local reconstruction Provincial council sizes range from 9 to the 29 seats on the Kabul provincial council. Total seats are 420, of which 121 held by women. l3,185 candidates, including 279 women. District elections not held due to complexity and potential tensions of drawing district boundaries.

'Second Presidential/Provincial Elections: Presidential and provincial elections were held August 20, 2009, but required a runoff because no candidate received over 50% in certified results issued October 20. Second round not held because Dr. Abdullah pulled out of runoff. Election costs: $300 million.

'Parliamentary Elections: Originally set for May 22, 2010; held September 18, 2010. Results disputed, but agreement reached for Karzai inaugurate new lower house on January 26, 2011, six days after original date. 70 women elected, two more than quota. Speaker selected on February 27, Abdul Raouf Ibrahimi, an ethnic Uzbek. Special tribunal set up to investigate results and on June 23 ruled that 62 results be altered, prompting a backlash from those who might be deprived of seats and threats of impeaching Karzai. Crisis eased on August 11, 2011, when Karzai disbanded special tribunal and announced that only the election bodies have standing to overturn results. Independent Election Commission announced August 21 that nine lower house winners would be unseated for fraud. They were sworn in September 4; but a broad lower house boycott renderied it non-functional until October 9, when boycott ended. For the upper house, 68 seats council are appointed to four-year terms by the elected provincial councils in each of Afghanistan's 34 provinces, and remain in office. Karzai made his 34 appointments on February 19, 2011. The speaker of that body is Muslim Yaar (a Pashtun).

'Third Presidential Election: To be held in 2014. In August 2011, Karzai told members of the National Assembly he will not seek to alter the constitution to allow him to run again (the constitution permits only two consecutive terms). Press reports in December 2011, quoting German intelligence estimates, questioned that commitment, saying Karzai might try to restructure the government to allow him to retain power. Karzai publicly reiterated his vow to leave office on Meet the Press on December 19, 2011. Some observers say his elder brother, Qayyum, is considering running in 2014. Female parliamentarian Fawzia Koofi is running.' [10f] (p 10)

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International forces: build-up and drawdown (2006 – 2011)

Operation Enduring Freedom

3.20 The Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 4 April 2012, stated:

'During 2001 to mid-2006, U.S. forces and Afghan troops fought relatively low levels of insurgent violence with focused combat operations against Taliban concentrations in the south and east …By late 2005, U.S. and partner commanders appeared to believe that the combat, coupled with overall political and economic reconstruction, had virtually ended any insurgency. Anticipating further stabilization, NATO/ISAF assumed lead responsibility for security in all of Afghanistan during 2005-2006.

'Contrary to U.S. expectations, violence increased significantly in mid-2006, particularly in the east and the south, where ethnic Pashtuns predominate. Reasons for the deterioration include popular unrest over Afghan government corruption; the absence of governance or security forces in many rural areas; the safe haven enjoyed by militants in Pakistan; the reticence of some NATO contributors to actively combat insurgents; a popular backlash against civilian casualties caused by military operations; and the slow pace of economic development …

'Despite the additional resources put into Afghanistan, throughout 2008, growing concern took hold within the Bush Administration. Pessimism was reflected in such statements as a September 2008 comment by then Joint Chiefs of Staff chairman Admiral Mike Mullen that "I'm not sure we're winning" in Afghanistan …' [10f] (p 19-20)

Troop build-up (2006-09)

3.21 The same source stated that: 'U.S. troop levels started 2006 at 30,000; climbed slightly to 32,000 by December 2008; and reached 39,000 by April 2009 (shortly after President Obama took office). Partner forces were increased significantly as well, by about 6,000 during this time, to a total of 39,000 at the end of 2009 (rough parity between U.S. and non-U.S. forces). Many of the U.S. forces deployed in 2008 and 2009 were Marines that deployed to Helmand, large parts of which had fallen out of coalition/Afghan control.' [10f] (p 19)

Surge and transition announcement (2009-11)

3.22 The Congressional Research Service's report entitled, 'Post-Taliban Governance, Security and US Policy,' dated 4 April 2012, stated, 'The President [Obama] announced the following decisions in a speech at West Point military academy on December 1, 2009: 'That 30,000 additional U.S. forces (a "surge") would be sent (bringing U.S.levels close to 100,000) to "reverse the Taliban's momentum" and strengthen the capacity of Afghanistan's security forces and government. That there would be a transition, beginning in July 2011, to Afghan leadership of the stabilization effort and a corresponding beginning of a drawdown of U.S. force levels…' [10f] (p 21-22)

3.23 The same CRS report added: '… it was agreed that the transition to Afghan leadership would begin in 2011 and would be completed by the end of 2014.' [10f] (p 22)

3.24 The Congressional Research Service's report, 'Post-Taliban Governance, Security and US Policy,' dated 4 April 2012, stated: 'Surge and then Drawdown: U.S. force levels reached a high of 99,000. A U.S. drawdown of 33,000 is to be completed by September

2012, with the remaining drawdown plan until 2014 to be determined at a NATO meeting in Chicago in May 2012. Transition to Afghan combat lead by mid-2013.' [10f] (p 23)

3.25 The Congressional Research Service explained the drawdown process in its report dated 4 April 2012 and entitled, 'Afghanistan: Post-Taliban Governance, Security and US Policy:'

'As preparations got under way to transition the first tranche of areas to be transitioned, then top commander General Petraeus's recommendations about the size of the initial drawdown were submitted in mid-June 2011. According to his testimony during his confirmation hearings to be CIA Director, and that of Admiral Mullen on June 23, 2011, the U.S. military recommended a gradual drawdown in which the overwhelming majority of the surge forces would be in combat through the end of 2012. They also had wanted to redeploy some troops to RC-E, where there had not been as intensive an effort since 2010 as in RC-S or RC-SW. President Obama, asserting that key goals of the surge had been accomplished, announced his decision on June 22, 2011, as

• 'the drawdown of 10,000 U.S. forces by the end of 2011. That drawdown has been accomplished, and U.S. force levels in Afghanistan are about 91,000.

• 'the removal of another 23,000 forces (the remainder of the surge forces) by September 2012. The United States will have about 68,000 after this drawdown is completed.

• 'a decision on a drawdown plan for the remaining forces, from 2012 until the 2014 transition completion, to be decided at a NATO meeting in Chicago in May 2012.' [10f] (p 25)

Transition: first tranche

3.25 An article in The Nation, dated 17 July 2012, explained the security transition: 'The process of security transition started in July 2011 in order to pave the way for withdrawal of over 130,000-strong NATO- led International Security Assistance Force (ISAF) with nearly 90, 000 of them Americans. The strength of Afghan National Security Forces (ANSF) at the moment is over 305,000 including army, police and other personnel of law enforcing agencies.' [63a]

3.26 The Congressional Research Service report, 'Post-Taliban Governance, Security and US Policy,' dated 4 April 2012, explained the first tranche of the transition:

'The first tranche of areas to be transitioned was announced by Karzai on March 22, 2011. In each area of transition, the process of completing the transition to Afghan responsibility is to take about 12-18 months, according to U.S. commanders. The first tranche was:

•'Three provinces: Kabul (except Sarobi district, which is still restive), Panjshir, and Bamiyan. The latter two are considered highly stable. In Kabul, Afghan forces have already been in the lead for at least one year. The formal transition process began with Bamiyan on July 17.

• 'Four cities: Herat, Mazar-e-Sharif, Lashkar Gah, and Mehtarlam. The former two cities are widely considered stable. The latter two are in restive areas, Helmand

and Laghman provinces, respectively, and the announcement of transition in these cities surprised many observers.' [10f] (p 25)

Transition: second tranche

3.27 The Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 4 April 2012, explained that, 'The scond tranche was announced on November 27, 2011, as follows:

- 'Complete provinces: Balkh, Dai Kundi, Takhar, Samangan, Nimruz, and those areas of Kabul province not transitioned already (Sarobi district). Most of these provinces are considered relatively stable.

- 'Large/significant cities: Jalalabad (capital of Nangarhar), Gachcharan (capital of Ghowr), Shebergan (capital of Jowzjan), Faizabad (capital of Badakshan), Midan Shahr (capital of Wardak), and Qali Now (capital of Badghis). Most of these cities are in relatively secure provinces, except for Wardak and Nangarhar.

- 'Districts of several other provinces in this and the preceding transition phase, including Nawa, Nad Ali, and Marjah of restive Helmand province; six districts of Badakhshan; Abkamari district of Badghis; all districts of Herat except for Shindand; three districts of Laghman; three districts of Nangarhar (outside Jalalabad city); all districts of Parwan except Shiwari and Siahgherd; all districts of Sar-i-Pol except Sayyad and the part of Behsud city that is in that province; and Jalrez and the center of Behsud city in Wardak province.' [10f] (p 26)

Transition: third tranche

3.28 In a report to the United Nations General Security Council, dated 20 June 2012, the Secretary-General stated:

'At a meeting on 10 May [2012], the Joint Afghan-NATO Inteqal Board endorsed the third tranche of the transition, while recognizing that increased challenges were likely as more conflict-prone areas enter the process of transition to full Afghan security responsibility. The third tranche was launched by President Karzai on 13 May, with all provincial capitals now part of the process. With the inclusion of the remaining districts in Kapisa, Parwan and Uruzgan, 11 provinces have entered the phased handover of security responsibilities in their entirety and 75 per cent of the population now lives in areas undergoing transition. The two initial rounds of transition are seen to have generally progressed as planned. There has been no significant deterioration of public order, nor a marked difference in seasonal security trends in areas undergoing transition.' [18i] (p 4)

Post-2014

3.29 The US Congressional Research Service's report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 4 April 2012, stated:

'President Obama and other senior U.S. officials have consistently sought to reassure the Afghans by saying that 2014 is not a date certain for a complete U.S. pullout, but rather for a transition to Afghan leadership. The top U.S. commander, General John Allen, made clear in interviews in late December 2011—and in his March 2012 congressional testimony mentioned above—that U.S. forces (no numbers specified)

would likely remain even after the 2014 transition, and possibly for several years thereafter. Many experts assess the likely numbers at about 20,000 troops, for overwatch and training the ANSF, although proposals offered by experts range from about 10,000—30,000. The mission performed by the force, would resemble the concept of a counterterrorism focused mission… According to the concept, U.S. troops, many of which could be Special Operations forces, would advise the Afghan forces and conduct some combat against high value targets. U.S. commanders say that some of the most effective current U.S. operations consist of Special Operations forces tracking and killing selected key mid-level insurgent commanders, even though such operations were not intended to be the centerpiece of current U.S. strategy. Some of these operations reportedly involve Afghan commandos trained by U.S. Special Forces.

'Many experts believe that this strategy would be sufficient to prevent a collapse of Afghan forces or the Afghan government, even if the Taliban remains as active as it is today. Others believe this strategy would likely lead to Taliban gains in the south and east, although likely not gains that would cause U.S. policy to be considered a failure. Critics of this approach express the view that Al Qaeda would regain a safe haven again in Afghanistan if there are insufficient numbers of U.S. forces there.' [10f] (p 27-28)

See also section 10: Security forces

Peace talks with the Taliban (2010 onwards)

3.30 The International Crisis Group stated the following as part of a summary of their report, 'Talking About Talks: Toward a Political Settlement in Afghanistan,' dated 26 March 2012:

'A negotiated political settlement is a desirable outcome to the conflict in Afghanistan, but current talks with the Taliban are unlikely to result in a sustainable peace. There is a risk that negotiations under present conditions could further destabilise the country and region. Debilitated by internal political divisions and external pressures, the Karzai government is poorly positioned to cut a deal with leaders of the insurgency. Afghanistan's security forces are ill-prepared to handle the power vacuum that will occur following the exit of international troops. As political competition heats up within the country in the run-up to NATO's withdrawal of combat forces at the end of 2014, the differing priorities and preferences of the parties to the conflict – from the Afghan government to the Taliban leadership to key regional and wider international actors – will further undermine the prospects of peace.' [21b]

3.31 The US Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 4 April 2012, stated:

'As the transition proceeds, there is increasing emphasis on negotiating a settlement to the conflict. That process has advanced sporadically since 2010, and have not, to date, advanced to a discussion of specific proposals to settle the conflict. Afghanistan's minorities and women's groups worry about a potential settlement, fearing it might produce compromises with the Taliban that erode human rights and ethnic power-sharing.' [10f] (Summary)

3.32 The Human Rights Watch World Report 2012 reported:

'In 2011 support grew within the government and with its international partners for a negotiated peace agreement with the Taliban, given waning international willingness to

continue combat operations. However, moves toward a peace agreement proved difficult with several false starts, the killing by the Taliban of a key government negotiator, pressure from Pakistan for a key role in the process, and lack of trust and differing priorities among the government and its international partners.

'The possibility of an agreement raised fears (and, reportedly, re-arming) among non-Pashtun communities, who are concerned about an alliance between the government and the Taliban.' [15a]

Strategic Partnership Agreement (2012)

3.33 The Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 4 April 2012, stated: 'U.S. troops that remain after 2014 would do so under the auspices of a strategic partnership agreement under negotiation. The negotiations are pursuant to President Obama's statement, at a May 12, 2010, press conference with visiting President Karzai, that the United States and Afghanistan would renew and expand an existing, five-year-old strategic partnership.' [10f] (p 28)

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4. RECENT DEVELOPMENTS (JANUARY TO OCTOBER 2012)

This section provides a very brief overview of significant events by month during the above period as provided by International Crisis Group as set out in its Crisis Watch Database. No attempt has been made to sort by theme or significance.

Officials can access further information via the links listed at the end of the section.

4.01 The international Crisis Group, Crisis Watch Database provided a monthly summary of significant events between January and October 2012 (ordered October to January), updated to 1 October 2012:

'Afghanistan I 1 October 2012

'Spate of insider "green-on-blue" attacks curtailed ISAF partnering operations with Afghan forces, increased distrust between Afghan, U.S. military leaders; U.S. Special Forces 2 Sept announced halt in recruitment, training for Afghan Local Police program. UNSG report 17 Sept expressed concern over cross-border violence, corruption, lack of respect for legislature, stressed importance of 2014 elections to political transition. Protests erupted mid-month over anti-Islam film, scores of police injured 17 Sept in protester attack on Kabul U.S. military base. 12 civilians killed, some 60 injured in 1 Sept twin suicide attack on ISAF base, Wardak province; Taliban fighters 14 Sept attacked Helmand NATO military base, destroyed 8 fighter jets; Hizb-e Islami Gulbuddin (HIG) militants 18 Sept killed at least 12 foreign aviation contractors, injured scores in suicide blast near Kabul airport. 2 Americans, 3 Afghan soldiers killed 29 Sept in shootout at checkpoint in Wardak province following "misunderstanding". UN SRSG Kubiš 20 Sept warned of "even greater fragmentation of security environment", noted Aug second deadliest month for civilians since 2007. President Karzai 2 Sept presented new security team including controversial former Kandahar and Ghazni governor Assadullah Khaled as Directorate of Security chief, former Interior Minister and Northern Alliance heavyweight Bismillah Khan Mohammadi as Defence Minister, and Maj. General Ghulama Mujtaba Patang, long-serving police official, as Interior Minister; all 3

approved 16 Sept at Wolesi Jirga. Second round of Trilateral Summit on Afghanistan held on sidelines of UNGA late month.

•"Green-on-blue attacks show there's no easy way out", CNN, 18 Sept. 2012.

'Afghanistan | 1 Sep 2012 21 Aug drone strike in Pakistan's North Waziristan Agency killed Badruddin Haqqani, brother of Haqqani leader Sirajuddin and network's operations commander. At least 50 killed, 110 wounded 14 Aug in series of bombs across country; 23 injured 15 Aug in grenade attack on Khost mosque compound, bomb attack on Herat city market. 6 U.S. troops killed 10 Aug, 3 killed 17 Aug, 1 killed 19 Aug in "green-on-blue" attacks by Afghan colleagues; 3 Australian soldiers killed in similar attack 29 Aug; Afghan govt promised to improve recruit vetting to prevent attacks. Kandahar Police Chief Abdul Raziq survived 27 Aug bomb attack, 4 others killed. President Karzai replaced Defence Minister Abdul Rahim Wardak, Interior Minister Bismillah Khan Mohammadi after Parliament 5 Aug voted to remove Khan citing security lapses, cross-border fire from Pakistan, corruption; Warkdak subsequently appointed senior military advisor to President.

•'"Afghanistan's Karzai accepts dismissal of top security ministers", Reuters, 5 Aug. 2012.

'Afghanistan | 1 Aug 2012 International donors 8 July pledged $16bn over 4 years conditional on reform, counter-corruption efforts; donors called for govt to set election date by early 2013, indicated aid will be withheld if President Karzai fails to appoint replacements for Supreme Court Justice Azimi, 2 other judges whose terms expire Nov 2012. Karzai 26 July issued decree listing reforms aimed at tackling corruption. French troops 30 July handed Nijrab base to Afghanistan as part of withdrawal, transition. 23 killed, including several suicide bombers, 9 July in series of attacks on security installations, Kandahar. Department of Women's Affairs chief, 7 others killed 13 July in car bombing. At least 22 killed 13 July in Samanfan province including former Junbesh leader and MP Ahmad Khan Samanfani, provincial head of security service and deputy police chief in suicide bomb attack on wedding of prominent MP. Independent Human Rights Commission 16 July expressed concern over civilian casualties in northern provinces. Karzai 19 July met with UK PM Cameron, Pakistan PM Ashraf in effort to reopen Islamabad-Kabul dialogue.

'•"Afghanistan suicide bomb kills prominent MP at wedding", BBC, 14 July 2012.

'Afghanistan | 1 Jul 2012 Month saw increased violence: 21 killed 6 June in suicide bomb attack, Kandahar; 3 gunmen dressed in police uniforms killed 1 U.S. soldier, wounded 9 others in Zhari, Kandahar; roadside bomb killed 3 women, 4 children 20 June, Logar province; suicide bomber killed 21 including 3 U.S. soldiers and Afghan interpreter at checkpoint in Khost, 20 June; at least 18 killed in Taliban assault on hotel outside Kabul, 22 June. 10 Afghan policemen killed 26-27 June in insurgent attacks. NATO airstrike 6 June killed up to 18 civilians celebrating wedding in Logar province; President Karzai 7 June condemned strike; NATO commander General Allen visited area 8 June to apologise. Ministry of Justice mid-month suspended left-wing Solidarity Party for organising protest calling for accountability for war crimes; move followed calls by Upper House of Parliament for investigation, possible prosecution of group leaders; activists claimed decision contravened Afghan law, freedom of speech. U.S. Defense Secretary visited early month, called for India to play "more active role". Govt 19 June accused Pakistan of involvement in Dec 2011 attack on Shiite Ashura procession in Kabul.

‘•"Afghanistan suicide bombing kills 21", Wall Street Journal, 20 June 2012.

‘Afghanistan | 1 Jun 2012 NATO summit late-May focussed on Afghanistan said 2014 withdrawal “irreversible”, reaffirmed commitment to long-term strategic partnership. Govt 13 May agreed border control mechanism, discussed restoration of NATO supply with ISAF, Pakistan at Tripartite Commission meeting. ISAF 29 May announced al-Qaeda second-in-command killed in 28 May air strike, Kunar province. 2 NATO soldiers killed, 6 injured 18 May in rocket attack on base in Kunar; 13 killed 19 May in suicide bomb attack on police checkpoint, Khost province; 6 police, 1 civilian killed 17 May in multiple suicide bomb attack on govt compound, Farah province; 8 police killed 20 May in clash with Taliban, Badakhstan; at least 11 police, one NATO soldier killed 31 May in Taliban bombings. ISAF 3 May reported capture of Islamic Movement of Uzebkistan (IMU) leader in Kunduz province.

‘•“NATO considers future of Afghanistan”, Deutsche Welle, 20 May 2012.

‘Afghanistan | 1 May 2012 Suicide bomber 3 April killed 12, including 2 ISAF soldiers, in Maymana, Faryab Province where oil and gas recently discovered. Govt 3 April announced opening of Qatari embassy in Kabul following tension surrounding Taliban’s opening of office in Qatar early 2012. Govt 8 April signed agreement with U.S. giving Kabul veto power and control over prisoners taken in controversial night raids; U.S.-Afghanistan Strategic Partnership deal agreed 22 April. 16 killed 10 April in near simultaneous suicide bomb attacks in Herat and Lashkar Gah; Taliban 15 April launched multi-city “spring offensive” in Kabul, Nangahar, Logar and Paktika provinces; 4 killed, 16 abducted 26 April in Taliban attack on police post, NE. Photos published 18 April, showing U.S. soldiers posing with Taliban fighter corpses, prompted U.S. condemnation, sparked fears of widespread Afghan reaction. Govt 26 April announced prisoner swap agreement with Iran. Pakistan, Afghanistan and U.S. representatives at meeting to discuss reviving peace talks said safe passage arrangements to allow Taliban to attend talks would be explored.

‘•"Agreement, at last” , Economist, 28 April 2012.

‘Afghanistan | 1 Apr 2012 Relations with U.S. continued to deteriorate: U.S. soldier Robert Bales 14 March shot 17 villagers including 9 children in Kandahar’s Panjawi district; President Karzai 15 March called for NATO troops to halt field operations, remain in bases, 16 March accused U.S. of frustrating investigation; soldier charged with murder 23 March. Taliban 15 March broke off prisoner exchange talks with U.S. 2 killed, 4 injured 2 March when Afghan soldier and civilian instructor opened fire at U.S. Bagram Air Field where U.S. forces burned Qu’rans in Feb; suicide bomber 5 March killed 2 civilians, wounded 4 at Bagram base. Ulema Council 2 March called for public trial of soldiers involved in Qu’ran burning. At least 20 killed 29 March in ambush on NATO supply convoy, Farah province. Afghan Leader of Islamic Movement of Uzbekistan Makhdum Nusrat reportedly killed 27 March in joint NATO-Afghan raid, Faryab province. 2 commanders of militant Haqqani network arrested 31 March in joint Afghan-NATO military operation in Wardak province. Govt 9 March signed MOU with U.S. agreeing 6-month transfer period for Parwan prison at Bagram signalling major U.S. policy shift, U.S. retains veto over prisoner release. Local Afghan worker 14 March attempted attack on U.S. Defence Secretary Panetta at Camp Bastion airbase, Helmand. German Chancellor Merkel visited mid-March, cast doubt on German pullout by 2013/2014.

‘•“In Afghanistan, two more U.S. troops killed over Koran burning”, Los Angeles Times, 2 March 2012.

‘Afghanistan | 1 Mar 2012 Scores killed in protests that erupted 21 Feb outside U.S. Bagram Air Base and rapidly spread across country, following report troops burned dozens of copies of Qu’ran, other religious materials: 2 Afghans killed, 7 NATO troops injured 26 Feb in clash; 4 protesters shot dead by police in Parwan province; 2 killed in Jalalabad and Logar province protests; 2 U.S. soldiers shot dead 23 Feb by Afghan national army soldier who had joined rallies in Nangarhar province; Taliban suicide bomber 27 Feb killed 9 in attack on Jalalabad NATO base. 2 senior U.S. military officers killed 25 Feb inside Afghan Interior Ministry, prompting NATO, UK, France to recall civilian staff from ministries; Taliban claimed responsibility. UN 28 Feb withdrew staff from Kunduz compound, northern Afghanistan, after attack by protesters. NATO/Afghan forces late Jan reportedly killed Islamic Movement of Uzbekistan (IMU) leader in N Afghanistan responsible for Dec suicide bombing in Taloq, 3 Feb captured IMU/Taliban commander in Helmand. President Karzai 17 Feb met with Iranian and Pakistani counterparts to discuss peace prospects, cooperation on drug trafficking, refugees. U.S. 1 Feb announced plans to end combat mission by end of 2013. UNAMA 4 Feb said 3,021 civilian deaths recorded in 2011, marking record high, attributed increase to change in insurgent tactics, use of IEDs. Taliban office in Quetta 13 Feb confirmed former Defence Minister Akhundzada died in Karachi prison, ending rumours he would lead Qatar negotiations.

‘•Comment by Candace Rondeaux, “Obama et le problème des prisonniers en Afghanistan”, Le Figaro, 10 Feb. 2012.

‘•Comment by Nick Grono, “Afghanistan’s injustice system”, Foreign Policy, 1 Feb. 2012.

‘•“France and Germany withdraw civilian staff”, BBC, 26 Feb. 2012.

‘Afghanistan | 1 Feb 2012 Proposals for accelerated withdrawal of U.S./NATO troops appeared to gain ground. France suspended military operations after 6 French soldiers killed 20 Jan by alleged Taliban infiltrator at Kapisa military base; 27 Jan announced decision to withdraw forces by 2013. NATO report leaked 31 Jan said Taliban, with Pakistan support, poised to retake control after NATO withdrawal. Taliban 11 Jan acknowledged opening of office in Qatar as part of confidence building measures agreed on with U.S., German govts’; presidential spokesman said govt would only support Afghan-led peace talks. President Karzai 5 Jan requested U.S. hand over Bagram military prison by end of Jan following report by Independent Commission for the Supervision of the Constitution detailing problems with detainee transfer regime agreed in 2010. Insurgent attacks continued: at least 19 killed in 2 Taliban bombings 17-19 Jan in Kandahar and Helmand; 3 killed 26 Jan by suicide bomber targeting NATO convoy in Helmand.

‘•Comment by Candace Rondeaux, “Obama’s Bagram Problem”, Foreign Affairs, 27 Jan. 2012.

‘•“Power struggle over Afghanistan”, Al Jazeera, 18 Jan. 2012.

‘Afghanistan | 2 Jan 2012 80 killed, over 100 injured in Kabul, 4 killed in Mazar-i-Sharif in 6 Dec bomb attacks coinciding with Shia holy day Ashura; Pakistani Sunni militants Lashkar-e-Jhangvi claimed responsibility. 5 Dec Bonn conference on Afghanistan

settlement overshadowed by Pakistan boycott; over 90 states and international organisations signed 33-point statement calling for enduring international support beyond 2014. Insurgent attacks continued: 19 killed 7 Dec, 6 killed 13 Dec by roadside bombs in Helmand; at least 20 killed 25 Dec by suicide bomb in Taloq; 10 police killed 29 Dec by roadside bomb, Helmand. High Peace Council said govt will accept Taliban liaison office in Qatar, but no foreign involvement without consent. NATO 19 Dec said night kill-and-capture raids will continue despite repeated protests by Karzai. Senior U.S. commander 20 Dec said U.S. forces could remain beyond 2014 withdrawal date.

•"Afghan President Hamid Karzai blames Pakistan for Kabul attack", AFP, 8 Dec. 2011.

For further information on recent events see the following sources:

ICG's Crisis Watch Database: http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs=%7bA860153E-CDC9-46DC-8FF7-7C03740C2DCF%7d

BBC News: http://www.bbc.co.uk/news/

AlertNet: http://www.trust.org/alertnet/news/search/?keywords=&date=&fmonth=&fyear=&tmonth=&tyear=&source=&partner=&branch=&country=Afghanistan&topic=&subtopic=&crisis=&sortBy=Article.publishDate+desc&submit=Search

Pajhwok Afghan News: http://www.pajhwok.com/

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5. CONSTITUTION

5.01 The Foreign and Commonwealth Office (FCO) Afghanistan Country Profile, updated 24 August 2012, noted, 'A new Afghan Constitution was agreed on 4 January 2004 during the Constitutional Loya Jirga, establishing a presidential system of government with all Afghans equal before the law. It enshrined human rights and gender equality within the Afghan political system, and guaranteed a number of seats for women in both Houses of the National Assembly (Parliament). There are also provisions for minority languages and the rights of the Shia minority.' [104b] (History)

5.02 The Constitution includes provisions for citizens' rights and human rights, including:

'Article Twenty-Two

'Any kind of discrimination and distinction between citizens of Afghanistan shall be forbidden. The citizens of Afghanistan, man and woman, have equal rights and duties before the law…

'Article Twenty-Nine

'Persecution of human beings shall be forbidden. No one shall be allowed to or order torture, even for discovering the truth from another individual who is under investigation, arrest, detention or has been convicted to be punished. Punishment contrary to human dignity shall be prohibited…

'Article Thirty-Three

'The citizens of Afghanistan shall have the right to elect and be elected. The conditions of exercising this right shall be regulated by law.

'Article Thirty-Four

'Freedom of expression shall be inviolable. Every Afghan shall have the right to express thoughts through speech, writing, illustrations as well as other means in accordance with provisions of this constitution. Every Afghan shall have the right, according to provisions of law, to print and publish on subjects without prior submission to state authorities. Directives related to the press, radio and television as well as publications and other mass media shall be regulated by law…

'Article Thirty-Nine

Every Afghan shall have the right to travel and settle in any part of the country, except in areas forbidden by law. Every Afghan shall have the right to travel outside Afghanistan and return, according to the provisions of the law. The state shall protect the rights of the citizens of Afghanistan outside the country…

'Article Forty-Four

'The state shall devise and implement effective programs to create and foster balanced education for women, improve education of nomads as well as eliminate illiteracy in the country…

'Article Fifty-Two

'The state shall provide free preventative healthcare and treatment of diseases as well as medical facilities to all citizens in accordance with the provisions the law. Establishment and expansion of private medical services as well as health centers shall be encouraged and protected by the state in accordance with the provisions of the law. The state shall adopt necessary measures to foster healthy physical education and development of the national as well as local sports…

'Article Fifty-Eight

'To monitor respect for human rights in Afghanistan as well as to foster and protect it, the state shall establish the Independent Human Rights Commission of Afghanistan. Every individual shall complain to this Commission about the violation of personal human rights. The Commission shall refer human rights violations of individuals to legal authorities and assist them in defense of their rights. Organization and method of operation of the Commission shall be regulated by law.' [104b]

5.03 The Afghanistan Research and Evaluation Unit (AREU) report 'Local Governance in Afghanistan: A View from the Ground,' dated June 2011, focused on research carried out in the six provinces of Samangan, Jawzjan, Sar-i-Pul, Day Kundi, Laghman and Wardak. The report noted:

'Applying the 2004 constitution to local government is taking time. Although provincial councils were elected in 2005, local government was given little attention in the years following the establishment of the first Karzai administration. In 2007, powers related to local government were transferred from the Ministry of Interior to the newly-created

IDLG [Independent Directorate for Local Government], which reports directly to the president's office. IDLG's head was given ministerial status with a seat in the Cabinet, and the body has since come to provide an important focus for improving the function of local government - helped on by significant external funding. The Policy Paper on Subnational Governance received presidential approval in March 2010 and was accompanied by legislation on the formation of provincial, district, village and municipal councils (yet to be enacted at the time of writing).' [8a] (p13)

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6. POLITICAL SYSTEM

OVERVIEW

6.01 The Central Intelligence Agency (CIA) World Factbook, regularly updated, accessed on 13 October 2012, noted that Afghanistan is an Islamic republic; the Government consists of both executive and legislative branches. [1d] (Government)

See also Section 3: History - Presidential and Provincial Council elections – 20 August 2009 and Parliamentary elections - 18 September 2010

EXECUTIVE BRANCH

6.02 The Central Intelligence Agency (CIA) World Factbook, updated 13 November 2012, noted that Hamid Karzai has held the position of President since December 2004 and as President, holds the position of head of government. Mohammad Fahim Khan is First Vice President, and has held the position since 19 November 2009. The cabinet is made up of 25 ministers who, under the new constitution, are appointed by the President and approved by the National Assembly. [1d] (Government)

6.03 The CIA World Factbook further noted that '… the president and two vice presidents are elected by direct vote for a five-year term (eligible for a second term); if no candidate receives 50% or more of the vote in the first round of voting, the two candidates with the most votes will participate in a second round; a president can only be elected for two terms; election last held 20 August 2009 (next to be held in 2014).' [1d] (Government)

(See also Section 3: Presidential and Provincial Council elections – 20 August 2009)

LEGISLATIVE BRANCH

6.04 The Central Intelligence Agency (CIA) World Factbook, updated 13 November 2012, stated that:

'[T]he bicameral National Assembly consists of the Meshrano Jirga or House of Elders (102 seats, one-third of members elected from provincial councils for four-year terms, one-third elected from local district councils for three-year terms, and one-third nominated by the president for five-year terms) and the Wolesi Jirga or House of People (no more than 250 seats); members directly elected for five-year terms.

'note: on rare occasions the government may convene a Loya Jirga (Grand Council) on issues of independence, national sovereignty, and territorial integrity; it can amend the

provisions of the constitution and prosecute the president; it is made up of members of the National Assembly and chairpersons of the provincial and district councils.

'elections: last held on 18 September 2010 (next election expected in 2015).' [1d] (Government)

6.05 The United Nations General Assembly Security Council's Report of the Secretary-General: The situation in Afghanistan and its implications for international peace and security, dated 23 June 2011, stated, 'Political contestation within the newly elected Lower House of the National Assembly (Wolesi Jirga) continued almost four months after its inauguration. Activity by a controversial Special Court created in December to look nto electoral issues has included an ad hoc recount of ballots. The recount was completed on 27 April…' [18d] (Political developments)

6.06 The United Nations General Assembly Security Council's Report of the Secretary-General: The situation in Afghanistan and its implications for international peace and security, dated 21 September 2011, stated:

'On 23 June [2011], a Special Court created by the Supreme Court ordered 62 changes to the composition of the 249-member Wolesi Jirga (Lower House of the National Assembly) after conducting an ad hoc recount. On 3 August, a decision by the Court of Appeals was reported as confirming the Special Court's findings and directing the issue to the attention of the President. On 10 August, President Hamid Karzai issued a decree instructing the Independent Electoral Commission to finalize the matter without delay. The Commission re-examined the 62 cases highlighted by the Special Court and, on 21 August, announced nine changes to the membership of the Wolesi Jirga. On 3 September, eight of the nine individuals were sworn in amid tight security; the ninth candidate was sworn in on 10 September, upon returning to Kabul.' [18k] (p3)

6.07 The UN General Assembly Security Council report, 21 September 2011 added:

'The dispute over the electoral results and over who was the final arbiter was both a source and symptom of ongoing tensions between the different branches of Government. The Wolesi Jirga, which sat through its summer recess in a show of unity against the Special Court, insisted that the election results were final and that the Independent Electoral Commission had the sole authority on the matter. On 10 August, it passed a resolution repeating its demand for the removal of the Attorney General and the six Supreme Court justices who had created the Special Court. The Supreme Court, on the other hand, continued to assert judicial pre-eminence and, on 16 August, demanded that all 62 changes be implemented by the Commission, reiterating that until that was done it would consider the Wolesi Jirga illegitimate. Throughout the period, the candidates who were backed by the Special Court continued to demand, at a series of demonstrations in Kabul, that all 62 changes be implemented, while a coalition composed largely of opposition Members of the National Assembly and their supporters rejected every single change and held a sit-in for several weeks on the grounds of the National Assembly to voice their dissatisfaction. Since the Commission's announcement, the Wolesi Jirga has been divided, with the above-mentioned coalition continuing to reject the new Members of the National Assembly and refusing to attend sessions as long as their nine former colleagues are excluded. Meanwhile, a new group backs the decision of the Commission, arguing that it is an opportunity to end the impasse.' [18k] (p3)

PROVINCIAL COUNCILS

6.08 There are 34 Provincial Councils in Afghanistan. (CIA World Factbook, updated 13 November 2012.) [1d] (Government)

6.09 The Afghanistan Research and Evaluation Unit (AREU) report 'Local Governance in Afghanistan: A View from the Ground,' dated June 2011, focused on research carried out in the six provinces of Samangan, Jawzjan, Sar-i-Pul, Day Kundi, Laghman and Wardak. The report noted:

'The role of the provincial council is outlined in the Subnational Governance Policy Document and the 2010 Draft Local Government Law. The number of its members varies according to the population of the province population, ranging from seven members for populations of 500,000 or less to 31 members for provinces of three million or more. Councillors receive a $300 monthly salary ($340 for council heads). In the study provinces, the provincial councils elected in 2009 each had nine members, three of which were women. The duties of a provincial council as outlined in the 2010 Draft Law are to regularly consult with citizens, monitor service delivery and hold the provincial administration to account. In addition, they are charged with ensuring that women and young people have access to the council, listening to complaints and resolving certain civil disputes. These activities serve to meet the objectives of local government, which are described as promoting Islamic values, maintaining order, protecting human rights, contributing to development processes, reducing poverty and disaster management. The Draft Law provides a useful clarification of the Policy Document, which is somewhat sweeping in its demands on the provincial council.' [8a] (p 42)

6.10 The AREU report of June 2011 noted:

'The key actor in a province is its wali (provincial governor), who acts as a representative of the president and has substantial powers in overseeing development, coordination and security. Walis supervise woluswals (district governors) and, where they are present, ASOP's [Afghanistan Social Outreach Program] District Community Councils. Their signature is required on any document of significance. Their position has a political and diplomatic function in promoting the government and gaining the trust of the public. Walis also have a role in making recommendations for higher-level appointments and selecting lower grade staff within the province. Other than this, the provincial administration has little independent decision-making power…

'A provincial government administration is composed of directorates covering administrative, financial and sectoral services along with audit responsibilities. Members of the provincial administration are increasingly being appointed through Priority Reform and Restructuring… The wali has authority to hire lower level administrative staff (grades six to eight). Appointments in grades three to five are made by the provincial Civil Service Board and sent to the IDLG [Independent Directorate for Local Government]. Grades one and two, such as the walis and woluswals, are political appointments made by the Senior Supervisory Board and approved by the President.' [13a] (p 15-16)

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DISTRICT GOVERNMENT

6.11 The Afghanistan Research and Evaluation Unit (AREU) report, 'Local Governance in Afghanistan: A View from the Ground,' dated June 2011, noted:

'The woluswal [district governor] is responsible for coordinating and monitoring district line ministries' efforts to provide service delivery, justice and security. District offices have no budget and work as branches of the provincial administration, which pays salaries, transport and incidentals. The woluswal is the government's point of interaction with the public - either formally or via more casual social exchanges - and passes requests and concerns to higher authorities including the wali's office. Woluswals chair weekly coordination meetings between line ministries and other development actors present in the district, as well as weekly security meetings with the Afghan National Police (ANP), National Directorate for Security (NDS), Afghan National Army (ANA) and International Security Assistance Force (ISAF), if present. Meetings with the wali take place on a monthly basis. It was observed that communication between the two officials has improved with the introduction of a District Affairs Officer in the wali's office.' [8a] (p 17)

POLITICAL PARTIES

6.12 The US Department of State Country Report on Human Rights Practices 2011, Afghanistan, published in May 2012, stated:

'Negative associations with warlords and the communists have led many citizens to view political parties with suspicion. The 2009 Party Law replaced the initial law of 2003, which granted parties the right to exist as formal institutions for the first time in the country's history. The new law required parties to have membership papers of 10,000 members (from a minimum of 22 provinces). The law was passed in September 2009 and allowed very little time for parties to complete the registration process in advance of the 2010 parliamentary elections. The National Democratic Institute (NDI) reported that a number of parties complained about the process, citing fraud in the Ministry of Justice, which is responsible for registration of political parties, and the unequal treatment of parties by the registration department. As of November 2010, the MOJ had accredited 33 political parties under the law. By April 38 parties were registered, according to NDI. However, only five parties were accredited in time for the September 2010 elections, and very few parliamentary candidates were shown to be affiliated with a party during the campaign. Political parties were not always able to conduct activities throughout the country, particularly in regions where antigovernment violence affected overall security. A total of 21 political parties had representation in the lower house.' [58c] (Section 3)

6.13 The CIA World Factbook, Afghanistan, regularly updated, accessed in November 2012, listed the following political parties and their leaders:

'Afghanistan's Islamic Mission Organization [Abdul Rasoul SAYYAF]; Afghanistan's Welfare Party [Meer Asef ZAEEFI]; Afghan Social Democratic Party [Anwarul Haq AHADI]; Islamic Movement of Afghanistan [Sayed Hussain ANWARI]; Islamic Party of Afghanistan [Mohammad Khalid FAROOQI, Abdul Hadi ARGHANDIWAL]; Islamic Society of Afghanistan [Salahuddin RABBANI]; Islamic Unity of the Nation of Afghanistan Party [Qurban Ali URFANI]; Islamic Unity Party of Afghanistan [Mohammad Karim KHALILI]; Islamic Unity Party of the People of Afghanistan [Haji Mohammad MOHAQQEQ]; Law and Justice Party [Hanif ATMAR]; National Islamic Movement of Afghanistan [Pir Sayed Ahmad GAILANEE]; National Islamic Movement of Afghanistan [Sayed NOORULLAH]; National Solidarity Movement of Afghanistan [Pir Sayed Eshaq GAILANEE]; National Linkage Party of Afghanistan [Sayed Mansoor NADERY]; United

Islamic Party of Afghanistan [Ustad Mohammad AKBARI]; note - includes only political parties approved by the Ministry of Justice.' [1d] (Government)

A copy of the Political Parties Law may be accessed via the Afghanistan Online website. [117a]

See also Section 17: Political affiliation for information on political rights in practice, and Annex B for more information on political parties and organisations, and a list of political parties approved by the Afghanistan Ministry of Justice.

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Human Rights

7. INTRODUCTION

7.01 The Foreign and Commonwealth Office, Quarterly Update on Afghanistan, dated 30 June 2012 stated, 'The challenges on human rights in Afghanistan remain, despite the commitment of the Afghan government to uphold its national and international commitments on human rights.' [37d]

7.02 The FCO Quarterly Update of 31 March 2012 stated, 'In January, the United Nations published its Annual Report 2011 on the Protection of Civilians in Armed Conflict. This report underlines that the vast majority of civilian casualties are caused by the Taliban. The report also highlights that there is a key difference between the approaches of International Security Assistance Forces (ISAF) and the insurgents on the protection of civilians in armed conflict in that ISAF forces and their Afghan partners place a high priority on reducing and preventing civilian casualties, in contrast to the insurgents who use tactics which target civilians indiscriminately.' [37d]

7.03 The US State Department Country Report on Human Rights Practices for 2011, Afghanistan, published in May 2012 stated:

'The most significant human rights problems were: a) the continued dispute over President Karzai's appointed tribunal, which was not settled until August, when the president recognized that the sole authority to adjudicate election results lay with the IEC; b) widespread violence, including armed insurgent groups' killings of persons affiliated with the government and indiscriminate attacks on civilians, and credible reports of torture and abuse of detainees by security forces; c) pervasive corruption; and d) endemic violence and societal discrimination against women and girls, despite considerable improvements in women's health and maternal mortality.

'Other human rights problems included extrajudicial killings by security forces-- for example, the Afghan National Police (ANP) in Kandahar was implicated in several cases of torture and extrajudicial killings; poor prison conditions; ineffective government investigations of abuses and torture by local security forces; arbitrary arrest and detention; prolonged pretrial detention; judicial corruption and ineffectiveness; violations of privacy rights; restrictions on freedom of speech and of the press; some limits on freedom of assembly; restrictions on freedom of religion; limits on freedom of movement; abuse of children, including sexual abuse; discrimination and abuses against ethnic minorities; trafficking in persons; societal discrimination based on race, religion, gender, and sexual orientation; abuse of worker rights; compulsory and bonded labor; and child labor, including forced child labor.

'Widespread official impunity for those who committed human rights abuses was a serious problem. The government was either unwilling or unable to prosecute abuses by officials consistently and effectively.

'The Taliban and other insurgents continued to kill record numbers of civilians, using improvised explosive devices, car bombs, and suicide attacks. The Taliban increasingly used children as suicide bombers. Antigovernment elements also threatened, robbed, and attacked villagers, foreigners, civil servants, and medical and nongovernmental organization (NGO) workers.' [58c] (Executive Summary)

7.04 The Report of the UN High Commissioner for Human Rights on the situation of human rights in Afghanistan and on the achievements of technical assistance in the field of human rights, dated 19 January 2011, stated:

'Since my last report (A/HRC/13/62) [dated 11 January 2010], the human rights situation in Afghanistan has become more challenging. Long-standing human rights problems associated with the ongoing armed conflict, dysfunctional governance, widespread and deeply entrenched impunity, weak rule of law, coupled with extreme marginalization of and violence against women, pose significant challenges to the enjoyment of human rights.' [52c]

7.05 The Human Rights Watch World Report 2012, published on 22 January 2012 and accessed on 7 February 2012, provided the following information about human rights in Afghanistan:

'Armed conflict with the Taliban and other insurgents escalated in 2011, but Afghanistan's military allies made it clear they were intent on withdrawing troops as soon as possible, with a deadline for Afghan national security forces to take over from international forces by the end of 2014.

'Rising civilian casualties, increased use of "night raids" by the International Security Assistance Force (ISAF), and abuses by insurgents and government-backed militias widened the impact of the war on ordinary Afghans. Stability was further undermined by a political crisis following parliamentary elections and panic caused by the near-collapse of the country's largest private bank.

'The Afghan government continues to give free rein to well-known warlords and human rights abusers as well as corrupt politicians and businesspeople, further eroding public support. And it has done far too little to address longstanding torture and abuse in prisons and widespread violations of women's rights… Internationally supported efforts to promote human rights, civil society, education, rule of law, governance, and access to health care are imperiled by declining international aid. Aid budgets are expected to decline precipitously in 2012. The looming date of 2014 for withdrawal of most international troops—which is advancing against a backdrop of rising civilian casualties particularly from insurgent attacks, increased use of "night raids," abuses by armed groups, and persistent human rights violations—begs the question of exactly what kind of Afghanistan the troops will be leaving behind.' [15a]

See also Section 8:Security situation

7.06 The Economist Intelligence Unit's Country Report on Afghanistan, dated January 2012 and accessed on 8 February 2012, provided the following outlook for Afghanistan for 2012-13:

'Allegations of fraud during the September 2010 parliamentary election and a continued campaign of insurgency by various groups indicate that political stability remains poor. Ethnic tensions will continue to simmer, and the risk of ethnic factionalism and violence will increase following several high-profile assassinations in 2011, notably that of the head of the High Peace Council, Burhanuddin Rabbani. The security situation remains highly volatile. Local control of security measures will be of increasing importance in 2012-13, as international forces plan to begin to relinquish control of security and hand over full responsibility to Afghan forces in 2014. Economic development will remain the focus of policymaking. Increasing government revenue remains an urgent priority,

particularly in view of the fact that foreign donors are set to wind down budgetary support in the coming years. The economy is likely to be adversely affected by the withdrawal of such assistance.' [16a]

7.07 The International Institute for Strategic Studies' Armed Conflict Database, Afghanistan – Human Security, undated, accessed on 8 February 2012, provided the following information about the human security situation in 2011:

'Coalition bombardment, air-strikes and security offensives were the cause of major protests across Afghanistan in **2011**, although insurgent attacks were the leading cause of civilian casualties. An offensive to flush out insurgents from the remote Egal valley of the Kunar province led to the deaths of over 65 people, including women and children. Public anger over the killing of nine children who were collecting firewood in the Kunar province in a coalition airstrike forced NATO to apologise.

'The International Committee of the Red Cross (ICRC) said that a surge in Taliban attacks and accidental NATO strikes on civilians had created an untenable situation for ordinary Afghans. A UN report released in September said that Afghanistan was more insecure in 2011 than in 2010, with a sharp rise in security incidents and a high number of civilian casualties. The number of incidents recorded in the first eight months alone was 40% higher than the same period in 2010. Two-thirds of the violence occurred in the south and southeast, while the central region accounted for one in five suicide attacks that took place in this period. An estimated 3,021 people died in 2011 as opposed to 2,790 and 2,412 in 2010 and 2009 respectively, according to the UN.' [17a] (Human Security Developments 2011)

7.08 The International Crisis Group (ICG) report, Aid and Conflict in Afghanistan, dated 4 August 2011, stated:

'After a decade of major security, development and humanitarian assistance, the international community has failed to achieve a politically stable and economically viable Afghanistan. Despite billions of dollars in aid, state institutions remain fragile and unable to provide good governance, deliver basic services to the majority of the population or guarantee human security. As the insurgency spreads to areas regarded as relatively safe till now, and policymakers in Washington and other Western capitals seek a way out of an unpopular war, the international community still lacks a coherent policy to strengthen the state ahead of the withdrawal of most foreign forces by December 2014.' [21a] (Executive Summary and Recommendations)

7.06 Afghanistan is a signatory to the following United Nations human rights treaties, accessed via the UN Treaty Body Database, which are monitored by treaty bodies:

Covenant on Civil and Political Rights [22a];

Covenant on Economic, Social and Cultural Rights [22b];

Convention on the Rights of the Child [23a];

Convention on the Elimination of all forms of Discrimination against Women [24a];

Convention on the Elimination of all Forsm of Racial Discrimination [24b];

Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment [24c].

HUMAN RIGHTS ORGANISATIONS

7.08 The Afghanistan Independent Human Rights Commission is involved in protecting and monitoring human rights in Afghanistan. UNHCR's Refworld, in a piece which is undated and was accessed on 9 February 2012, described it as follows:

'The Afghanistan Independent Human Rights Commission was established pursuant to the Bonn Agreement (5 December 2001) and on the basis of the decree of the Chairman of the Interim Administration, June 6, 2002, and resolution 134/48 of the United Nations General Assembly in 1993 and the Paris principles and on the basis of article 58 of the Constitution of Islamic Republic of Afghanistan. The Commission is performing its activities in the areas of promotion, protection and monitoring of human rights in Afghanistan.' [19a]

7.09 Afghanistan Rights Monitor, in a piece which was undated and was accessed on 9 February, described itself as being, 'an independent and impartial Afghan rights watchdog which monitors, investigates and reports human rights violations and other rights-related issues and events from across Afghanistan. ARM was established in August 2008, its first report was on the Plight of Afghan Civilians in 2008, and since has released a number of other reports and statements on children's rights, elections, transitional justice and criminal impunity (to read all ARM's reports, please visit: www.arm.org.af).' [20a]

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8. SECURITY SITUATION

OVERVIEW

For further context about security, officials are recommended to read this section in conjunction with History, Security forces, Non-government armed groups and Annex B: Political organisations and other groups. For the position of women and children generally and the impact of the security situation, see those sections respectively.

8.01 The Annual Report of the United States Commission on International Religious Freedom, covering events between 1 April 2011 and 29 February 2012, dated March 2012 (USCIRF Report 2012) described the security situation in Afghanistan as follows:

'The security situation remains serious, exacerbating the religious freedom and human rights problems in many parts of the country. The Afghan government and international forces continue to fight the Taliban and other insurgent groups… While a major partner during the Taliban regime, al Qaeda operatives today are considered to be present in low numbers. The other major insurgent group to the Taliban is the Haqqani network, led by Jalaluddin Haqqani, a former U.S. funded mujahidin fighter against the Soviets, and his son Sirajuddin. The Haqqani network enjoys safe havens inside Pakistan in North Waziristan, and while it partners with the Taliban, it is not subservient.

'President Karzai's government does not exercise full control over the country, particularly outside Kabul and the major provincial centers, even with the active support of U.S. and International Security Assistance Forces (ISAF), which is comprised of NATO forces plus forces from 20 other nations. The Taliban and other insurgents continue to

stage attacks inside Afghanistan, posing an ongoing threat to the stability of the country. Attacks have included the September 2011 assault on the U.S. Embassy in Kabul and bombings of Islamic religious sites – for instance, the main Shi'a shrine in Kabul was bombed in December 2011.' **[40a] (p 285)**

8.02 The United States Department of Defense 'Report on Progress Toward Security and Stability in Afghanistan,' dated April 2012 and covering the period October 2011 to March 2012 (USDD Report 2012), provided this information:

'Although the specific area of operations for each group associated with the insurgency varies, the insurgency generally tends to operate along the border with Pakistan, primarily in the Pashtun-majority areas of southern and eastern Afghanistan, as well as in Pashtun communities in northern Afghanistan. The majority of insurgent commanders and fighters operate in or near their home districts, and low-level fighters are often well integrated into the local population. Out-of-area fighters comprise a relatively small portion of the insurgency…' **[41a] (p 54-55)**

8.03 The USDD Report 2012 also stated:

'The Taliban-led insurgency and its al Qaeda affiliates still operate with impunity from sanctuaries in Pakistan. The insurgency's safe haven in Pakistan, as well as the limited capacity of the Afghan Government, remain the biggest risks to the process of turning security gains into a durable and sustainable Afghanistan. The insurgency benefits from safe havens inside Pakistan with notable operational and regenerative capacity. The insurgency remains a resilient and determined enemy and will likely attempt to regain lost ground and influence this spring and summer through assassinations, intimidation, high-profile attacks, and the emplacement of improvised explosive devices (IEDs). Additionally, the Afghan Government continues to face widespread corruption that limits its effectiveness and legitimacy and bolsters insurgent messaging.' **[41a] (p 1)**

8.04 The same report observed, 'During the reporting period [1 October 2011 to 31 March 2012], ANSF-ISAF operations maintained and expanded gains achieved during the spring and summer of 2011, and continued to degrade the cohesion and capability of the insurgency.' **[41a] (p 55)**

8.05 The US State Department Country Reports on Terrorism 2011, covering events in 2011, dated July 2012, observed:

'Major population centers across Afghanistan saw coordinated, complex suicide attacks against Coalition forces, and international and Afghan government facilities. Hotels and other venues frequented by Westerners were also targeted. Numerous high-profile Afghan Government officials were assassinated in 2011, specifically in Kabul City and Kandahar. The Taliban, [Haqqani Network] HQN, and other insurgent elements demonstrated their ability to adapt to security procedures and plan attacks accordingly. In keeping with past patterns, the greater number of attacks took place over the summer months, with a steady decline as the winter season approached. Helmand and Kandahar remained the most dangerous provinces for Coalition forces.' **[58g] (p129)**

8.06 Defense & Security Intelligence & Analysis: IHS Jane's, Afghanistan, (IHS Jane's) Executive Summary, updated 15 October 2012, stated:

'Afghanistan has suffered from intense conflict for nearly three decades. There is a divisive ethnic and religious mix, with Pashtuns, Tajiks, Hazaras, Uzbeks and smaller minorities concentrated in separate areas, and simmering hostility between the majority

Sunnis and the 20 per cent Shia Muslim minority. Regional chieftains protect ethnic interests and operate militias with impunity, while a multinational NATO-commanded force (the International Security Assistance Force: ISAF) struggles with an enduring insurgency. ISAF was enlarged from 5,000 to a high point of roughly 132,000 personnel from 49 countries, including all 28 NATO member states, operating alongside US-led troops operating outside of NATO command. President Barack Obama oversaw a strategy of increasing troop deployments, including 17,000 in February 2009, a pledge a month later for a further 4,000 troops specifically to train the Afghan National Army and, in December 2009, 30,000 more US troops to Afghanistan by mid-2010, bringing US troop strength in the country to almost 100,000. This has since been reversed and the "surge" troops that began pulling out in mid-2011 were fully withdrawn by September 2012, leaving just over 70,000 US troops in Afghanistan. Afghan forces took charge of security in seven areas from July 2011 followed by the announcements of more areas in November 2011 and May 2012 as part of a power transition before foreign troops withdraw from Afghanistan by the end of 2014. In May 2012, NATO endorsed plans to hand over combat command to Afghan forces by mid-2013. The US and Afghan governments concluded a long-term strategic arrangement to allow US bases in the country past that point in April 2012. Members of the previous Taliban regime, bolstered by many new recruits and the growing influence of pro-Taliban militants in the border provinces of Pakistan, continue to launch attacks on government and foreign forces and officials. A massive trade in narcotics fuels economic and political instability. Although the government is incapable of extending its writ across the country, it is unlikely to be overthrown while international interest in the country remains.' [9b]

For information on the levels and nature of violence, see subsection Trends and statistics in security-related incidents

Background to the current conflict

8.07 The paper, The Causes, Character and Conduct of Armed Conflict, and the Effects on Civilian Populations, 1990-2010, by Theo Farrell and Olivier Schmitt of the Department of War Studies at King's College London, produced for the UNHCR's Legal and Protection Policy Research Series, April 2012, provided a description of the security situation from the late 1970s to 2010:

'Afghanistan has endured almost continuous armed conflict since 1978. Before then, the country had enjoyed four decades of peace and stability. 1978-79 saw popular rural uprising against the social and land reforms of a new Marxist government. The Soviet Union invaded in 1979 to install a more reliable regime, triggering a decade-long conflict against a vigorous Islamic insurgency. After the withdrawal of Soviet forces, Kabul continued to receive Soviet aid up to December 1991, at which point the Soviet Union collapsed, followed shortly thereafter by its Afghan client regime. A vicious civil war followed in 1992, as the uneasy mujahideen alliance broke down and rival Pashtun, Tajik, Uzbeck and Hazara warlords fought each other for land and power. The Taliban, a radical Islamic and mostly Pashtun movement, emerged in 1994 in response the chaos, corruption and brutality of the Mujahideen civil war. Starting from Kandahar province in the South, the Taliban defeated the major warlords in quick succession, taking the Western city of Herat, Eastern city of Jalalabad, and finally Kabul in 1996, followed by the Northern city of Mazar-i-Sharif in 1997. By 1998, the Taliban had established control over most of Afghanistan. The Taliban war rumbled on against a loose Northern Alliance of Tajik, Hazara and rival Pashtun militias who were held up in the mountains of North and North Eastern Afghanistan.

'The US- led invasion in October 2001 led to the rapid defeat of the Taliban, and the appointment of a new interim government composed of Northern Alliance and former Mujahideen warlords. Between 2002 and 2005, there was a brief interlude in the Afghanistan conflict. The rump Taliban had retreated to Pakistan, and the international presence ensured that the jostling for power between rival warlords did not break out into open conflict. In 2003, the North Atlantic Treaty Organization took charge of the International Security Assistance Force (ISAF), and began to expand ISAF beyond Kabul into the relatively permissive North and West of Afghanistan. The conflict reignited in 2005-2006, as ISAF expanded in the Southern and Eastern provinces. In 2009, the United States redoubled its commitment to the Afghanistan war under the newly elected President Barak Obama, resulting in a surge of US forces and funding. A new commander of ISAF and US forces, General Stanley McChrystal, also brought renewed drive and direction to the military campaign. 2009-2011 saw an intensification of military operations, with major ISAF offensives in the South and East (leading to some displacement of Taliban activity into the more stable North and West), a ramping up of special force raids to kill and capture Taliban leaders, and an accelerated effort to develop the Afghan security forces.' [53b] (p14)

8.08 The same paper explained:

'[Internal Armed Conflict] IAC in Afghanistan has had multiple causes. Much like the jihad against Soviet forces from 1979-89, the conflict since 2001 is an Islamic insurgency against an infidel invader, currently led by Taliban in alliance with the other two major insurgent groups in the east (the Haqqani network and Hekmatyar's HIG). The current conflict is also a civil war. Some view it as a war between Ghilzai Pashtuns (who form the core of the Taliban) and the victorious Northern Alliance (Durrani Pashtuns, Tajiks, Uzbecks and Hazaras). However, the Taliban appear to draw support from all Afghan ethnic groups. At the local level, competition between kinship groups frames a violent competition for resources (land, water, control of routes, and narcotics revenue). For example, the conflict in Northern Helmand is primarily a struggle between three Pashtun tribal groups, the Alizai, Alikozai, and Ishaqzai. The situation in central Helmand is less defined along tribal lines due to the complex tapestry of kinship groups, but still much of the insurgency is defined by various groups resisting abuse by the Afghan police who are locally dominated by the Noorzai tribe. This illustrates the larger point that since Afghan politics is based on patrimonialism, the natural order is for government positions to be used to sustain one kinship group at the expense of others. This, in turn, further challenges the simple view of the conflict as an Islamic insurgency against an elected government. Finally, the conflict also has a significant transborder dimension. The Taliban developed in the 1990s with the support of the Pakistani intelligence service (ISI) in the two unruly provinces that border Afghanistan, Baluchistan and the North-West Frontier. The Taliban retreated across the border to Pakistan in 2002, and continue to generate forces and direct attacks against the Afghan government and ISAF from these two provinces with the support of the ISI.

'Between 600,000 and 2.5 million civilians were killed in the Soviet War. The Mujahideen Civil War also saw widespread indiscriminate violence against civilians; for example, around 10,000 were killed in the struggle for Kabul in 1993. In contrast, civilian fatalities since 2006 have been relatively modest. Starting from under 1,000 in 2006, direct civilian deaths from the conflict have risen by approximately 500 each year to over 2700 in 2010. Civilian casualties caused by ISAF attract much media attention and Afghan government criticism, but most civilians are killed by insurgent action (ranging from a low of 55 per cent in 2008 to highs of 72 per cent in 2006 and 75 per cent in 2010). Afghanistan is the

largest producer of refugees in the world, both in absolute numbers and as a proportion of the national population. Between 2006-2009, around 2 million Afghans were refugees (out of an estimated Afghan population of 30 million). 59 Many of these are legacy refugees from the 1980s, when punishing attacks on the population caused 5 million to flee into Iran and Pakistan; the Mujahideen Civil War that followed discouraged many from returning. But it is also indicative of the general lack of security, especially in the Southern and Eastern provinces. In rural communities, civilians face daily threats of violence from corrupt security forces, insurgents, organised crime, and other armed groups. Afghan police commonly prey on the civilian communities they are supposed to protect (though this problem has improved since 2010).60 In the 1990s, the Taliban were responsible for some massacres, most notably in Herat. Since 2006, the Taliban have exercised more discipline, in order to win local consent. However, when they are unable to subvert tribal clans through subtle means, the Taliban will use violence and intimidation.

'… The insurgency is most active in the Summer months, when the poppy crop has been harvested and before the Winter sets in.' [53b] (p 14-17)

See History section for more information on the build-up to the conflict.

MAIN ACTORS IN THE CONFLICT

Insurgent groups

8.09 The Congressional Rearch Service's report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated April 2012, regularly updated, stated:'Security in Afghanistan is challenged by several armed groups, loosely allied with each other. There has not been agreement about the relative strength of insurgents in all of the areas where they operate. The top commander in Afghanistan, General John Allen, told journalists in October 2011 that the numbers of insurgents may be far fewer than the 25,000 previously assessed.' **[10e] (p 13)**

8.10 The United States Department of Defense 'Report on Progress Toward Security and Stability in Afghanistan,' dated April 2012 and covering the period October 2011 to March 2012, provided this information:

'The Afghan insurgency is composed of a syndicate of semi-autonomous groups, including the Taliban, the Haqqani Network, and Hezb-e Islami Gulbuddin. The insurgency is also supported by various transnational terrorist groups such as al Qaeda and the Islamic Movement of Uzbekistan, as well as Pakistan-based militant groups such as Tehrik-i Taliban Pakistan and the Commander Nazir Group. The primary actor within the insurgency is the Taliban, led by the Senior Shura in Quetta, Pakistan, and the spiritual leader Mullah Omar. Overall, these groups maintain functional and symbolic relationships in pursuit of overlapping interests…' **[41a] (p 54)**

8.11 The United States Department of Defense 'Report on Progress Toward Security and Stability in Afghanistan,' dated April 2012 and covering the period October 2011 to March 2012, provided this information:

'The insurgency … continues to receive critical support from neighboring Pakistan in the form of sanctuary, training infrastructure, and at times, financial and operational support. Pakistani sanctuaries bolster the efficacy of the insurgency – especially in areas where insurgents have access to direct or indirect Pakistani logistical and training support –

and remain the most critical threat to the ISAF campaign in Afghanistan. The insurgency also receives materiel [sic] support from Iran, although to a lesser degree than from Pakistan.' **[41a] (p 54-55)**

8.12 The IHS Jane's Afghanistan profile reported as follows on Pakistani influence in Afghanistan on 26 April 2012:

'There is residual concern in Afghanistan about having Pakistani military intelligence officials stationed in Kabul given the close ties that allegedly exist between certain elements of the Pakistani Inter Services Intelligence directorate (ISI) and the Taliban. The Pakistani government has repeatedly downplayed accusations that elements within the Pakistani military and intelligence services are assisting the insurgency in Afghanistan. However, a raft of classified US intelligence documents that were leaked in July 2010 and April 2011 underscored suspicions that Pakistan was secretly supporting the Taliban, straining relations further and fuelling mistrust. Following the killing of Al-Qaeda's leader in a US raid in Pakistan in May 2011, Afghanistan questioned why Pakistan was unaware that Osama bin Laden had been in hiding so close to Islamabad. An Afghan defence ministry spokesman claimed the ISI must have known of his whereabouts and President Karzai stressed that bin Laden's death proved that the war against terrorism was not in Afghanistan. Although Pakistan rejects the accusations, trilateral relations have nose-dived.' **[9b]**

Taliban

8.13 The Congressional Rearch Service's report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 4 January 2013 (CRS Report 2013), stated: 'The core insurgent faction in Afghanistan remains the Taliban movement, much of which remains at least nominally loyal to Mullah Muhammad Umar, leader of the Taliban regime during 1996-2001.' [10e] (p 13)

8.14 The United States Commission on International Religious Freedom (USCIRF) provided this information in its 2012 Annual Report: 'The Taliban movement is governed by the Quetta Shura, which includes the top leadership of the Afghan Taliban and Mullah Mohammed Omar. After the removal of the Taliban in late 2001, the leadership relocated to the city of Quetta in the Balochistan province of Pakistan.' **[40a] (p 285)**

8.15 Jane's Sentinel Country Risk Assessment, Afghanistan, (SCRA profile Afghanistan) described the Taliban as 'Active since being founded in 1994.' The source added:

'The Taliban is a militant Islamist group dedicated to the implementation and enforcement of its strict Deobandi form of sharia (Islamic law) throughout Afghanistan. The group originated in the Pashtun belt of southern and eastern Afghanistan in 1994 as a reactionary force against the violence, lawlessness, and corruption of local warlords, in the years of civil war that followed the defeat of the Soviet Union in 1989. The group quickly expanded; in 1996 the Taliban captured Kabul and established the Islamic Emirate of Afghanistan, and by 1998 they controlled approximately 90 per cent of the country following a vicious conflict with rival Northern Alliance forces. Following the 11 September 2001 attacks on the US mainland, the Taliban refused to hand over senior members of Al-Qaeda to the US, and on 7 October the US launched an invasion of Afghanistan that toppled the Islamic Emirate of Afghanistan in November. The Taliban leadership escaped across the border into Pakistan and, following a period of re-organisation, re-emerged as an insurgent force with the objective of restoring the Islamic Emirate. While initially offering only low-level opposition to the new government

of President Hamid Karzai, since 2006 there has been a significant escalation in Taliban operations, with the group carrying out an intensifying asymmetric insurgency. The key elements of this insurgency have been the use of improvised explosive devices (IEDs) and small-arms ambushes to target security forces in rural areas, alongside the use of suicide and mass casualty attacks in urban areas, in an attempt to cause insecurity and undermine the rule of the Afghan government. The Taliban currently represents a grave threat to the Afghan government throughout significant areas of the country, and manifests a continuing ability to seriously disrupt international security and stabilisation efforts. While the group will be unable to overthrow the government as long as International Security Assistance Force (ISAF) personnel remain in the country, there is equally little prospect that it will itself be defeated in the near term. As such - in the context of anticipated future draw-downs of ISAF forces - the Taliban poses a severe threat to the future of the Afghan government in the mid to long term.' **[9e] (Key Facts, The Taliban)**

Further information about the Taliban is available via the following links:

New York Times, Times Topics, regularly updated:
http://topics.nytimes.com/top/reference/timestopics/organizations/t/taliban/index.html

European Asylum Support Office report, Afghanistan, Taliban Strategies – Recruitment, July 2012: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/european-asylum-support-office/bz3012564enc_complet_en.pdf

Council for Foreign Relations, Backgrounder, The Taliban in Afghanistan
http://www.cfr.org/afghanistan/taliban-afghanistan/p10551

Al Qaeda

8.16 The United States Department of Defense 'Report on Progress Toward Security and Stability in Afghanistan,' dated April 2012 and covering the period October 2011 to March 2012, described the position of Al Qaeda:

'U.S. officials have long considered Al Qaeda to have been largely expelled from Afghanistan itself. U.S. commanders have, for several years, characterized any Al Qaeda militants in Afghanistan as facilitators of militant incursions into Afghanistan rather than active fighters in the Afghan insurgency. That view was expressed by Director of National Intelligence James Clapper in his annual worldwide threat assessment testimony before the Senate Intelligence Committee on January 31, 2012. Then-Director of Central Intelligence (now Secretary of Defense) Leon Panetta said on June 27, 2010, that Al Qaeda fighters in Afghanistan itself might number 50-100—a range since reiterated by other officials. Some of the Al Qaeda fighters are believed to belong to Al Qaeda affiliates such as the Islamic Movement of Uzbekistan (IMU).' **[10b] (p 14)**

8.17 However, SCRA profile Afghanistan stated:

'Al-Qaeda, primarily through its like-minded affiliates, poses a significant political, economic and security threat to the US, its allies and other targets. The threat from Al-Qaeda's central leadership was diminished by the counter-terrorism offensives launched in Afghanistan subsequent to the attacks in the US on 11 September 2001. However, senior US intelligence officials have stated that the Al-Qaeda leadership has subsequently rebuilt itself in Pakistan's tribal areas. From there, it continues to support Afghan insurgents and to plot attacks in both Pakistan and Western countries.' **[9e] (Key Facts; Al-Qaeda)**

8.18 The United States Department of Defense 'Report on Progress Toward Security and Stability in Afghanistan,' dated April 2012 and covering the period October 2011 to March 2012, stated, 'Until the death of Bin Laden on May 1, 2011, there had been frustration within the U.S. government that Al Qaeda's top leadership had eluded U.S. efforts to capture them…

'U.S. efforts to find Al Qaeda leaders now reportedly focus on his [Bin Laden's] close ally Ayman al-Zawahiri, who is also presumed to be on the Pakistani side of the border and who was named new leader of Al Qaeda in June 2011…

'Other senior Al Qaeda leaders are either in or are allowed to transit or reside in Iran. Among them are Al Qaeda's former spokesman, Kuwait-born Sulayman Abu Ghaith, as well as Sayf al Adl. The United States has no diplomatic relations with Iran and has called on Iran to arrest and submit any Al Qaeda operatives to international authorities for trial.' **[10b] (p 14)**

Hikmatyar and Hizb-e-Islami Gulbuddin

8.19 The CRS Report of May 2012 stated:

'Another significant insurgent leader is former mujahedin party leader Gulbuddin Hikmatyar, who leads Hizb-e-Islami Gulbuddin (HIG). He has been allied with Al Qaeda and Taliban insurgents although his faction has sometimes competed with and clashed with Taliban elements. As noted above, Hikmatyar was one of the main U.S.-backed mujahedin leaders during the Soviet occupation era but he turned against his colleagues after the Communist government fell in 1992. He was ultimately displaced by the Taliban as the main opposition to the 1992-1996 Rabbani government. Hikmatyar's faction received extensive U.S. support against the Soviet Union, but it is now active against U.S. and Afghan forces in its main areas of operations—Kunar, Nuristan, Kapisa, and Nangarhar provinces, north and east of Kabul. On February 19, 2003, the U.S. government formally designated Hikmatyar as a "specially designated global terrorist," under the authority of Executive Order 13224, subjecting it to financial and other U.S. sanctions. The group is not designated as a "foreign terrorist organization" (FTO).

'Several of Karzai's key allies in the National Assembly are members of a moderate wing of Hikmatyar's party, Hizb-e-Islam, and Hikmatyar is widely considered amenable to a reconciliation deal with Kabul.' **[10b] (p 15)**

8.20 Hikmatyar was described as below in an article published by Al-Jazeera on 29 January 2012:

'Today, it remains unclear how much of the insurgency in Afghanistan is made up from Hekmatyar's Hizb-e-Islami, partially because, despite his public animosity with the Taliban, the lines between his followers and those of the Taliban remain blurred. During his years in Iran, many of his followers joined the ranks of the Taliban government as, ultimately, they both shared the goal of a strictly Islamic government. "In comparison to the Taliban, Hekmatyar's Hizb-e-Islami is very weak. I would say it barely makes up 20 per cent of the armed resistance, with Taliban the other 80 per cent," Muzhda, the Kabul-based analyst, says. "Most of them [Hekmatyar's followers] fight under the Taliban umbrella. In many places, I see former Hizb-e-Islami commanders who fight under the Taliban name. They still have allegiance to Hizb and Hekmatyar, but they have also [the approval of] Mullah Omar now."

'Hekmatyar's acitivites are mostly focused in the east and pockets of the north, his traditional strongholds during the anti-Soviet jihad and the factional war that followed.' **[119a]**

Haqqani Network

8.21 The United States Commission on International Religious Freedom (USCIRF) provided this information in its 2012 Annual Report: 'The other major insurgent group to the Taliban is the Haqqani network, led by Jalaluddin Haqqani, a former U.S. funded mujahidin fighter against the Soviets, and his son Sirajuddin. The Haqqani network enjoys safe havens inside Pakistan in North Waziristan, and while it partners with the Taliban, it is not subservient.' **[40a] (p 285)**

See also Pakistani Groups and Pakistani and Iranian involvement in the conflict.

8.22 The CRS Report 2012 Congressional Research Service's report of May 2012 commented on the Haqqani Faction:

'Another militant faction, cited by U.S. officials as perhaps the most potent threat to Afghan security, is the "Haqqani Network." It is led overall by Jalaludin Haqqani, but he is aging and his sons Siraj (or Sirajjudin) and Badruddin exercise operational control. As a mujahedin commander during the U.S.-backed war against the Soviet Union, Jalaludin Haqqani was a U.S. ally. He subsequently joined the Taliban regime (1996-2001), serving as its Minister of Tribal Affairs. Since 2001, he has staunchly opposed the Karzai government and his faction is believed closer to Al Qaeda than to the Taliban in part because one of the elder Haqqani's wives is purportedly Arab. Press reports indicate that the few Al Qaeda fighters that are in Afghanistan are mostly embedded with Haqqani fighters. On the other hand, the faction is believed primarily interested in earning illicit monies and in controlling parts of Khost Province than in imposing an extreme Islamic ideology throughout Afghanistan… the faction is increasingly targeting key locations in Kabul and elsewhere.

'Suggesting it may act as a tool of Pakistani interests, the Haqqani network has primarily targeted Indian interests. It claimed responsibility for two attacks on India's embassy in Kabul (July 2008 and October 2009), and reportedly was involved, possibly with other groups, on the December 2009 attack on a CIA base in Khost that killed seven CIA officers. U.S. officials attribute the June 28, 2011, attack on the Intercontinental Hotel in Kabul and a September 10, 2011, truck bombing in Wardak Province (which injured 77 U.S. soldiers) to the group. U.S. officials say the attacks on the U.S. Embassy and ISAF headquarters in Kabul on September 13, 2011, were the work of the faction as well.

'That the faction is tolerated or protected in the North Waziristan area of Pakistan and also its purported ties to Pakistan's Inter-Services Intelligence Directorate (ISI) has caused sharp U.S. criticism of Pakistan. The most widely cited criticism was by then Joint Chiefs of Staff Chairman Mullen, following the September 2011 attacks on the U.S. Embassy. Admiral Mullen testified before the Senate Armed Services Committee on September 22, 2011, that the Haqqani network acts "as a veritable arm" of the ISI. Other senior officials reiterated the thrust of that criticism, although with caveats. The ISI is believed to see the Haqqanis as a potential ally in any Afghan political structure that might be produced by a political settlement in Afghanistan.

'In addition to pressing Pakistan to deny the group safe haven, U.S. officials say they are increasingly pressuring the Haqqani network with military action in Afghanistan and air

strikes on the Pakistani side of the border, as well as with direct ground action, such as a raid in late July 2011 that reportedly killed over 80 Haqqani network militants. One other Haqqani brother, Mohammad, was reportedly killed by a U.S. unmanned vehicle strike in late February 2010. However, the faction, which may have about 3,000 active fighters and operatives, is viewed as resilient and able to tap a seemingly infinite pool of recruits.

'The faction has generally been considered least amenable to a political settlement with the Afghan government. Siraj Haqqani said after the September 13, 2011, attacks on the U.S. Embassy that the faction might, at some point, participate in settlement talks. It has also been reported that U.S. officials—as part of their drive to facilitate a political settlement of the Afghanistan conflict—met with Haqqani representatives over the summer of 2011, in meetings in UAE facilitated by the ISI.' **[10b] (p 15-16)**

8.23 IHS Jane's stated:

'The Haqqani Network - primarily operationally active in the provinces of Paktika, Paktia, and Khowst - essentially operates as an autonomous entity, although attacks carried out by the group are claimed in the Taliban's name. The Haqqani Network is alleged by Afghan and coalition officials to have carried out a number of significant urban operations, such as an assault on government buildings in Kabul in January 2010. Such high-profile attacks on coalition and government targets have continued throughout 2011 and 2011, and the Haqqani Network represents a significant local threat to the Afghan government in its area of operations.' **[9e] (Key Facts; Haqqani Network)**

Other groups (in Afghanistan and Pakistan)

Jamiat-i-Islami and Jombesh-i-Milli

8.24 IHS Jane's Sentinel reported this in a piece dated 26 April 2012:

'Northern provinces have become the scene of rivalry between two former United Front (UF, also known as Northern Alliance) factions, Jamiat-i-Islami and Jombesh-i-Milli. Their leading figures, respectively the Tajik Atta Mohammad and the Uzbek Abdul Rashid Dostum, had been members of the Karzai government and hold the recognised military rank of general. Neither Dostum nor Mohammad has demonstrated a genuine desire to seek peaceful resolution of their power struggle and ongoing violence indicates that northern regions will remain outside Kabul's control for the foreseeable future.' **[9b]**

Pakistani groups: Tehrik-e-Taliban Pakistan and Laskhar-e-Tayyiba

8.25 The Congressional Research Service also commented on Pakistani Groups in its report of 3 May 2012:

'The Taliban of Afghanistan are increasingly linked politically and operationally to Pakistani Taliban militants. The Pakistani groups might see a Taliban recapture of Afghanistan's government as helpful to the prospects for these groups inside Pakistan or in their Kashmir struggle. A major Pakistani group, the Pakistani Taliban (Tehrik-e-Taliban Pakistan, TTP), is primarily seeking to challenge the government of Pakistan, but they facilitate the transiting into Afghanistan of Afghan Taliban and support the Afghan Taliban goals of recapturing Afghanistan…

'Another Pakistani group said to be increasingly active inside Afghanistan is Laskhar-e-Tayyiba (LET, or Army of the Righteous). LET is an Islamist militant group that has previously been focused on operations against Indian control of Kashmir.' **[10b] (p 17)**

Pakistani and Iranian involvement in the conflict

8.26 The United States Department of Defense 'Report on Progress Toward Security and Stability in Afghanistan,' dated April 2012 and covering the period October 2011 to March 2012, provided this information:

'The insurgency … continues to receive critical support from neighboring Pakistan in the form of sanctuary, training infrastructure, and at times, financial and operational support. Pakistani sanctuaries bolster the efficacy of the insurgency – especially in areas where insurgents have access to direct or indirect Pakistani logistical and training support – and remain the most critical threat to the ISAF campaign in Afghanistan. The insurgency also receives materiel [sic] support from Iran, although to a lesser degree than from Pakistan.' **[41a] (p 54-55)**

8.27 IHS Jane's reported as follows on Pakistani influence in Afghanistan on 26 April 2012:

'There is residual concern in Afghanistan about having Pakistani military intelligence officials stationed in Kabul given the close ties that allegedly exist between certain elements of the Pakistani Inter Services Intelligence directorate (ISI) and the Taliban. The Pakistani government has repeatedly downplayed accusations that elements within the Pakistani military and intelligence services are assisting the insurgency in Afghanistan. However, a raft of classified US intelligence documents that were leaked in July 2010 and April 2011 underscored suspicions that Pakistan was secretly supporting the Taliban, straining relations further and fuelling mistrust. Following the killing of Al-Qaeda's leader in a US raid in Pakistan in May 2011, Afghanistan questioned why Pakistan was unaware that Osama bin Laden had been in hiding so close to Islamabad. An Afghan defence ministry spokesman claimed the ISI must have known of his whereabouts and President Karzai stressed that bin Laden's death proved that the war against terrorism was not in Afghanistan. Although Pakistan rejects the accusations, trilateral relations have nose-dived.' **[9b]**

See also Haqqani Network above.

Pro-government forces

Further information about the Afghan security forces and international military forces, including human rights violations, is available in the section on Security forces below.

Transition to Afghan security forces

8.28 The US Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012, stated:

'During 2011-2014, the United States and its partners are gradually transferring overall security responsibility to Afghan security forces. U.S. forces, which peaked at about 99,000 in June 2011, are being reduced to about 68,000 by September 2012, and President Obama said that "reductions will continue at a steady pace" from then until the completion of the transition to Afghan lead at the end of 2014. A key to the transition is to place Afghan forces in the security lead, with U.S. military involvement changing from combat to a training and advising role, by mid-2013.' **[10b] (Summary)**

Afghan National Security Forces

8.29 The Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012, stated:

'Key to the transition to Afghan lead is the effectiveness of the Afghan National Security Forces (ANSF), consisting primarily of the Afghan National Army (ANA) and Afghan National Police (ANP). The ANSF have expanded considerably since 2002… During 2011-2014, U.S. and allied strategy is to focus on putting the ANSF into the lead on progressively more and more difficult operations. As of May 2012, the ANSF is in the lead in 40% of all combat missions, and, by the end of 2012, it will have security lead over more than 50% of the Afghan population.' [10b] (p 31)

8.30 The same report added:

'On January 21, 2010, the joint U.N.-Afghan "Joint Coordination and Monitoring Board" (JCMB) agreed that, by October 2011, the ANA would expand to 171,600 and the ANP to about 134,000, for a total ANSF of 305,600. Both forces reached that level by late September 2011. In August 2011, a larger target size of 352,000 (195,000 ANA and 157,000 ANP) was set, to be reached by November 2012. As of March 31, 2012, they number about 345,000 (195,000 ANA and 150,000 ANP). They are expected to reach this target somewhat ahead of schedule, probably by July or August of 2012.' [10b] (p 32)

8.31 The United States Department of Defense summarised the security situation in Aghanistan as follows in a report dated April 2012, which covered the period 1 October 2011 to 31 March 2012:

'The year 2011 saw the first year-over-year decline in nationwide enemy-initiated attacks in five years. These trends have continued in 2012. The performance of the Afghan National Security Forces (ANSF) and the close partnership between the ANSF and ISAF [International Security Assistance Force] have been keys to this success. As a result, the ANSF continue to develop into a force capable of assuming the lead for security responsibility throughout Afghanistan. Security progress and the development of the ANSF during the reporting period have enabled the security Transition process to continue in accordance with Lisbon Summit commitments. As of the end of the reporting period, nearly 50 percent of Afghans were living in areas where the ANSF have begun to assume the lead for security…' [41a] (p 1-2)

8.32 The Institute for War and Peace Reporting provided this commentary about the insurgency following the attacks on Kabul and other areas of the country on 15 and 16 April 2012: 'The attack, among the most dramatic in the capital since the Taleban regime was toppled in 2001, has further called into question the Afghan security forces' ability to defend the country once international troops withdraw in 2014…' [39b]

8.32 The Human Rights Watch World Report 2012 reported the following: 'Armed conflict withthe Taliban and other insurgents escalated in 2011, but Afghanistan's military allies made it clear they were intent on withdrawing troops as soon as possible, with a deadline for Afghan national security forces to take over from international forces by the end of 2014…' [15a]

See Security forces, subsection Afghanistan National Security Forces (ANSF) for further information about the size and capability of the ANSF

International Military Forces

8.33 The Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012, stated: 'Since 2006, the vast bulk of all U.S. troops in Afghanistan have served under the umbrella of the NATO-led "International Security Assistance Force" (ISAF). ISAF consists of all 26 NATO members [sic] states plus partner countries—a total of 50 countries including the United States.' [10b] (p 40)

8.34 The report explained:

'To combat the insurgency, the United States is in partnership with 49 other countries and the Afghan government and security forces. There are about 90,000 U.S. troops in Afghanistan as of May 2012, down from 99,000 in mid-2011, the height of the U.S. presence. The vast majority operate under NATO/ISAF command, but about 9,000 remain part of the post-September 11 antiterrorism mission Operation Enduring Freedom (OEF).' [10b] (p 19)

8.35 The report further explained the nature of Operation Enduring Freedom:

'Operation Enduring Freedom continues as a separate combat track, led by the United States but joined by at least 12 partners. ..The overwhelming majority of non-U.S. forces are under the NATO/ISAF mission. Prior to NATO assumption of command in October 2006, 19 coalition countries—primarily Britain, France, Canada, and Italy—contributed approximately 4,000 combat troops to OEF-Afghanistan. Most were subsequently rebadged to ISAF. However, several foreign contingents, composed mainly of special operations forces, including forces from the UAE, are still part of OEF-Afghanistan. This includes about 500 British special forces, some German special forces, and other special forces units. In early 2010, U.S. Special Forces operating in Afghanistan were brought under direct command of the top U.S. command in Afghanistan.' [10b] (p 31)

For further information about international military forces active in Afghanistan, see Security forces, subsection International Military Forces.

AREAS CONTROLLED BY THE INSURGENTS AND THE GOVERNMENT

8.36 The US Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated April 2012, stated:

'The pace and scope of the transition to Afghan security leadership is intended to depend on assessments of how well U.S. policy is working. Prior to the surge, the Karzai government was estimated to control about 30% of the country, while insurgents controlled 4% (13 out of 364 districts). Insurgents "influenced" or "operated in" another 30% (Afghan Interior Ministry estimates in August 2009). Tribes and local groups with varying degrees of loyalty to the central government control the remainder. Some outside groups report higher percentages of insurgent control or influence. The Taliban had named "shadow governors" in 33 out of 34 of Afghanistan's provinces, although many provinces in northern Afghanistan were assessed as having minimal Taliban presence.

'Recent assessments of the security situation have been relatively positive. On January 24, 2012, ISAF released a summary statement of its accomplishments in 2011, calling it a "remarkably successful year" that has caused insurgents to have "largely lost control of [the south] and [to] rely on IED's as their primary method of attack." By mid-2012, Afghan forces will be in the lead in areas covering more than 75% of the population.

The April 2012 DOD report on Afghan stability and security, covering October 1, 2011-March 31, 2012, says that ISAF and its Afghan partners "have continued to build on and expand this progress." The report noted a 16% decline in enemy-initiated attacks over a comparable period in 2010-2011.

'Less optimistic assessments of the surge are based on observations that the insurgents continue to be able to operate in normally quiet provinces, including cities in the first group to be transitioned, such as Herat. Moreover, observers note an apparent increase in major attacks in Kabul, which is generally considered secure… some U.S. commanders say that Afghan governance is lagging to the point where the Afghans may not be able to hold U.S./NATO gains on their own. Gains are also threatened by the continuing safe haven that insurgents enjoy in Pakistan…' [10b] (p 22-23)

See following subsections on trends in security-related violence and Security in regions below.

TRENDS AND STATISTICS IN SECURITY-RELATED INCIDENTS

Sources reporting on the conflict

8.37 This section concentrates on events between January and October 2012. For information on security related incidents on previous years (as well as 2012 and beyond), officials are recommended to consult the following sources:

UN Assistance Mission to Afghanistan (UNAMA) reports on the protection of civilians in armed conflict (produced twice a year):
http://unama.unmissions.org/Default.aspx?tabid=12265&language=en-US

Reports of the Secretary-General to the UN Security Council on the situation in Afghanistan (produced quarterly):
http://unama.unmissions.org/Default.aspx?tabid=12263&language=en-US

Brookings Institute, Afghanistan Index, which is '… a statistical compilation of economic, public opinion and security data. This resource will provide updated and historical information on various data, including crime, infrastructure, casualties, unemployment, Afghan security forces and coalition troop strength':
http://www.brookings.edu/about/programs/foreign-policy/afghanistan-index

Foreign and Commonwealth Office, Afghanistan: Progress Reports (usually monthly):
https://www.gov.uk/government/publications/afghanistan-progress-reports

Afghanistan NGO Safety Office (ANSO), national and provincial reports which focus on attacks against NGOs as reported by 250 partners of the ANSO (annual and quaterly reports): http://ngosafety.org/index.php?pageid=67

International Security Assistance Force monthly (conflict incident and casualty) trend reports: http://www.isaf.nato.int/article/news/monthly-trends.html

International Crisis Group, Crisis Watch Database, Afghanistan:
http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs=%7bA860153E-CDC9-46DC-8FF7-7C03740C2DCF%7d

US National Counterterrorism Center, 2011 Report on Terrorsim:
http://www.nctc.gov/docs/2011_NCTC_Annual_Report_Final.pdf

Reuters, AlertNet, Afghanistan updates: http://www.trust.org/alertnet/news/asia-and-pacific/country.dot?n=afghanistan&id=2ccb13a8-f6e3-4133-9c94-7faf1d062dcd

US Congressional Research Service reports (covering various issues, updated regularly): http://www.fas.org/sgp/crs/row/index.html

Limits to quantitative reporting of security incidents: different methodologies and difficulties in verifying incidents

8.38 The Congressional Research Service paper, Afghanistan Casualties: Military Forces and Civilians, December 2012 (regularly updated) stated in its summary:

'Reporting on casualties of Afghans did not begin until 2007, and a variety of entities now report the casualties of civilians and security forces members. The United Nations Assistance Mission to Afghanistan (UNAMA) reports casualty data of Afghan civilians semiannually, and the U.S. Department of Defense occasionally includes civilian casualty figures within its reports on Afghanistan. The Afghanistan Independent Human Rights Commission, http://www.aihrc.org/ 2010_eng/, and the Afghan Rights Monitor, http://www.arm.org.af/, are local watchdog organizations that periodically publish reports regarding civilian casualties. From July 2009 through April 2010, the Special Inspector General for Afghanistan Reconstruction (SIGAR) included statistics of casualties of members of the Afghan National Army and Afghan National Police in its quarterly reports to Congress. SIGAR has ceased this practice, and there is no other published compilation of these statistics. This report now derives casualty figures of Afghan soldiers and police from the press accounts of the Reuters "Factbox: Security Developments in Afghanistan" series, the Pajhwok Afghan News agency, the Afghan Islamic Press news agency, Daily Outlook Afghanistan from Kabul, and the AfPak Channel Daily Brief. These services attribute their reported information to officials of the NATO-led ISAF or local Afghan officials. The Afghan news agencies frequently include statements from representatives of the Taliban; however, any figures such spokesmen provide are not included in this report.

'Because the estimates of Afghan casualties contained in this report are based on varying time periods and have been created using different methodologies, readers should exercise caution when using them and should look to them as guideposts rather than as statements of fact.' [10d] (Summary)

8.39 The UNAMA document, Afghanistan, Mid year report 2012, Protection of civilians in armed conflict, July 2012, covering events from 1 January to 30 June 2012 (UNAMA Mid Year Report 2012), observed in its opening section setting out its reporting methodology:

'UNAMA makes every effort to identify as precisely as possible the party responsible for a particular civilian casualty. However, due to limitations associated with the operating environment, such as the joint nature of some military operations and the inability of primary sources in many incidents to identify clearly or distinguish between diverse military actors or insurgents or where no party claims responsibility for an incident, UNAMA attributes responsibility for the particular incident to either Pro-Government Forces or Anti-Government Elements. UNAMA does not claim that the statistics presented in this report are complete; it may be that UNAMA is under-reporting civilian casualties given limitations associated within the operating environment.' [29g] (p i)

Security situation in 2012

The section on Geography above provides information on the size and distribution of the Afghan population which will be relevant in assessing the levels and variation in violence.

8.40 The UNAMA Mid-Year Report 2012 stated that, 'Despite extensive international commitments and significant progress over the past decade, Afghanistan's transition towards peace and stability remains far from complete.' [29g] (p 2)

8.41 The Report of the Secretary-General to the UN Security Council, The situation in Afghanistan and its implications for international peace and security, 13 September 2012, covering events 'since my previous report of 20 June 2012' (p1), noted:

'Since May [2012], widespread attention has been paid to reports of a popular uprising in the Andar district of Ghazni Province, with violent clashes between the Taliban and other armed actors seeking control of the territory. Amid a complex and evolving conflict, similar reports of resistance against Taliban strictures have been received in Ghor, Laghman, Nangarhar and Nuristan Provinces, with reports of intra-insurgent clashes in Laghman, Logar and Wardak Provinces.' [18l] (Security Developments)

8.42 The same report continued:

'Overall, recorded security incidents have continued at a lower level than in 2011, with the figures being more comparable to 2010 levels. From 1 May to 31 July, the traditional summer fighting season, 5,190 incidents were recorded, representing a 30 per cent decrease compared to the same period in 2011 (7,470 incidents). This is assessed to be the result of several trends, including interdiction by Afghan and international security forces of insurgents, arms shipments and funding, together with the redeployment of international forces, reducing the likelihood of direct armed clashes. Of all incidents from 1 May to 31 July, 69 per cent took place in the south, south-east and east, mostly in Ghazni, Helmand, Kandahar, Khost, Kunar and Nangarhar Provinces.

'Insurgents have remained focused on infiltrating routes from the south-eastern and eastern provinces towards Kabul. Kunar, Laghman, Logar and Nangarhar Provinces notably recorded an increase in security incidents between 1 May and 31 July, compared to the same period in 2011. Armed clashes and improvised explosive devices constituted the vast majority of events. Suicide attacks slightly decreased, with 32 taking place between 1 May and 31 July, compared to 37 in 2011. In July, the sustained efforts by insurgents notwithstanding, five suicide attacks were recorded, compared to nine in 2011. This reduction was due in part to Afghan and international security forces seizing large amounts of explosives and suicide devices and dismantling suicide attack cells. Security agencies reported that, in July, five planned attacks were thwarted in the cities of Herat, Kabul, Kandahar and Kunduz and that an imminent threat in Kabul was prevented by the interdiction on 2 August of a suicide cell.

'The complexity and intensity of such planned or executed attacks have been increasing. On 21 June, four attackers armed with light and heavy weaponry launched a 12-hour siege on a lakeside restaurant on the outskirts of Kabul, killing 21 Afghan civilians and 3 Afghan police officers and injuring 7 other civilians. The Taliban, while claiming responsibility, sought to excuse the targeting of a civilian location and population by stating that the restaurant was the site of un-Islamic behaviour.' [18l] (Security Developments)

8.43 The United Nations Security Council report of 20 June 2012, The situation in Afghanistan and its implications for international peace and security, which covered a period of three months, stated:

'The United Nations continued to monitor security-related events relevant to the work, mobility and safety of civilian actors, particularly those events that affect the delivery of activities and programmes mandated by the United Nations. Markedly fewer security incidents were reported in the period from 1 February to 30 April 2012 than over the same time frame in 2011. The figures were more comparable to 2010. In April, 1,412 security incidents were recorded, a 28 per cent decrease compared with April 2011 (1,969 incidents); in March, 1,099 incidents were recorded, compared with 1,964 in March 2011; and in February, 1,032 incidents were recorded, down from 1,394 in February 2011. This decrease in incidents is assessed as the result of a number of factors, including poor weather conditions, successful efforts by Afghan and international forces, such as increased arrests and cache finds, the more political posture adopted by some Taliban leaders and the uncertainty of fighters over reports of peace talks and the upcoming international military drawdown.

'The southern, south-eastern and eastern provinces accounted for over 70 percent of incidents, of which armed clashes and improvised explosive devices were responsible for the majority. Suicide attacks were fewer than in the previous year, in part due to Afghan and international security operations, leading to a number of seizures of suicide devices and explosives. Four suicide attacks were recorded in February and 5 in March, compared with 9 and 13, respectively, in the same months in 2011. This increased to 14 in April, although that was still a reduction on the 17 recorded in April 2011. April 2012 did, however, mark the first series of attacks launched in the space of one month throughout the entire country except in the central highlands. In May 2012, 10 suicide attacks were reported, compared with 15 in May 2011. Suicide attacks are increasingly being used where insurgents, unlikely to survive, lay siege to high-profile targets, armed with light and heavy weaponry…' [18i] (Security Developments)

8.44 The same report continued:

'The campaign of intimidation has been relentless, with targeted assassinations of influential political and religious leaders. As in the assassination of Mawlawi Rahmani, the identity of the perpetrators often remains unclear amid power rivalries on all sides. Over half of such incidents occurred in the southern provinces, the majority in Kandahar, including the attack against the Governor on 28 April, which was thwarted when two militants who breached the compound security were killed in a shoot-out. On 17 May, four attackers targeted the Governor's compound in Farah, but similarly failed in their objective.' [18i] (Security Developments)

8.45 A report by the United Nations General Assembly Security Council's covering the period December 2011 and January 2012, and dated 5 March 2012, stated, 'Major demonstrations following the unfortunate burning of Korans at Bagram airbase in Parwan Province on 21 February recalled the protests of spring 2011, including one which led to the deaths of three international United Nations staff members, four international guards and five Afghan civilians in Mazar-i-Sharif. As at 23 February, at least nine civilians had died as a result of this latest incident.' **[18a] (Security Developments)**

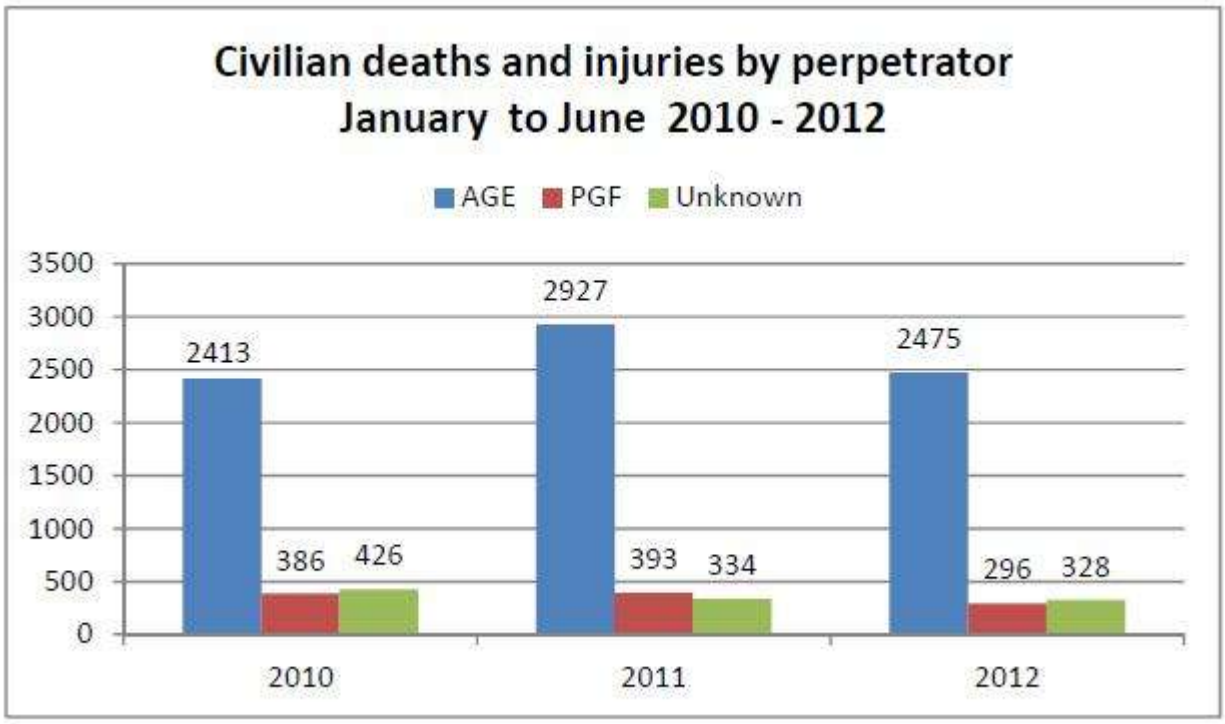
8.46 The UNAMA Mid Year Report 2012 stated in its executive summary:

'In the first six months of 2012, the armed conflict in Afghanistan continued to take a devastating toll on civilians. Between 1 January and 30 June 2012, conflict-related violence resulted in 3,099 civilian casualties or 1,145 civilians killed and 1,954 others injured, a 15 percent decrease in overall civilian casualties compared with the same period in 2011 when UNAMA documented 3,654 civilian casualties (1,510 killed and 2,144 injured). This reduction of civilian casualties reverses the trend in which civilian casualties had increased steadily over the previous five years. UNAMA remains concerned, however, that the number of civilian deaths and injuries remains at a high level, comparable with 2010, when UNAMA documented 3,268 (1,271 civilian deaths and 1,997 civilian injuries) civilian casualties.

'Between 1 January and 30 June 2012, UNAMA documented a total of 925 women and children killed or wounded, representing 30 percent of all civilian casualties. This represents a one percent increase in the ratio of women and children civilians killed or injured in comparison to the same period of 2011. Improvised explosive devices (IEDs) remained the leading cause of conflict-related deaths of women and children followed by ground engagements.

'As of 30 June, the United Nations High Commissioner for Refugees (UNHCR) reported that conflict-related violence had displaced approximately 114,900 people in Afghanistan of which 17,079 were newly displaced in the first half of 2012. Conflict-induced displacement in the first six months of 2012 is 14 percent higher than in the same period last year.' [29g] (p1)

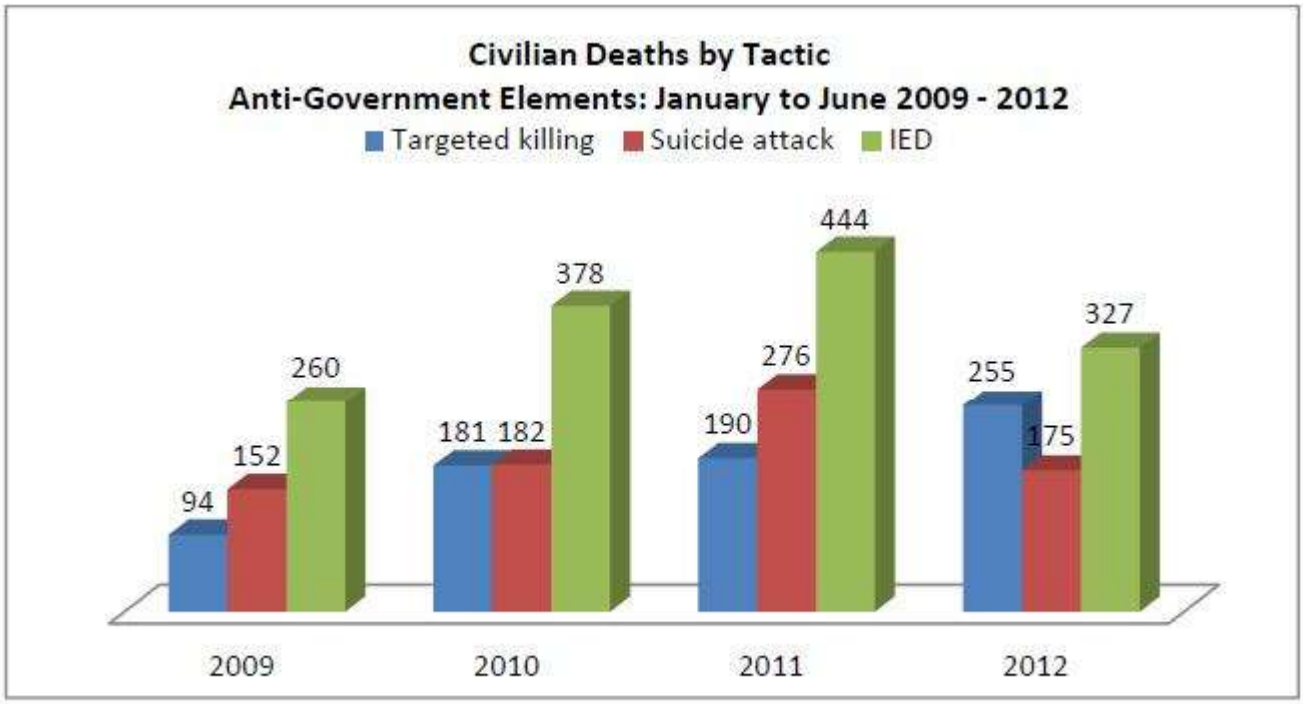
8.47 The table below from the UNAMA Mid Year Report 2012 depicts deaths and injuries caused by anti-government elements (AGE), pro-government forces (PGF) and unknown forces:



[29g]

8.48 The UNAMA mid-year report 2012 stated, 'Anti-Government Elements were responsible for 80 percent of all civilian casualties, while 10 percent were attributed to Pro-Government Forces. UNAMA was unable to attribute responsibility to any party to the conflict in 10 percent of cases.' [29g] (p 2)

8.49 The table below from the UNAMA Mid Year Report 2012 describes civilian deaths caused by different AGE tactics:



[29g]

8.50 The same UNAMA Mid-Year report 2012 described the situation of civilians in regard to anti-Government elements:

'Anti-Government Elements were responsible for 80 percent of civilian casualties, killing 882 civilians and injuring 1,593 others during the first six months of 2012, an overall reduction of fifteen percent compared to the same period in 2011 when UNAMA documented 1,167 deaths and 1,760 injuries. UNAMA reiterates its concern with the continued use of indiscriminate tactics by Anti-Government Elements and the toll such methods exact on civilians.

'IEDs remain the biggest threat to civilians. Anti-Government Elements continue to use IEDs in an indiscriminate and unlawful manner. Between 1 January and 30 June 2012, IEDs alone caused 33 percent of all civilian casualties, killing 327 civilians and injuring 689. Taking into consideration tactic which use IEDS, such as suicide and complex attacks, IEDs overall caused 53 percent of all civilian deaths and injuries in the first six months of 2012. UNAMA observed that most IEDs causing civilian casualties had not been directed at a specific military objective, but rather were placed routinely on civilian roadsides, resulting in indiscriminate deaths and injuries of civilians in violation of international humanitarian law. As a result, many IED incidents that resulted in civilian casualties could amount to war crimes.

'Civilian casualties resulting from targeted killings of civilians by Anti-Government elements increased by 53 percent in the first six months of 2012. Between 1 January and 30 June 2012, UNAMA documented the death of 255 civilians and wounding of 101 others in 237 separate incidents of targeted killings or attempts, compared with 190 civilian deaths and 43 injuries during the same period in 2011. Anti-Government Elements continue to target community leaders, governmental authorities and civilians that they suspect of supporting the government or military forces. These acts amount to iolations of customary international humanitarian law, which explicitly states that attacks must not be directed against civilians.' [29g] (p 2-3)

See also section on Freedom of movement for further information on IEDs

8.51 The UNAMA report further commented on suicide attacks in the first half of 2012:

'In the first six months of 2012, UNAMA documented 637 civilian casualties (175 killed and 462 injured) as a result of suicide and complex attacks, compared with 831 in 2011, a 23 percent reduction in civilian casualties compared with the first six months of 2011. While this is a positive trend, civilian deaths and injuries from this tactic remain at high levels comparable to the first six months of 2010 when UNAMA documented 663 civilian casualties (183 civilian deaths and 480 civilians injured) as a result of suicide and complex attacks.

'Suicide attacks ranged in type from those carried out by single individuals either wearing vests or driving vehicles charged with explosives, to multiple suicide bombers that initiated complex attacks involving large numbers of fighters.

'Anti-Government Elements continued to use different types of suicide attacks that detonate with absolute disregard for public places. Civilian areas, serving no military purpose, continued to be targeted, including crowded markets, gatherings of tribal elders and civilian government offices. Such attacks are prohibited under international humanitarian law and can amount to war crimes.' [29g] (p 15)

8.52 The UNAMA Mid-Year Report 2012 also highlighted the targeted killing of civilians by anti-Government groups:

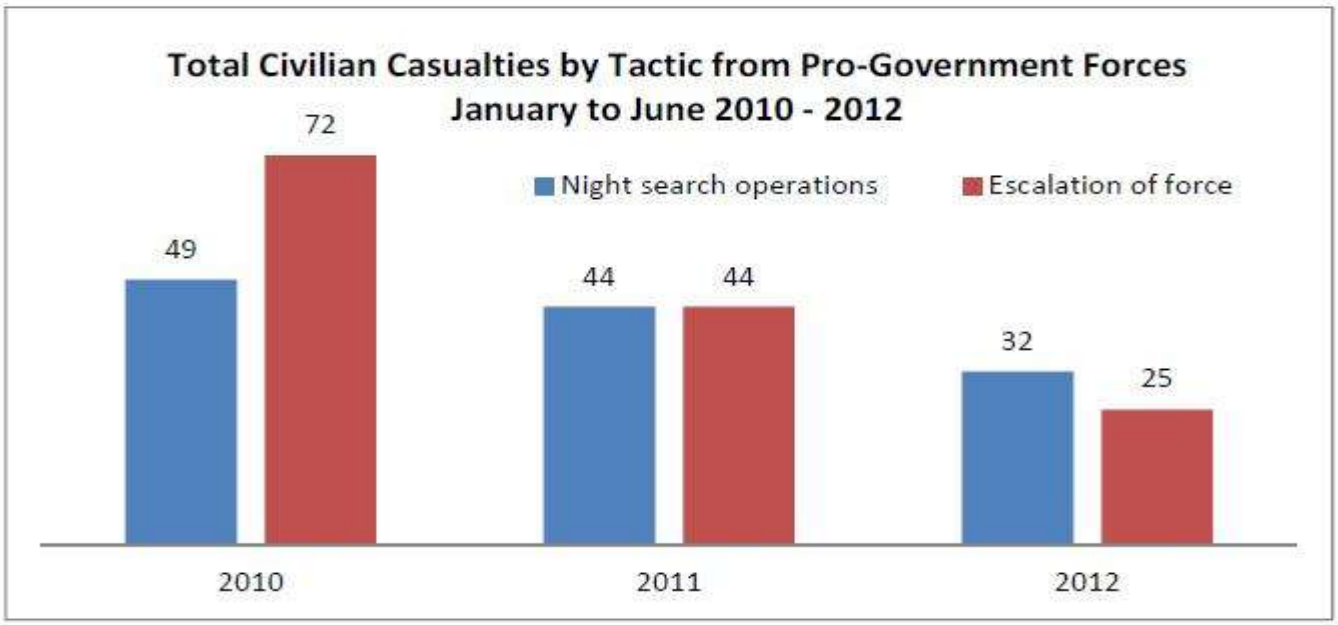
'Anti-Government Elements increasingly targeted and killed civilians they perceived to support the Government of Afghanistan or international military forces. In the first half of 2012, there were 237 incidents of targeted killings which resulted in the death of 255 civilians and injuries to 101 more, a 53 percent increase compared with the same period in 2011 in which UNAMA documented 190 civilians killed and 43 others injured under such circumstances. Government employees, off duty police officers and civilian police, tribal elders, civilians accused of spying for Pro-Government Forces and government officials remained the primary focus of these anti-government attacks.

On 2 May 2012, the Taliban announced that their "Al-Farooq" Spring offensive would specifically aim to kill civilian targets, including high ranking government officials, members of Parliament, High Peace Council members, contractors and "all those people who work against the Mujahideen". International humanitarian and human rights laws prohibit the deliberate and systematic targeting of civilians, which amount to war crimes and violations of the right to life. Such actions are meant not only to weaken the Government, through depriving them of their most capable public servants, but also to intimidate local communities.' [29g] (p 16)

8.53 The UNAMA mid-year report 2012 also reported on human rights in areas controlled by anti-government elements, stating:

'UNAMA consulted with communities from 99 conflict-impacted and/or remote districts across Afghanistan to seek their views regarding the local influence of Anti-Government Elements and their related impact on human rights protection. UNAMA received consistent accounts that in areas where there was limited government control or presence, Anti-Government Elements were able to abuse human rights with impunity, including extra-judicial executions, amputations, abductions and beatings, and impeded the enjoyment of human rights such as freedom of movement, access to education, freedom of expression and the right to an effective remedy. These findings are reported with the full understanding that human rights violations occur routinely in areas of the country where government presence and rule of law institutions are weak or dysfunctional even where Anti-Government Elements are not active. UNAMA is concerned that Anti-Government Elements continue to carry out abuses with impunity, in violation of the fundamental human rights of Afghan citizens and the criminal laws of Afghanistan.' [29g] (p 4)

8.54 The UNAMA Mid Year Report 2012 tablulated report casualties caused by pro-government forces between January 2010 and June 2012:



[29g]

Officials are recommended to read Security forces for more information about human rights violations perpetrated by pro-government forces which may be separate from and in addition to casualties resulting from combat operations.

8.55 The UNAMA Mid-Year Report 2012 also described pro-Government forces in relation to the protection of civilians, stating:

'In the first six months of 2012, UNAMA documented 165 civilian deaths and 131 civilians injured as result of operations and actions by Pro-Government Forces, This is a

25 percent reduction in total civilian casualties compared to the same period in 2011 when UNAMA documented 255 civilian deaths and 138 injured from the operations of Pro-Government Forces.

'Aerial attacks have remained the tactic causing more civilian deaths and injuries thanany other tactic used by Pro-Government Forces since UNAMA began documenting civilian casualties. Between 1 January and 30 June, UNAMA documented 83 civilian deaths and 46 injured as a result of aerial attacks by international military forces. This represents a 23 percent decrease in overall civilian casualties from aerial operations compared with 2011 when UNAMA documented 127 civilian deaths and 40 injuries. In 2012, this tactic caused almost four times more civilian deaths than any other tactic used by Pro-Government Forces. In the first half of 2012, of the 129 civilian casualties caused by aerial attacks, 81 were women and children representing nearly two-thirds of the total number of civilian casualties caused by aerial attacks.

'In the first six months of the year, ground engagements by Pro-Government Forces resulted in the death of 21 civilians, a significant decrease from 2011 when UNAMA documented 66 civilian deaths during the same period.

'Between 1 January and 30 June, UNAMA documented 20 civilian deaths and 12 injured from search and seizure operations by Pro-Government Forces, a decrease of 27 percent compared with the same period in 2011. This is consistent with the downward trends documented in the same periods in 2009, 2010 and 2011.

'Civilian casualties as a result of ANSF and ISAF escalation of force incidents continued to decrease in 2012. In the first six months of 2012, UNAMA documented 25 civilian casualties (nine killed and 16 injured) in 19 separate incidents. Compared with the same period in 2011, this represents a 43 percent decrease in civilian casualties resulting from escalation of force incidents.' [29g] (p 5-6)

8.56 IHS Jane's reported the following on 26 April 2012:

"In May 2011 the president unilaterally prohibited NATO from staging air strikes on civilian homes after a spate of civilian deaths. The accidental killing of civilians continues to fuel resentment towards foreign forces as demonstrated in Khost province in July, where protests were held following the death of 13 civilians in a NATO air strike, and in Zheray district in late November after seven civilians, including six children, were killed in a NATO bombing. According to a UN report, although the total number of people killed by pro-government forces fell by nine per cent in the first half of 2011, a greater percentage of those deaths resulted from NATO air strikes." [9b]

'The Cost of Kill/Capture: Impact of the Night Raid Surge on Afghan Civilians,' dated 19 September 2011, a report by the Afghanistan Independent Human Rights Commission, stated:

'Nighttime kill and capture operations ('night raids') by international military have been one of the most controversial tactics in Afghanistan. They are as valued by the international military as they are reviled by Afghan communities. Night raids have been associated with the death, injury, and detention of civilians, and have sparked enormous backlash among Afghan communities. The Afghan government and the Afghan public have repeatedly called for an end to night raids. International military say they have addressed many of the past concerns with night raids, including improved intelligence

and conduct. They argue that night raids are a way to reduce civilian casualties and are an essential part of their military strategy.' [43] (p17)

8.57 The UNAMA report also commented on cross-border shelling from Pakistan during the first six months of 2012 stating:

'Similar to 2011, UNAMA received reports of incidents of cross-border shelling from Pakistan that impacted areas bordering Kunar province in eastern Afghanistan. In the first six months of 2012, UNAMA documented 16 Afghan civilian casualties (one killed and 15 injured) resulting from cross border shelling. The incidents in June resulted in the displacement of over five hundred families from and within Kunar, the closure of three schools, and public demonstrations against the shelling.' [29g] (p 8)

8.58 The UNAMA report considered the reasons behind the decrease in civilian casualties during the first half of 2012:

'United Nations analysis of the security situation in Afghanistan suggests that military operations against Anti-Government Elements – including commanders, weapons supplies financial sources or persons who facilitate insurgency operations indirectly -- appear to have weakened insurgent networks. Such tactics resulted in fewer attacks against Pro-Government Forces. This reduced the overall number of civilian casualties, particularly from insurgent initiated attacks against military forces and ground engagement between insurgents and ANA/ISAF. In this regard, UNAMA documented a decrease of approximately 42 percent in civilian deaths resulting from ground engagements between military forces and Anti-Government Elements. Moreover, the tactical shift from fewer ground engagements toward more targeted killings against civilians may be an indicator of a weakened insurgency.

'The unseasonably harsh winter may have impeded the movement and operational capacity of insurgents in the first three months of the year, which likely reduced conflictrelated violence. Other possible factors contributing to a weakened insurgency may be internal disputes amongst armed groups. These factors may have resulted in far fewer attacks in the first four months of 2012, particularly following the onset of the fighting season. Despite the Taliban's 2 May 2012 public announcement about the commencement of their spring operations and their vow to increase attacks, the Taliban did not achieve the momentum apparently desired by leadership, particularly in regard to spectacular attacks in Kabul Incident levels were comparable to May and June 2010.

'Anti-Government Elements appear to be refocusing their efforts toward ANSF, with a particular focus on attacks against ANP. In 2012, the number of attacks against ANSF in the first six months remained roughly consistent with the numbers in the first six months of 2011 (2,311 attacks in 2012 compared to 2,335 in 2011).35 This is in contrast to Anti-Government Elements' attacks against international military forces which have reportedly decreased by 10 percent in comparison to the same period of 2011.

'UNAMA has observed that Anti-Government Elements seem to be holding ground in areas where government presence is minimal. This has had significant impact on the protection of human rights in these affected communities.

'In addition to the decrease in attacks against international military forces – which in itself has contributed to the reduction in civilian casualties – UNAMA notes that a

reduction in civilian casualties is also a result of consistent improvements in the operational practices of Pro-Government Forces, including more precise targeting.

'Overall, ANSF and ISAF continued to work towards minimizing civilian casualties. This has been particularly evident in the numbers of civilian casualties stemming from search and seizure operations and the reduction in escalation of force incidents. More efforts, however, need to be dedicated towards the prevention of civilian casualties during aerial operations.' [29g] (p 8-9)

8.59 The UNAMA mid-year report 2012 documented the effects of armed conflict on women and children:

'Women and children continued to suffer the effects of armed conflict in Afghanistan. In the first six months of 2012, UNAMA documented a total of 925 women and children killed or wounded, of which 578 were children (231 deaths and 347 injuries) and 347 were women (118 deaths and 229 injuries). This represented 30 percent of the total number of civilian casualties for the first six months of 2012.

'Improvised explosive devices remained a leading cause of conflict-related casualties of women and children along with ground engagements. 58 women and 144 children were casualties of IEDs; representing 22 percent of the total number of women and children casualties. A further 150 women and 166 children were killed or injured due to ground engagement, representing 34 percent of the total of women and children casualties.

'In the first half of 2012, of the 129 civilian casualties caused by aerial attacks, 81 were women and children representing nearly two-thirds of the total number of civilian casualties caused by aerial attacks129 and 10 percent of the total number of women and children killed or wounded.' [29g] (p 49)

8.60 The UNAMA mid-year report 2012 also recorded the impact on civilians of conflict-induced displacement:

'In 2012 civilians continued to be displaced as a result of the armed conflict. As of the end of June 2012, the United Nations High Commissioner for Refugees (UNHCR) reported a total of 114,900 people had been displaced in Afghanistan as a result of the conflict of which 17,079 were newly displaced this year. Conflict-induced displacement in 2012 is 14 percent higher than in the same period last year. UNHCR analysis indicates that the majority of conflict-induced displacement resulted from the armed conflict and a general deterioration of security. In 2012, the most commonly cited reasons for conflict-induced displacement was armed conflict, including cross border shelling, disputes over graze lands and military operations.

'Over time, the largest numbers of Internally Displaced Persons (IDPs) were reported in southern Afghanistan, followed by the western and eastern regions. The southern region saw a high increase in the number of IDPs, with 8,441 more internally displaced people. UNAMA documented incidents of displacement as a result of human rights abuses by ALP, particularly from Khas Uruzgan district, Uruzgan province. Western Afghanistan had the second largest increase in conflict-induced displacement with 4,062 newly displaced, due to insecurity, threats, intimidation (such as illegal taxation), and forced recruitment.' [29g] (p 49)

See Internally Displaced Persons (IDPs) for more information on the general situation of IDPs

Security situation in 2011

8.61 The Danish Immigration Service report on their fact-finding mission to Kabul in February/March 2012, entitled 'Country of Origin Information for use in the asylum determination process,' and dated May 2012, stated:

'Safety is an issue in Kabul because of suicide bombings, according to AIHRC. In December 2011, 80 people were killed and 200 injured in a religious shrine in Kabul. Hospitals, hotels and shopping malls have also been targeted and AIHRC lost one of their commissioners in the bombing of the Finest Supermarket in February 2011. Contributing to the insecurity is also the increasing crime rate, but Kabul is considered safer than other places, according to AIHRC. In addition, there are social problems such as child labour and prostitutions.' [120a] (p 6)

8.62 The Human Rights Watch World Report 2012, commented as below on the year 2011: 'Rising civilian casualties, increased use of "night raids" by the International Security Assistance Force (ISAF), and abuses by insurgents and government-backed militias widened the impact of the war on ordinary Afghans…' **[15a]**

8.63 The same report continued:

'The death of 368 civilians in May [2011] was the highest monthly toll since UNAMA began tracking figures in 2007. The use of "night raids" by international forces—nighttime snatch operations against suspected insurgents widely despised by Afghans because of their infringement on family life—increased to a reported 300 per month. While pro-government forces succeeded in reducing the number of civilian deaths directly caused by their operations, more could still be done to protect civilian lives…' **[15a]**

8.64 The United Nations Assistance Mission in Afghanistan noted the following in its Annual Report 2011, 'Protection of Civilians in Armed Conflict:' 'A decade after it began, the armed conflict in Afghanistan again incurred a greater human cost in 2011 than in previous years. The United Nations Assistance Mission in Afghanistan (UNAMA) documented 3,021 civilian deaths in 2011, an increase of eight percent over 2010 (2,790 civilian deaths) and a 25 percent increase from 2009 (2,412 civilian deaths).' **[29b] (p 1)**

8.65 The same report continued,

'Anti-Government Elements caused 2,332 conflict-related deaths of Afghan civilians in 2011, up 14 percent from 2010. 77 percent of all conflict-related civilian deaths in 2011 were attributed to Anti-Government Elements.

'410 civilian deaths resulted from the operations of Pro-Government Forces, down four percent from 2010. 14 percent of all conflict-related civilian deaths were attributed to Pro-Government Forces in 2011. A further 279 civilian deaths, or nine percent of the total, could not be attributed to a particular party to the conflicts.

'The record loss of the lives of Afghan children, women and men resulted from changes in the tactics of Anti-Government Elements and changes in the effects of tactics of parties to the conflict. Anti-Government Elements used improvised explosive devices more frequently and more widely across the country, conducted deadlier suicide attacks

yielding greater numbers of victims, and increased the unlawful and targeted killing of civilians. Civilian deaths from aerial attacks by Pro-Government Forces increased in 2011, in spite of a decrease in the number of aerial attacks and an overall decline in civilian deaths attributed to Pro-Government Forces.

'At the same time, the geographic distribution of civilian casualties shifted significantly particularly in the second half of 2011. As the armed conflict lessened in severity in the south and intensified in provinces in the southeast, east and north of the country, rising numbers of Afghan civilians in these areas were killed and injured, accounting for an increasing proportion of all civilian casualties nationally. For example, in the second half of 2011, ground engagement between Anti-Government Elements and Pro-Government Forces caused 289 civilian deaths, a decline of 33 percent compared to the same period in 2010. Deaths from this tactic decreased in all regions except the eastern region where 72 civilians died in ground combat, up 29 percent from 2010.' **[29b]**

See also sub-section below on Types of Violence.

8.66 The United States Department of Defense 'Report on Progress Toward Security and Stability in Afghanistan,' dated April 2012, commented as follows on the 'state of the insurgency' during autumn 2011 and winter 2012:

"The insurgency failed to achieve its objectives during the 2011 spring and summer al Badr campaign, resulting in diminished operations during the fall of 2011. Overall, enemy-initiated attacks from October 2011 through March 2012 were down 16 percent relative to the same period in 2011. Specific insurgent goals, beyond escalating rates of assassinations and high-profile attacks, focused on maintaining and increasing violence levels in southern Afghanistan and conducting high profile attacks in Kandahar City and Kabul. As a result of Afghan and coalition Special Operations Forces targeting and conventional clear-hold-build operations, the insurgency failed to achieve these objectives, reflecting an ever-increasing gap between insurgent intent and capability." **[41a] (p 55)**

See also Violence committed by insurgents

8.67 A report by the United Nations General Assembly Security Council's covering the period December 2011 and January 2012, and dated 5 March 2012, stated:

'The United Nations continued to monitor security-related events relevant to the work, mobility and safety of civilian actors across the country, particularly those that affect the delivery of United Nations mandated activities and programmes. Security-related events declined in December 2011 (1,296) and January 2012 (1,286) compared to the previous two-month reporting period. The number of events was also lower than during the same period of the previous year, December 2010 (1,581) and January 2011 (1,636). This reflects multiple factors, including seasonal trends (the harsh winter likely significantly hampering insurgent movement), as well as the disruption of insurgent activity by Afghan and international military operations targeting insurgent networks throughout the summer and autumn, particularly in the south. Armed clashes and improvised explosive devices constituted the majority of such incidents, accounting for nearly 60 per cent of the total in the reporting period. The focus of military activities remained the south-eastern provinces and Kunar and Nangarhar Provinces in the East.

'Anti-Government elements carried out 9 suicide attacks in December 2011 and 12 in January 2012, 2 of which were complex attacks. An intimidation campaign continued with the targeted assassination of high-ranking Government officials, members of the

security forces and influential local political and religious leaders. The focus of these attacks shifted back to the southern provinces, which recorded roughly 50 per cent of the total number of incidents countrywide. Not all the killings were directly linked to the insurgency; local power struggles also generated violence and added to a climate of fear and mistrust.' **[18a] (Security Developments)**

8.68 The UNAMA Annual Report 2011 commented as follows on the impact of armed conflict on women and children:

'In 2011, women and children again increasingly bore the brunt of the armed conflict. The number of Afghan women and children killed in 2011 increased from 2010, particularly in the second half of the year. UNAMA documented the deaths of 166 women and 306 children, representing 30 percent of all civilian deaths between July and December 2011. Compared with the same span in 2010, the number of women killed grew by 29 percent and the number of children killed by 51 percent in the last half of 2011.' **[29b] (p 5)**

See also section 25, Women, and section 26, Children

Types of violence

Landmines

8.69 The US Congressional Research Service's report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012, documented a change in the tactics used by insurgents:

"As far as tactics, prior to 2011, U.S. commanders worried most about insurgent use of improvised explosive devices (IEDs), including roadside bombs. In January 2010, President Karzai issued a decree banning importation of fertilizer chemicals (ammonium nitrate) commonly used for the roadside bombs, but there reportedly is informal circumvention of the ban for certain civilian uses, and the material reportedly still comes into Afghanistan from at least two major production plants in Pakistan. U.S. commanders have said they have verified some use of surface-to-air missiles…

"During 2011 and thus far in 2012, insurgents have made increasing use of infiltrators within the Afghan security forces, persons impersonating Afghan security personnel, or recruits to their ranks from among the security forces. There is debate as to whether some of the Afghan security force attacks on U.S. and other coalition personnel in 2012, particularly those that occurred following some of the errant U.S. abuses in 2012 (such as the February Quran burnings, discussed below), were Taliban-inspired or self-inspired by vengeful members of the Afghan force. Afghan officials have tried to increase monitoring over the sale of military-style clothing that might be used for such attacks. Other insurgents have made increased use of bombs hidden in turbans, which have, until October 2011, generally not been searched out of respect for Afghan religious traditions. Such a bomb killed former President Rabbani on September 20, 2011... " **[10b] (p 17-18)**

Improvised Explosive Devices

8.70 The United Nations Assistance Mission in Afghanistan Mid-Year Report 2012 commented as follows on the use of IEDs:

'UNAMA observed that in most cases of civilian casualties caused by IEDs, the IEDs had not been directed at specific military objectives or were employed in such a way that their effects could not be limited, as required by international humanitarian law. For example, UNAMA documented numerous civilian casualty incidents resulting from pressure-plate IEDs (PPIEDs) which had been planted on roads routinely used by civilians.

'Although civilian casualties from IED attacks decreased from the same period in 2011, the continued use of this indiscriminate tactic remains a concern. The majority of known IEDs used by Anti-Government Elements are victim operated IEDs (VOIEDs), with PPIEDs being most common. The prevalence of VOIEDs is highest in the provinces of Kandahar, Uruzgan, Zabul, Helmand and Nimroz, where they constitute the vast majority of IEDs employed.

'UNAMA has stated that these IEDs function effectively as anti-personnel landmines and are indiscriminate as they cannot distinguish between a civilian and military objective, making their use illegal under international humanitarian law.

'PPIEDs in Afghanistan are set to explode when they are walked on or driven over. The majority of PPIEDs in Afghanistan have approximately 20-25kg of explosive; more than twice the explosive content of a standard anti-tank mine yet they often have the trigger sensitivity of an anti-personnel mine. This means they effectively act as a massive antipersonnel landmine with the capability of destroying a tank; civilians who step or drive over these IEDs have no defense against them and little chance of survival. Additionally a significant number of IEDs are encountered with explosive weight of approximately 2-4kg specifically designed to maim or kill individuals on foot.

'In the first six months of 2012, IEDs detonated in public areas commonly used by civilians such as roads, markets, government offices, public gathering places, including bazaars, in and around schools, shops and bus stations. Anti-Government Elements placed IEDs particularly those equipped with a pressure-plate trigger, on transit routes ranging from small footpaths to highways and killed and injured civilians whether they were on foot, riding a bicycle, in buses, taxis or in private cars.

'Although Anti-Governments Elements use remote-controlled IEDs (RCIEDs) targeting Pro-Government Forces, in some cases such tactics continue to disproportionately harm civilians, particularly when Anti-Government Elements target military objectives in civilian populated areas. For example, on 8 March, a RCIED detonated against an ANSF checkpoint in Jalalabad city, Nangarhar province, killing one child and wounding eleven civilians, including three children and one ANP traffic officer.

'UNAMA also notes concern with the use of IEDs as a tactic of assassination. Although targeted killings of civilians are explicitly prohibited under international humanitarian law, the indiscriminate nature of IEDs combined with their disproportionate effects compound the gravity of this tactic. For example, on 14 June, a remote controlled IED detonated in front of the house of the provincial Head of Independent Election Commission (IEC) in Shiberghan city, Jawzjan province, wounding eleven civilians, including extremely serious injuries to two children and one woman.' [29g] (p 13-14)

Suicide attacks and assassinations

8.71 The United Nations General Assembly Security Council's Report of the Secretary-General, dated 5 March 2012, described the period December 2011 and January 2012

as follows: “Anti-Government elements carried out 9 suicide attacks in December 2011 and 12 in January 2012, 2 of which were complex attacks.” [18a] (p 3-4)

IHS Jane’s reported the following on 26 April 2012:

“Suicide assassination of key leaders and senior officials is the latest tool by which the Taliban hopes to destabilise the state. Between April-September 2011 the Taliban assassinated: President Hamid Karzai's brother, Wali Ahmad Karzai; the mayor of Kandahar, Ghulam Haidar Hameedi; Jan Mohammad Khan, a legislator and senior Karzai aide; and former president Burhanuddin Rabbani, the chairman of the country's High Peace Council and a leader of the Tajik community. All were killed either by suicide bombers or by operatives with no hope of escaping alive. Rabbani's killing in particular raised grave doubts over the ability of Afghan forces to protect even the most senior and prominent national figures. In September, the US blamed the Haqqani Network for an audacious and complex attack in Kabu, which led then-chairman of the US joint chiefs of staff, Admiral Mike Mullen, to declare the Haqqanis a ‘strategic arm’ of Pakistan's Inter Service Intelligence, although he later softened this assessment. This accusation was denied by the Pakistani military and the Afghan Taliban leadership.” **[9b]**

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‘Green on Blue’ attacks

8.72 The International Institute for Strategic Studies’ Armed Conflict Database stated the following in an undated report, accessed on 12 September 2012, describing the situation in March and April 2012:

‘There were several “Green on Blue” attacks. Following the Koran-burning incident at Bagram air base, two US soldiers were shot dead by an Afghan soldier in Helmand province. CNN reported that one in five NATO soldiers killed in Afghanistan in 2012 were killed by Afghan security personnel. Pentagon figures suggested that since 2007, over 80 NATO soldiers hve died in attacks by Afghan security personnel. More than 75% of the attacks took place in the last two years.’ **[17b]**

8.73 The Armed Conflict Database, undated, accessed on 12 September 2012, provided commentary on events in January and February 2012:

‘An attack on French NATO personnel by an Afghan soldier led French President Nikolas Sarkozy to suspend his country’s participation in the war, pending a security review. Four people died in the Kapisa attack, and eight other French troops sustained serious injuries. The attack brought the increasing number of attacks on NATO troops by Afghan soldiers into sharp focus. Between May 2007 and May 2011, at least 70 NATO soldiers were killed and 110 wounded in 45 separate attacks by Afghan security forces, accounting for 6% of all hostile coalition deaths during the period.

‘The increase in such attacks raised concerns about the vetting of Afghan recruits. Afghanistan suggested it would deploy members of its intelligence wing into army units across the country to monitor soldiers at every step, from recruitment to training and deployment. In February, Kabul said that soldiers with families living as refugees in Pakistan should try to arrange for their return or leave the military. The announcement followed findings that several soldiers with families in Pakistan had ties to insurgent havens there.

'France, under American pressure, reversed its decision to withdraw prematurely from Afghanistan. However, on 27 January, Sarkozy said that France will transfer security responsibilities to the Afghan army beginning in March 2012, and will focus on training until pulling out of Afghanistan completely by the end of 2013.' **[17b]**

SECURITY BY REGION

The following subsections provide a general description of the security situation in the respective regions between 2011 and the first half of 2012. For more detailed and/or more recent information officials are recommended to consult the subsection on Sources on security situation

Overview

8.74 The United Nations Assistance Mission in Afghanistan (UNAMA) published a report on the Protection of Civilians in Armed Conflict, published in February 2012, which noted a geographic shift in the conflict during 2011:

'As the year progressed, the conflict gathered intensity outside those southern provinces where fighting has historically been concentrated and worsened in several provinces in the southeastern and eastern regions. In the last half of 2011, although Kandahar and Helmand remained the provinces with the highest number of civilian deaths with 290 civilians killed; this number is a 39 percent decrease compared to the same period in 2010.

'In contrast, the southeastern provinces of Khost, Paktika and Ghazni and eastern provinces of Kunar and Nangarhar saw a combined total of 446 deaths, a 34 percent increase compared with the same period in 2010. Between July and December 2011, civilian deaths in the central region jumped from 128 to 230, an 80 percent increase from the previous year. This rise was prominent in Kabul province, where civilian deaths increased from 23 in the last half of 2010 to 71 in 2011. 67 of the 71 civilian deaths in Kabul during this period occurred as a result of six suicide attacks.

'Although targeted killings by AGEs decreased in the southern, central and northeastern regions in 2011, country-wide such killings rose by six percent, with huge increases in the western region (255 percent), the southeastern region (114 percent) and the eastern region (107 percent). This shift was particularly evident in the second half of the year.' **[29b] (p 5)**

8.75 IHS Jane's provided this information in a piece dated 26 April 2012 -:

'Another worrying trend for NATO and US-led forces in Afghanistan has been the geographical spread of militant activity beyond its previous focus in the south and east of the country and into the previously relatively quiet north and west, illustrating the increasing clout of insurgents outside of the core battleground of southern Afghanistan. This is also testament to the highly complex nature of the security environment on the Iranian border, involving local militias, ethnic rivalry, criminal groups and signs of growing Iranian influence. An overall lack of forces has allowed the insurgents to root themselves in areas with minimal NATO presence, such as those provinces adjacent to Iran, and launch regular attacks in heavily populated urban centres, including Kandahar. This lack of opposition gives the Taliban de facto control over several parts of the country.

'This trend began to manifest itself in early 2007. Key attacks included a suicide attack in May 2007 that killed three German ISAF troops in the northern province of Kunduz, and an attack on politicians visiting a new sugar factory in Baghlan province in November 2007. The Italian and Spanish contingents operating in the western provinces of Herat, Bagdhis and Ghor have come under sporadic insurgent attack. Militant activity has become particularly pronounced in the province of Farah, bordering Iran, where police and poppy eradication teams have been increasingly targeted. Much of the violence has been attributed to militants and has followed a pattern seen in the south with a mixture of hit and run attacks, including roadside IEDs and Vehicle-Borne IEDs (VBIEDs), as well as large groups of insurgents seeking to challenge the legitimacy and strength of the Afghan government by briefly taking district centres.' **[9b] (Security)**

8.76 The regions referred in the following subsections are consistent with the map below of International Security Assistance Force regional commands, accessed via the ISAF website on 1 October 2012, regularly updated: http://www.isaf.nato.int/troop-numbers-and-contributions/index.php

See Geography for information on the size of the population of provinces and regions, and main urban centres

Eastern region

8.77 The USDD Report 2012 stated:

> 'During this reporting period, enemy-initiated attacks in RC-E [regional command East] decreased by eight percent in the October 2011 through March 2012 time period compared to the same time period one year ago. Security incidents in RC-E accounted for 34 percent of all security incidents throughout Afghanistan, an increase of four percent from October 2010 – March 2011.
>
> 'The eastern border districts of Dand-Patan in Paktiya Province; Jani Maidan, Gurbuz, Sperah, Bak, and Tani in Khost Province; and Bermal in Paktika Province are the current focus of insurgent attacks in RC-E, due to key border passes between Afghanistan and Pakistan…' **[41a] (p 58-59)**

8.78 The United Nations General Assembly Security Council's Report of the Secretary-General, dated 5 March, described the situation in December 2011 and January 2012 as follows: 'The focus of military activities remained the south-eastern provinces and Kunar and Nangarhar Provinces in the East.' **[18a] (p 3-4)**

8.79 Focusing on the border areas, a BBC article on 1 August 2011 stated:

> 'The top US military officer has said the border region between Afghanistan and Pakistan is still the world's most dangerous area, calling it the epicentre of terrorism. In a BBC interview Adm[iral] Mike Mullen again called on Pakistan to end "safe havens" there. Adm Mullen has been visiting US bases in southern and eastern Afghanistan. Adm Mullen said his biggest worry, as he neared the end of his four-year tenure, was continued instability in Pakistan's tribal areas along the Afghan border. He said that despite the death of Osama Bin Laden, plenty of bin Laden acolytes were still plotting operations beyond the region. He has often raised this issue with senior Pakistani military leaders.' **[44a]**

8.80 Jane's Sentinel commented on the Haqqani network and Hizb-e Islami on 26 April 2012: '… the Haqqani network - led by Jalaluddin and his son Sirajuddin, is behind the majority of insurgent activity in the east. The Haqqani network operates out of North Waziristan and into the Paktia, Paktika and Khowst districts, the same area where Jalaluddin fought the Soviets….Hizb-e Islami's other faction, loyal to its late founder Maulvi Mohammad Yunus Khalis, continues to serve as a radical if smaller armed group in the east.' **[9b]**

8.81 Jane's Sentinel added:

> '… the formerly US-backed Gulbuddin Hekmatyar, another veteran commander, continues to field his Hizb-e Islami (Gulbuddin) forces in several eastern Afghan provinces, and has also shown an ability to project his power in the northeast, with signs emerging in mid-2007 that he had opened a series of political offices across the north of the country. In February 2011 Hekmatyar's group explicitly rejected the prospect of any peace deal until foreign forces withdraw from Afghanistan.' **[9b]**

Kabul province (including Kabul city)

8.82 The US Department of Defense 'Report on Progress Toward Security and Stability in Afghanistan,' dated April 2012, stated:

'During this reporting period [October 2011 to March 2012], security incidents in Regional Command – Capital were statistically insignificant (less than one percent) compared to all security incidents throughout Afghanistan, and thus represented no significant change compared to the same time period one year ago. RC-C [regional command Capital] is by far the smallest RC… Kabul City had a relatively calm fall [2011] and winter [2011-2012].' **[41a] (p 63)**

8.83 However, the International Institute for Strategic Studies' Armed Conflict Database stated the following in a piece describing the situation in March to April 2012:

'The Taliban mounted coordinated attacks across Kabul and neighbouring provinces in April, which they said marked the launch of their spring offensive against NATO troops. Around 21 insurgents, including suicide bombers, launched simultaneous attacks on Nangarhar, Paktika and Logar provinces as well as Kabul's diplomatic quarter. The siege lasted over 18 hours before Afghan troops, charged with the security of Kabul, ended it with a final gunfight at the Afghan Parliament. Afghan President Hamid Karzai called the attack a massive 'failure' on the part of the intelligence services, especially NATO. He said Afghan forces proved themselves capable of defending the country. Western military officials admitted they were surprised by the scale and sophistication of the synchronised attacks.' **[17b]**

8.84 The Institute for War and Peace Reporting issued this report on 17 April 2012 regarding insurgent attacks on 15 and 16 April 2012:

'A number of key locations in the capital were targeted, with dozens of militants firing on the Afghan parliament, the national army academy and the Sherpur district, home to senior government officials and diplomats.

'Foreign embassies also came under fire in the onslaught,which began at noon on April 15 and was only brought to a halt the following morning... There were also attacks in Logar, Nangarhar and Paktia provinces. According to the interior ministry, 47 people died, 36 of them the insurgents who carried out the attack. Three civilians and eight policemen were killed. Of the 65 people injured, 25 were civilians.' **[39b]**

8.85 The US Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012, stated that:

'…observers note an apparent increase in major attacks in Kabul [city], which is generally considered secure: on June 28, 2011, insurgents stormed the historic Intercontinental Hotel in Kabul, prompting a several hour gun battle with Afghan authorities backed by NATO-led forces. On August 19, 2011, insurgents attacked the compound of the British Council in Kabul, on the anniversary of Afghanistan's formal independence from Britain in 1919. The September 13, 2011, rocket and gunfire attack on the U.S. Embassy in Kabul and ISAF headquarters prompted even more significant questions about U.S. and Afghan successes, although some U.S. officials used the attack as an indication that insurgent groups are altering their tactics in response to being largely defeated in their strongholds in eastern and southern Afghanistan... On April 15, 2012, about 35 insurgents attacked several locations in downtown Kabul, as well as conducted attacks in a few other provinces.' **[10b] (p 23)**

8.86 The Danish Immigration Service report on their fact-finding mission to Kabul in February/March 2012, entitled 'Country of Origin Information for use in the asylum determination process,' and dated May 2012, stated:

'Regarding the security situation in Kabul, IOM said that there have been a number of suicide attacks which influences the lives of ordinary people. However, apart from suicide attacks, Kabul is safer than other places in Afghanistan, and the area is more under control. This is, according to IOM, due to the fact that Afghan National Army (ANA) and ANP in general are more trained in security operations in Kabul and other big cities like Herat and Mazar-i-Sharif and the situation is more under control in these cities compared to other parts of the country. In Jalalabad, however, the authorities are not yet that efficient, and the Taliban has a strong influence.' [120a] (p 6)

See also Northern region below

Southern region

8.87 Jane's Sentinel reported on the southern region in a piece dated 26 April 2012:

"The operation to seize control of Kandahar was the centrepiece of President Obama's troops surge strategy in 2010. NATO forces have been trying to seize control of the Taliban heartland since July 2009, pushing into the valleys west of Kandahar city. Although they have established some pockets of security, the ultimate success of the operation depends on the Afghan government's ability to secure the area with its own forces and provide services to the population. One of the most fiercely contested areas of Afghanistan has been the Arghandab Valley, which is a key route into Kandahar city. By early 2011 a surge of American troops had recaptured many areas previously lost to the Taliban and with reconstruction promises and compensation payouts, the Afghan population have started to return." [9b]

8.88 The United States Department of Defense stated the following in a report dated April 2012:

"The most significant progress was made in RC-S [regional command South] and RC-SW [regional command South West], the Taliban's primary area of effort, where ANSF-ISAF operations continue to deny insurgents' access to some safe havens, limit freedom of movement, and disrupt logistics, effectively separating insurgents from the Afghan population in key areas. Enemy-initiated attacks in RC-SW are down 29 percent, and attacks in RC-S are up by 13 percent, relative to the same period one year ago. Despite a decrease in attacks during the reporting period, the provinces of Helmand and Kandahar remain two of the most violent provinces in Afghanistan, due in part to insurgent sanctuaries and freedom of movement in Balochistan Province, Pakistan." [41a] (p 55)

8.89 The same US Department of Defense report of April 2012 reported as follows on the southern region of Afghanistan:

"During this reporting period, enemy-initiated attacks in RC-S [regional command South] increased by 13 percent in the October 2011 through March 2012 time period compared to the same time period one year ago. Maiwand, Zharay, and Panjwa'i districts comprised 67 percent of RC-S enemy attacks over the reporting period. Security incidents in RC-S accounted for 21 percent of all security incidents throughout Afghanistan, an increase of three percent from October 2010 – March 2011. The increase in year-over-year EIAs [enemy-initiated attacks] in RC-S is relatively mild given that attack levels are lower over the winter period.

"The security situation in RC-S improved during the reporting period..." [41a] (p 59)

8.90 The United Nations Security Council's Report of the Secretary-General, The situation in Afghanistan and its implications for international peace and security, dated 5 March 2012, covering the period December 2011 and January 2012, stated :

'An intimidation campaign continued with the targeted assassination of high-ranking Government officials, members of the security forces and influential local political and religious leaders. The focus of these attacks shifted back to the southern provinces, which recorded roughly 50 per cent of the total number of incidents countrywide. Not all the killings were directly linked to the insurgency; local power struggles also generated violence and added to a climate of fear and mistrust.' [18a] (p 4)

See also Assassination of key figures

8.91 The US Congressional Research Service report entitled 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated April 2012, stated: 'Some worry that the gains [by ISAF and pro-Government forces] in Qandahar are particularly fragile. The Qandahar stabilization effort suffered a significant setback on July 12, 2011, when a trusted aide killed President Karzai's halfbrother, Ahmad Wali Karzai, chair of the provincial council. Just 15 days later the mayor of Qandahar city, Ghulam Haider Hamidi, was killed.' [10b] (p 23)

South West region

8.92 The United States Department of Defense stated the following in a report dated April 2012:

'The most significant progress was made in RC-S [regional command South] and RC-SW [regional command South West], the Taliban's primary area of effort, where ANSF-ISAF operations continue to deny insurgents' access to some safe havens, limit freedom of movement, and disrupt logistics, effectively separating insurgents from the Afghan population in key areas. Enemy-initiated attacks in RC-SW are down 29 percent, and attacks in RC-S are up by 13 percent, relative to the same period one year ago. Despite a decrease in attacks during the reporting period, the provinces of Helmand and Kandahar remain two of the most violent provinces in Afghanistan, due in part to insurgent sanctuaries and freedom of movement in Balochistan Province, Pakistan.' [41a] (p 55)

8.93 The US Department of Defense report of April 2012 referred as follows to the security situation in the South West region of Afghanistan:

'During this reporting period [1 October 2011 to 31 March 2012], enemy-initiated attacks in RC-SW [regional command South West] decreased by 29 percent from October 2011 through March 2012 compared to the same period one year ago. Security incidents in RC-SW accounted for 37 percent of all security incidents throughout Afghanistan, a decrease of five percent from October 2010 – March 2011.

'Despite improvements, many districts in Helmand remain unstable, with Nahr-e Saraj being the most violent district in Afghanistan.' **[41a] (p 60)**

Western region

8.94 The US Department of Defense report of April 2012 commented as follows on security in the western region:

'During this reporting period [1 October 2011 to 31 March 2012], enemy-initiated attacks in RC-W [regional command West] increased by seven percent in the October 2011 through March 2012 time period compared to the same time period one year ago. Security incidents in Regional Command – West (RC-W) accounted for five percent of all security incidents throughout Afghanistan, an increase of one percent from October 2010 – March 2011.

'Operations in RC-W predominantly included ANSF-ISAF patrols along Highway 1 through Farah and Badghis provinces in order to achieve freedom of movement and disrupt insurgents' freedom of action. Patrols and operations within these areas have been conducted within the seasonal winter-spring objectives and increased overall security in RC-W…

'The major challenge within RC-W for the near term will be to sustain the ANSF operational capability as coalition forces withdraw and remaining forces shift to an advisory role within the transition process.' [41a] (p 61-62)

See also Northern region

Northern region

8.95 The US Department of Defense report of April 2012 provided this information about security in the north of Afghanistan from October 2011 to March 2012: 'During this reporting period, enemy-initiated attacks in RC-N [regional command North] decreased by 60 percent in the October 2011 through March 2012 time period compared to the same time period one year ago. Security incidents in Regional Command – North (RC-N) accounted for two percent of all security incidents throughout Afghanistan, a decrease of two percent from October 2010 – March 2011.' [41a] (p 62)

8.96 Jane's Sentinel gave this comment in a piece dated 26 April 2012: '… ongoing violence indicates that northern regions will remain outside Kabul's control for the foreseeable future.' [9b]

See also Western region above

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9. CRIME

OVERVIEW

9.01 IRIN reported on lawlessness in Afghanistan in an article dated 14 June 2012:

'The drawdown and handover of power, which has started, will see the Afghan military take over from the International Security Assistance Force (ISAF) by 2014, but NGOs say the situation in the north is tricky, with rising violence against civilians, growing internal displacement, and increasing protection concerns.

'Violence has increased in the north since the drawdown got under way, according to local journalist Matin Sarfraz. "When the US and NGOs were here, these old mujahedin commanders - now ALP [Afghan Local Police] - felt if they did anything wrong they would be held accountable. When they were going to commit a crime, they would think

twice. But now they know that every issue ends with the Afghan government and courts, and many of them have strong links with top government officials, so they feel they can do anything they want."' [27n]

9.02 The US Department of State commented as follows in its country-specific information on Afghanistan, dated 5 September, 2012: 'A large portion of the Afghan population is unemployed, and many among the unemployed have moved to urban areas. These factors may directly contribute to crime and lawlessness. Diplomats and international relief workers have reported incidents of robberies and household burglaries as well as kidnappings and assault.' [58f]

DRUG PRODUCTION

Overview

9.03 IHS Jane's reported on drug production in Afghanistan in a security update, dated 26 April 2012:

- 'Afghanistan is the world's largest producer of opium, providing approximately 90 per cent of the global supply of the drug, and has now also become the world's largest producer of cannabis.
- 'Afghanistan's porous borders make the trafficking of drugs out of the country relatively easy. The primary trafficking routes are south through Iran and Pakistan and north through Central Asia and Russia.
- 'Eradication efforts have failed and the continued revenue from the drugs trade provides key revenue sources for warlords, insurgent groups and a number of corrupt politicians.' [9b] (Security)

9.04 Jane's Sentinel provided further information about the production of opium and cannabis:

'Afghanistan is the world's largest producer of opium, with the drug trafficking industry continuing to contribute to the country's instability… Confirming predictions for 2011, according to the UNODC [UN Office on Drugs and Crime] Afghanistan Opium Survey 2011, opium production increased by a staggering 61 per cent to 5,800 tonnes compared with 2010, mainly due to rising high prices of opium and insecurity… An August 2011 UNODC report suggested that Afghan drug traffickers earned an estimated USD2.2 billion from their activities, compared with USD440 million for poppy farmers and USD150 million of revenue for the Taliban. Among others, the report's findings suggest that opiate consumption has increased dramatically in Afghanistan and neighbouring countries over the past ten years, while more generally Afghan opiate production has exceeded global demand, leading to stockpiling of drugs.

'Afghanistan has now also become the world's largest supplier of cannabis, with large-scale cultivation in half of its provinces. This was highlighted by a June 2008 drugs haul in the southern province of Kandahar. This uncovered an incredible 237 tonnes of hashish, along with 5.1 tonnes of opium, hidden in underground tunnels with a staggering wholesale value of at least USD430 million. Between 10,000 and 24,000 ha of cannabis are grown every year in Afghanistan with estimated production at 1,500-3,500 tonnes annually. According to the UNODC, as with opium, most cannabis cultivation takes place in the south of the country where the insurgency is strongest, with 67 per cent of cannabis farmers also growing opium. Cannabis is widely grown due

to its low labour costs and high returns; the crop is three times cheaper to cultivate than opium, and the net income from a hectare of cannabis is USD3,341 compared to USD2,005 for opium. Drugs from Afghanistan are trafficked mainly to Europe and Russia. During this journey they cover regions controlled by many different interests, including scores of warlords with multiple loyalties and insurgents affiliated with the Taliban, Al-Qaeda, Hizb-e-Islami or extremists from Central Asia and Pakistan. These groups impose transit and protection fees on drug cargoes. These same players also get cuts from the trafficking of drug precursor chemicals into Afghanistan…' [9b]

Drugs and warlords/insurgents

9.05 IHS Jane's explained the involvement of warlords and insurgents in the drugs trade:

'As NATO and US forces have attempted to crack down on Afghanistan's drug trade, major traffickers have used their wealth and influence to establish complex systems of protection. Corrupt government and law enforcement officials take bribes to allow drug interests to act with impunity, and the buying of positions within key government institutions is commonplace. These systems of political protection enable a small number of key trafficking cartels to control a higher proportion of the opium economy.

'Regional warlords maintain a large degree of financial autonomy. Being in control of border regions through which Afghanistan conducts its foreign trade and countries send their donated items, they levy taxes on all products leaving and entering their territories and also on their respective peoples and businesses. Their control over almost the entire country excluding Kabul deprives President Hamed Karzai's government of a large portion of its due revenue and, despite reshuffles within the government, the situation is unlikely to improve in the medium term.

'The complicated array of actors with a vested interest in maintaining drug production, including most regional chieftains, is a major factor militating against the extension of central government control. There is also strong evidence of a correlation between insurgency and drug production. As almost 80 per cent of villages with very poor security conditions grow poppy, insurgents offer protection to impoverished farmers thereby gaining their support, and are then able to capitalise on the revenue from supply streams. In particular drugs have bankrolled the Taliban in the south. Like opium, cannabis production and trafficking provide an additional source of revenue for insurgents… Links between the insurgency and narcotics trade have always existed, particularly where powerful tribal leaders are linked to the Taliban and invested in the narcotics trade. However, now, with the opiate trade concentrated in insurgency-dominated areas, more and more Taliban fighters are becoming involved in opiate trafficking… Taliban commanders based in Regional Command South, where almost all poppy is now grown, are often operating from a position of power derived from their local areas. Their influential position often results in them having multiple interests and identities - not just Taliban commander, but drug trafficker and warlord too. A British military intelligence source told Jane's : "Local commanders are more interested in their own personal power bases than loyalty to the Taliban and the senior leadership"… Further, the collection of tax from poppy farmers in the form of opium has increased the likelihood of Taliban fighters becoming involved in narcotics trading. However, it is unlikely a rising insurgent commander would be able to take over an entire area's narcotics trade. In 2009, the Taliban expanded its taxation activities to include wheat, according to Afghan intelligence sources in northern Helmand.' [9b] (Security)

Eradication

9.06 IHS Jane's, in the security update of 26 April 2012, described the efforts of the Afghan government and international players to address the drug problem:

'Compensation programmes have also been beset with problems. A number of farmers were not paid for relinquishing their opium crop late in 2001, driving them to replant. The Afghan government initiated the compensation programme with a British fund of USD33 million (reported to equate to USD250 per destroyed opium field). However, there is no possibility that foreigners could organise or supervise the programme at the local level due to security concerns. The only alternative is to channel cash though the government and local chieftains, in doing so guaranteeing that most of it will be diverted from its intended use.

'As part of a new comprehensive strategy to win the support of the Afghan rural population, the US military and NATO are halting the eradication of opium poppy fields, claiming that impoverishing the poppy farmers only results in the swelling of the insurgency. Former ISAF Commander General McChrystal ordered coalition forces not to engage in crop eradication during the Marjah offensive. However, this decision has been under fire by the Afghan forces as well as countries affected by the drugs trade such as Russia fearing that this would further fuel drug production.' [9b] (Security)

9.07 A Public Broadcasting Service (PBS) article dated 21 May 2012 noted:

'Poppy eradication in Afghanistan has nearly tripled in the past year amid violent resistance from farmers... Poppy is a major source of revenue in Afghanistan, which produces 90 percent of the world's opium supply. But it also funds the Taliban, fuels corruption, and discourages farmers from growing food. President Hamid Karzai has called poppy farming the "single greatest challenge to long-term security" in the country.

'The government, which is backed by NATO forces, has a program to destroy the crop. A recent report by the United Nations Office on Drugs and Crime and the Afghan government's counter-narcotics ministry, showed that teams led by the provincial governments eradicated roughly 9,398 hectares this year. Last year at the same time, the teams had eradicated only 3,386 hectares of poppy, it said.

'The figures are still small compared to the amount of poppy grown in the country. A U.N. assessment estimated that in 2011, poppy cultivation covered an estimated 131,000 hectares in Afghanistan. The assessment said that production was expected to increase in 2012 in some provinces.' [84a]

9.08 The PBS article added:

'…the program has also led to violence. Government teams have been met by fierce resistance from farmers trying to protect their crops. They have attacked eradication teams, laid down mines, flooded poppy fields and staged demonstrations.

'…we looked at reasons why some farmers might fight back. We interviewed men who took loans from drug smugglers to plant poppy crops. When government forces destroyed their crops, the farmers lost everything — and found themselves deep in debt to dangerous men. To pay back what they owed, some were forced to give their young daughter or son to the warlords.' [84a]

9.09 The United Nations Office on Drugs and Crime produced an Afghanistan Opium Survey 2012, dated April 2012, which provided the following results of a qualitative assessment by province:

- 'A decrease in opium cultivation is expected in Kandahar province.
- No major changes in opium cultivation are expected in Hilmand province.
- No major changes in opium cultivation are expected in Faryab, Baghlan Kabul, Laghman Nimroz, Day Kundi and Zabul provinces. Faryab and Baghlan provinces lost their poppy-free status last year after two years and are likely to remain same in 2012 unless eradication is implemented on time.
- Six provinces, Badghis, Farah, Kunar, Nangarhar, Uruzgan and Badakhshan are likely to show an increase in opium cultivation.
- Increases in opium cultivation are also expected in Ghor, Hirat and Kapisa provinces. Ghor which was poppy-free in 2011 may not remain so in 2012 unless timely eradication is implemented.
- The opium cultivation status remains unpredictable in Takhar province due to large part of the province covered with snow at the time of survey
- Fifteen provinces, Ghazni, Khost, Logar, Paktika, Paktya, Panjshir, Parwan, Wardak, Nuristan, Balkh, Bamyan, Jawzjan, Samangan, Sari Pul and Kunduz which were poppy-free in 2011, are likely to remain so in 2012.

'The provinces which are likely to see an increase would still remain considerably below the cultivation levels of Hilmand and Kandahar. Timely eradication measures in provinces with very low levels of opium cultivation such as Kabul, Hirat, Kapisa, Faryab and Baghlan could lead to achieving poppy-free status.' [85a] (p 2)

BLOOD FEUDS

Overview

9.10 The UNHCR Eligibility Guidelines for assessing the international protection needs of asylum-seekers from Afghanistan, dated 17 December 2010, stated: 'UNHCR considers that persons involved in, or targeted because of, a blood feud may, depending on the circumstances of the individual case, be at risk on account of membership of a particular social group. Claims by persons with the aforementioned profiles may, however, give rise to the need to examine possible exclusion from refugee status.' **[53a] (p 33)**

Pashtunwali

9.11 Landinfo, the Norwegian Country of Origin Information Centre, explained the concept of Pashtunwali in a report entitled 'Afghanistan: Blood feuds, traditional law (Pashtunwali) and traditional conflict resolution,' dated 1 November 2011:

'Pashtunwali is the most comprehensive and elaborate of the customary law systems in Afghanistan. Pashtunwali serves as a manual for the Pashtun population's way of life, social order, rights and obligations, morals and code of honour. Pashtunwali regulates and guides most aspects of a Pashtun's life….'

'Dignity, honour, shame are central concepts in Pashtunwali…Shame is primarily connected to the behaviour of women: "Sharm (shame) has mainly to do with the

behaviour of the women of the group whose honour is at stake and with male control over the female half of the society" (Glatzer 1998, p. 4).

'Women cannot increase the standing (accumulate honour) of a family or a group; inreality, they can only contribute to reducing it. The behaviour of women influencesthe whole group or family's status, in particular that of male relatives.' [86a] (p6- 7)

The nature of blood revenge

9.12 The Landinfo report described the tradition of blood revenge:

'Blood revenge is primarily a Pashtun tradition, and its connection to honour is illustrated by the fact that failure to reciprocate is deemed a sign of moral weakness, and may imply whole kinship groups being seen as lacking in moral character. Both reporting a murder to the authorities and negotiating for financial compensation with the perpetrator's family can be interpreted as weakness and as indicating that the group is not strong enough to defend its honour.

'A decision in the governmental judicial system does not necessarily exclude the risk of violent retaliation. The victim's family can still be expected to kill the murderer when he is released (unless there is a settlement to end the feud locally). A local community will not consider a revenge killing legitimised by tradition to be a criminal act (Barfield 2003). According to Barfield, some homicides do not fall within the blood revenge category:

- 'If the death is the result of an accident and is involuntary, the victim's family may be entitled to compensation, but not blood revenge.
- 'In cases where the victim has been involved in dishonourable acts, for example theft or adultery, blood revenge is not considered legitimate.
- 'Killing in connection with war – violence between opposing groups and not between two individuals – gives the right to blood revenge in peacetime.
- 'The killing of close family members, for example a brother, is not subject to revenge. As blood revenge is the obligation of a (kin) group, this would mean taking revenge on oneself. The perpetrator may have to leave the local community, however.

'Blood revenge closely linked [sic] to honour. A killing that provokes revenge, has in one way or another dishonoured the kin group/clan/tribe. Within the victim's kin group there is a limited, collective responsibility to take revenge and contribute to restoring honour. The person taking revenge should be a close relative of the victim, only in some Pashtun communities is it considered legitimate to hire a substitute to take revenge in the name of the victim.

'Killings connected to political conflicts/battles do not legitimise blood revenge, and revenge for such killings may be characterised as private revenge. Nor do killings and attacks against family members by political opponents or in connection with a political or military conflict constitute a collective responsibility within the kin group to avenge these acts. The revenge will therefore be directed at the perpetrator, and the conflict is concluded when the perpetrator is killed (Strand 2007, p. 3).' [86a] (p 9)

9.13 However, the Landinfo report noted that: '… the extent of blood feuding and murder is generally significantly lower than other conflict categories, which can indicate that only a minority of conflicts culminate in blood feuds.' [86a] (p 10)

Causes of blood feuds

9.14 The Landinfo report of November 2011 further explained the issue of blood feuds, stating, '…In all of the studied areas, conflicts relating to land and water are the most common; family conflicts (marriage/divorce, domestic violence) follow in second place. The results can thus reflect a fact related to the cause(s) of blood revenge that is pointed out by a number of sources, including UNHCR:

'"In Afghanistan there is the word namus. Namus translates as 'honour', but it translates as 'property' as well. Based on the Afghan traditional proverb 'zan, zar, zamin' (women, gold, and land), 'property' or namus covers wife (or the honour of female family members), property, the right to water and land. If one of these elements of namus is violated, then for sure the question of blood feud and revenge will arise (ACCORD 2007, p. 34)."' **[86a] (p 9)**

Timing of blood revenge

9.15 Landinfo explained:

'CPAU's (Cooperation for Peace and Unity) figures indicate that blood feuding is a generally rare occurrence, and that it to a certain extent follows the same seasonal pattern as other conflicts. The findings from the Baharak district in Badakhshan illustrate this pattern. There, cases of blood revenge follow the same pattern as land/water conflicts and family/marriage conflicts. The CPAU registered an increase in all these conflict categories in the autumn. The CPAU explains this as follows:

"Domestic/marriage disputes and blood feuds / murders also correspond with these seasonal spikes, perhaps indicating linkages between these conflicts and seasonal land / water conflicts. For example, weddings are often scheduled after the harvest, and harvest yields pay off outstanding debts or seal marriage agreements, so the linkages between agricultural cycles and interpersonal conflicts are significant (CPAU 2009a, p. 12)."' [86a] (p 10)

Taking revenge

9.16 The Landinfo report of November 2011 explained that:

'According to Barfield, it is optimal that revenge is taken against the murderer or the perpetrator of the misdeed, but, under some conditions, killing his brother or other patrilineal kin represents an alternative. Revenge cannot be exacted against women and children. The person exacting the revenge should be a close adult male relative of the victim, but in exceptional cases "hired assassins" sometimes carry out the revenge (Barfield 2003). Ideally, the killing should be carried out man to man and face to face (courage), but ambushes are also acceptable.

'It can be problematic or impossible for the victim's kin group to exact revenge. This is the case, for example, if the murderer is from a more powerful family than the victim and revenge could have fatal consequences. If it is deemed impossible to avenge a killing, the victim's family will often leave to avoid the shame they may face by failing to exact

revenge and having to live in proximity to the murderer(s). However, a blood feud can lie dormant until the victim's family believes it is capable of exacting revenge. Young sons can be given a responsibility to avenge their murdered father when they reach adulthood – revenge can be taken months, years, even generations after an offence. A Pashtun proverb illustrates the low importance attached to time: "A man took his revenge after one hundred years although he regretted acting in haste" (Barfield 2003, p. 7).' **[86a] (p 10-11)**

9.17 Landinfo further commented on the possibility of pre-emptive revenge:

'Landinfo is not aware of any sources presenting information indicating the prevalence of pre-emptive revenge (i.e. murdering the male relatives of a victim in order to make the other group unable to avenge the initial murder). In Landinfo's experience, such scenarios are unlikely, as they violate Pashtunwali and most possibly will be considered unacceptable by local communities. It is likely that the local community would intervene and impose serious sanctions, for example expulsion from the area. Moreover, in the Afghan context, it would be extremely difficult to kill all male family members in a family who could be given responsibility for carrying out revenge. This would normally involve a large number of men.' **[86a] (p 11)**

Blood feuds and non-Pashtun ethnic groups

9.18 The Landinfo report commented on dispute resolution among non-Pashtun groups:

'"Blood feud and private revenge taking also occurs but is less common among non-Pashtun groups. There is a greater willingness to take problems to government courts, particularly where disputants are not members of a single ethnic group, but even here informal mechanisms predominate (Barfield 2003, p. 25)."

'Arne Strand also states that blood revenge and private revenge are accepted, but less widespread among non-Pashtuns:

'"As mentioned, blood vengeance as practised between Pashtuns has not been as common among the other ethnic groups in Afghanistan. It does happen, however, perhaps most in areas where, historically, there has been a mix of Pashtun and other ethnic groups and where common norms have taken root over time. Personal revenge, on the other hand, has become normal, both internally within the different groups and between them. Interviews with leaders in Tajik and Hazara networks uncover both that private revenge is widespread and that the different groups have mechanisms for handling it. As documented in the Faryab province in Northern Afghanistan, among other places, the majority of conflicts are resolved through councils of elders. The conflicts include rape and murder, although conflicts about water and land predominate. A senior leader of a district administration said that very few such cases were brought to them, and he saw it as positive that they were resolved locally."' [86a] (p 16)

Blood feuds and 'baad' marriage

9.19 The UNHCR Eligibility Guidelines for assessing the international protection needs of asylum-seekers from Afghanistan, dated 17 December 2010, stated: 'Particularly among Pashtuns, blood feuds can be settled through a formal decision of a jirga – generally an all-male community-based dispute resolution mechanism. A peaceful compromise, such as a bad dadab marriage, may sometimes prevent a dispute from spiralling into a blood feud.' [53a] (p 33)

9.20 Human Rights Watch provided further information about 'baad' marriages in an article dated 8 March 2011:

'Baad is one of the most abusive customary practices in Afghanistan, where girls or women are given to an aggrieved family to "compensate" for a crime, a punishment usually decided by a local jirga (council). Jirga members interviewed by Human Rights Watch presented baad as a more "restorative" form of justice than revenge killings or confiscation of property. One Herat-based jirga member said, "Instead of killing the brother [in revenge] it was much better to give this girl as baad. She was also killed in a way but if they killed the brother then the enmity between the two tribes would continue for centuries."' [15d]

9.21 The Human Rights Watch article continued,

'… According to women's rights activists interviewed by Human Rights Watch, cases of baad regularly occur, involving babies, girls, adolescents, and adult women.

'Baad is a criminal offence under article 517 of the 1976 Afghan Penal Code, but the article only applies to widows and women above age 18, and the sentence for perpetrators of baad cannot exceed two years. Despite having been partially criminalized for more than 30 years, many women and jirga members interviewed by Human Rights Watch were not aware of the law or the prohibition of the practice.

'The penal code provisions against baad were supplemented by the Elimination of Violence Against Women law, passed by President Hamid Karzai through a presidential decree in 2009, while the Afghan parliament was in recess. The 2009 law criminalizes baad, increasing potential sentences for baad up to 10 years, extending its application to girls under age 18, and widening the scope of those who could be considered complicit in the crime.

'But several barriers to the enforcement of the law exist, most importantly the lack of political will to implement it, even though article 79 of the constitution categorically states that a presidential decree has the force of law, until or unless it is rejected by parliament, which has not occurred. Human Rights Watch has been told that some senior government officials, judges, and police do not consider the 2009 law as being in force, and police routinely refuse to register complaints under the law. The authorities need to take urgent measures to spread awareness about the law and train all law enforcement officials about its provisions.' [15d]

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10. SECURITY FORCES

AFGHAN NATIONAL SECURITY FORCES

See also Security situation - ANSF for further information about the Afghan forces.

10.01 The US Department of State Country Reports on Human Rights Practices for 2011, Afghanistan, 24 May 2012 (USSD Report 2011) explained:

'Three ministries have responsibility both in law and in practice for providing security in the country. The ANP [Afghan National Police], under the MOI [Ministry of Interior], has primary responsibility for internal order but increasingly was engaged in fighting the insurgency. The Afghan National Army (ANA), under the Ministry of Defense, is responsible for external security. The NDS [National Directorate of Security] has responsibility for investigating cases of national security and also functions as an intelligence agency. The investigative branch of the NDS has a facility in Kabul where it holds prisoners on a pretrial basis until their cases are handed over to prosecutors. In some areas insurgents maintained considerable power as a result of the government's failure to assert control.' [58c]

10.02 Human Rights Watch commented in its World Report 2012, which covered events up to November 2011 and was published in January 2012:

'The NATO mission aimed to train a 134,000-strong police force and 171,600 soldiers by October 2011 to replace foreign forces. But the effort faces serious challenges, including attrition, insurgent infiltration, and illiteracy and substance abuse among recruits. In multiple incidents, trainees attacked and killed their international mentors. One in seven Afghan soldiers, a total of 24,000, deserted in the first six months of the year, twice as many as in 2010.There are concerns that the buildup of the armed forces is moving too fast for necessary training and vetting, and that the size of the force will be financially unsustainable.' [15a] (p 2)

10.03 The Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012 (CRS Report May 2012) stated:

'Key to the transition to Afghan lead is the effectiveness of the Afghan National Security Forces (ANSF), consisting primarily of the Afghan National Army (ANA) and Afghan National Police (ANP). The ANSF have expanded considerably since 2002… During 2011-2014, U.S. and allied strategy is to focus on putting the ANSF into the lead on progressively more and more difficult operations. As of May 2012, the ANSF is in the lead in 40% of all combat missions, and, by the end of 2012, it will have security lead over more than 50% of the Afghan population.' [10b] (p 31)

10.04 The same report added:

'There are still widespread doubts about their ability to take the lead on security throughout the country. Some of the deficiency throughout the ANSF is due to illiteracy, which is estimated at about 90%. That prompted NTM-A [NATO Training Mission-Afghanistan] to increasingly focus on providing literacy training, which is also seen as a large driver of recruits who want the literacy education. The April 2012 DOD [US Department of Defense] report says there were 112,000 Afghan soldiers and police undergoing literacy training as of March 2012. The NATO factsheet … says that 68% of the ANSF have at least first grade literacy, up from only 14% in 2009. Another concern is loyalty and ideology within the ANSF. Incidents of ANSF attacks on coalition personnel have increased since early 2011 and created increased tensions between the Afghans and their mentors. This complicates the transition in cases in which there is less interaction between Afghan forces and their U.S.-led mentors.' [10b] (p 31)

10.05 The CRS Report May 2012 further explained:

'On January 21, 2010, the joint U.N.-Afghan "Joint Coordination and Monitoring Board" (JCMB) agreed that, by October 2011, the ANA would expand to 171,600 and the ANP

to about 134,000, for a total ANSF of 305,600. Both forces reached that level by late September 2011. In August 2011, a larger target size of 352,000 (195,000 ANA and 157,000 ANP) was set, to be reached by November 2012. As of March 31, 2012, they number about 345,000 (195,000 ANA and 150,000 ANP). They are expected to reach this target somewhat ahead of schedule, probably by July or August of 2012.' [10b] (p 32)

10.06 The Foreign and Commonwealth Office, Afghanistan: Progress report, September 2012, released on 8 October 2012, provided the following table:

Table One: ANSF Growth to 21 September 2012 Target Strength (September 2012)		**Actual Strength** (September 2012)	**September Target Met**
ANA:	184,785	182,209	NO
AAF:	5,800	6,224	YES
ANP:	155,706	147,158	NO [37e] (p6)

10.07 The same source noted that 'At time of publication (8 October 2012) ISAF report that the current recruited strength of the Army is 195,000 (182,000 actually in training or in fielded units in September). The Police stand at 157,000 recruited (a little over 147,000 actually in training or fielded units in September). The remainder of ANSF personnel are awaiting induction at the training centres. We expect the Army to reach its trained and fielded strength in December 2012 and the Police in February 2013.' [37e] (p6)

10.08 The Report of the Secretary-General to the UN Security Council, The situation in Afghanistan and its implications for international peace and security, 13 September 2012, covering events 'since my previous report of 20 June 2012' (p1), noted:

'The surge target strength of 157,000 Afghan national police officers and 195,000 Afghan national army personnel by the end of 2012 is ahead of schedule. An estimated 149,000 police officers and 185,000 army personnel were in place by the end of July. To better emphasize the appropriate law enforcement role of the police, the Police-e-Mardumi (Democratic Policing) secretariat — launched by the Ministry of the Interior in April to coordinate community policing initiatives and liaise with civil society so as to increase police accountability and responsiveness — has overseen the creation of dedicated community policing units in eight provinces. Work is now focused on developing a ministerial strategy, curriculum and training programme. Efforts to strengthen the recruitment and capacity of female police officers, critical in ensuring access to justice for women and children, have, however, lagged behind. UNAMA continues to play an active role in coordinating international resources to assist the Ministry in these efforts and is supporting the involvement of civil society in the reforms. The replacement of private security companies by the Afghan Public Protection Force has seen slow progress, with both the Deputy Minister of the Interior responsible for the project and the Chief Executive Officer replaced during the reporting period.' [18m] (p 5-6)

Afghan National Army

10.09 The CRS Report May 2012 stated:

'The Afghan National Army [ANA] has been built "from scratch" since 2002—it is not a direct continuation of the national army that existed from the 1880s until the Taliban era. That national army all but disintegrated during the 1992-1996 mujahedin civil war and the 1996-2001 Taliban period. However, some Afghan officers who served prior to the Taliban have joined the ANA.

'U.S. and allied officers say that the ANA is becoming a major force in stabilizing the country and a national symbol. The ANA is able to lead a growing percentage of all combat operations. ANA battalions, or "Kandaks," are the main unit of the Afghan force. According to the April 2012 DOD report on Afghan stability, there has been a major increase over the past six months in the number of Kandaks able to operate as "Independent with Advisors." Only one Kandak had that rating in September 2011, and 13 do now. The commando forces of the ANA, trained by U.S. Special Operations Forces, and numbering about 5,300, are considered well-trained and are taking the lead in some operations against high-value targets.

'Still, there is substantial skepticism within the U.S. defense establishment that it can assume full security responsibility by 2014. It suffers from at least a 20% desertion rate and some accounts say that a typical ANA unit is only at about 50% of its authorized strength at any given time and there are significant shortages in about 40% of equipment items. The high desertion rate complicates U.S.-led efforts to steadily grow the force. Some recruits take long trips to their home towns to remit funds to their families, and often then return to the ANA after a long absence. Others, according to U.S. observers, often refuse to serve far from their home towns. The FY2005 foreign aid appropriation (P.L. 108-447) required that ANA recruits be vetted for terrorism, human rights violations, and drug trafficking.' [10b] (p 34)

10.10 The same report continued:

'At the time the United States first began establishing the ANA, Northern Alliance figures who were then in key security positions weighted recruitment for the national army toward its Tajik ethnic base. Many Pashtuns, in reaction, refused recruitment or left the ANA program. The naming of a Pashtun, Abdul Rahim Wardak, as Defense Minister in December 2004 reduced desertions among Pashtuns (he remains in that position). U.S. officials in Afghanistan say this problem was further alleviated with better pay and more close involvement by U.S. forces, and that the force is ethnically integrated in each unit and representative. With about 41% Pashtuns, 34% Tajiks, 12% Hazaras, and 8% Uzbeks, the force is roughly in line with the broad demographics of the country.' [10b] (p 35)

10.11 Jane's Sentinel Country Risk Assessment, Afghanistan (JSCRA), which provides intelligence and analysis of defence and security, stated the following in a security assessment dated 26 April 2012:

'The ANA has been a relative success by some indicators (multi-ethnic composition, high external investment, capable central leadership), but the ferocity of battle facing this fledgling force has simply overwhelmed it, with the result that it is forced to serve as a de facto battalion of US forces in Afghanistan. It still cannot operate fully independently due to lack of resources and manpower. Since the ANA's first battalion (known as a Kandak in Afghanistan) began basic training in the ruins of the former military academy in May 2002, the 165,000-strong force (as of mid-2011) has emerged as a genuinely national body acknowledged to have won considerable popular respect.'Operationally, the ANA has indicated an ability to assume the lead role in

several operations, albeit with considerable assistance from NATO and foreign forces.' [9b] (Security Assessment)

Afghan Air Force

10.12 The JSCRA Report, Executive Summary, dated 26 April 2012, stated:

'Eight years after the fall of the Taliban, the AAF - formerly the Afghan National Army Air Corps (ANAAC) - remains a tentative and inexperienced force, limited to daytime flights and incapable of undertaking the full range of counter-insurgency tasks required of it. However, the force, which is the ANA's sixth corps, has entered a period of sustained personnel and aircraft fleet expansion that has seen its footprint spread beyond Kabul. The AAF has slowly been taking over some roles from ISAF forces.' [9c]

10.13 The Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012, stated:

'Equipment, maintenance, and logistical difficulties continue to plague the Afghan Air Force, and it remains mostly a support force for ground operations rather than a combat-oriented force. However, the Afghan Air Force has been able to make ANA units nearly self-sufficient in airlift. The force is a carryover from the Afghan Air Force that existed prior to the Soviet invasion, and is expanding gradually after its equipment was virtually eliminated in the 2001-2002 U.S. combat against the Taliban regime. It now has about over 5,240 personnel, including 400 pilots, of a target size of about 8,000 by 2016. It has about 86 aircraft including gunship, attack, and transport helicopters—of a planned fleet of 145 aircraft. Afghan pilots are based at Bagram air base. There are five female Afghan Air Force personnel; four arrived in the United States in July 2011 for training as military helicopter pilots.' [10b] (p 35)

Afghan National Police

10.14 An ISAF factsheet dated March 2011 described the various branches of the ANP, which included:

• 'The Afghan Uniformed Police (AUP) is assigned to Police Districts and Provincial and Regional Commands. It also includes Traffic Police and a United Nations Protective Force.

• 'The Afghan National Civil Order Police (ANCOP) is a specialised police force, split into rural and urban units, trained and equipped to counter civil unrest. Urban units maintain civil order in cities and towns, while rural units provide a police presence in high threat remote areas and establish a fair level of security.

• 'The Afghan Border Police (ABP) provides the MoI [Ministry of Interior] with a general law enforcement capability at international borders, entry points, and in the Border Security Zone, which extends 50 km into Afghan territory. The ABP deters and detects illegal entry and other criminal activity. In addition, the ABP controls pedestrian and vehicular traffic at border crossing points and is responsible for airport security.

• 'The Counter Narcotics Police of Afghanistan (CNPA) is the lead law enforcement agency charged with reducing narcotics production and distribution in Afghanistan. It fulfils this task through a multifaceted approach to counter-narcotics operations, incorporating intelligence, interdiction, eradication efforts, and public information.

• 'President Karzai established the Afghan Local Police (ALP) in August 2010. This MoI-led interim program is foreseen to last two-five years to compensate for shortfalls in ANSF. It is established in selected areas upon request by the local populace and following validation by the Afghan Government, in conjunction with ISAF. It provides for small, community-based self-defence units under the MoI's chain of command, as represented by the District Chief of Police. The units are representative of, and accountable to, the community. This programme stands as a bridge solution until adequate numbers of ANSF are trained to provide security for the entire country. Currently, there are 14 operational ALP sites with 2,800 recruits.' [42b]

More information about the ALP is in sub-section Afghan local police and other local forces below.

10.15 IHS Jane's, Security, updated 20 July 2012: 'The Afghan National Police… is widely viewed with suspicion and essentially serves to complicate the local security situation yet further. A joint US Department of State and Department of Defense report completed in November 2006 stated that the Afghan police force is incapable of carrying out the routine tasks of law enforcement due to the problems of corruption, illiteracy, insecurity and poor equipment.' [9b]

10.16 The Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012, stated:

'U.S. and Afghan officials believe that building up a credible and capable national police force is at least as important to combating the insurgency as building the ANA… Outside assessments are widely disparaging, asserting that there is rampant corruption to the point where citizens mistrust and fear the ANP. Among other criticisms are a desertion rate far higher than that of the ANA; substantial illiteracy; involvement in local factional or ethnic disputes because the ANP works in the communities its personnel come from; and widespread use of drugs. It is this view that has led to consideration of stepped up efforts to promote local security solutions...About 1,300 ANP are women, demonstrating some commitment to gender integration of the force.

'Other U.S. commanders credit a November 2009 raise in police salaries (nearly doubled to about $240 per month for service in high combat areas)—and the streamlining and improvement of the payments system for the ANP—with reducing the solicitation of bribes by the ANP. The raise also stimulated an eightfold increase in the number of Afghans seeking to be recruited. Others note the success, thus far, of efforts to pay police directly (and avoid skimming by commanders) through cell phone-based banking relationships…The United States has worked to correct longstanding equipment deficiencies. The ANP is increasingly being provided with heavy weapons and now have about 5,000 armored vehicles countrywide. Still, most police units lack adequate ammunition and vehicles. In some cases, equipment requisitioned by their commanders is being sold and the funds pocketed by the police officers. These activities contributed to the failure of a 2006 "auxiliary police" effort that attempted to rapidly field large numbers of new ANP officers.' [10b] (p 35-36)

10.17 The Afghan Research and Evalution Unit (AREU) produced a report entitled, 'Local Governance in Afghanistan: A View from the Ground,' dated June 2011, which stated:

'Very few women are employed in the police force and are present only in the provincial centre, if at all. Senior officers drew attention to the need to have women in their service, and district chiefs of police in particular complained frequently about their

inability to search for belligerents wearing burqas. Safe houses or separate prisons for women are also rare. As in other spheres, these drawbacks demonstrate the problems associated with the lack of female engagement in public life in Afghanistan…[8a]

10.18 The same report observed:

'The search for employment has driven large numbers to join the ANP, and membership is often relatively easy to obtain through ethnically-based connections. Literacy levels within the police are low and there are problems with substance abuse. These are combined with reported high rates of turnover, absenteeism and lack of discipline. In one district, new recruits (under two years) had their guns removed before going off duty because they had been using them to rob people. There were many instances of police "borrowing" goods from traders and not paying them back, along with reports of sexual assault and the misappropriation of aid by district chiefs of police.

'Police were paralysed in Taliban areas. In Chak District (Wardak), for example, the police had not made an arrest for two years since the population were intimidated against reporting misdemeanours to the district police office. Citizens in these areas face high levels of insecurity, crime and violence— during the two month duration of the study in Laghman more than 15 people were killed in personal disputes. The researchers were informed of many instances where district chiefs of police worked in close cooperation with local commanders or maliks or at the behest of a dominant party where present. In Laghman, there was clear evidence of relations between the police and the Taliban, whose members were sometimes drawn from the same families.' [8a] (p 22-23)

10.19 In a report to the UN General Assembly Security Council dated 20 June 2012, the Secretary-General stated that the ANP are targeted in incidents against security forces:

'Afghan security forces, particularly the Afghan National Police, are also the object of targeted campaigns. The Afghan national police were targeted in almost 70 per cent of all incidents against security forces, accounting for some 875 casualties, or 70 per cent of the total casualties in the security forces, and for the largest number of targeted assassinations…In April, the Ministry [of the Interior] launched a national police plan, with priorities including community-based policing, strengthening crime detection and prevention, safeguarding human rights and combating violence against women and children. The plan outlined an ambitious goal of inducting 5,000 women into the police service by 2014, up from the current figure of 1,370.' [18i] (p 6)

10.20 The United States Department of Defense 'Country Report for Human Rights Practices for 2011' stated:

'International support for recruiting and training new ANP personnel continued, with the goal of professionalizing the police force, including the continuing implementation of the CPD staff prison reform and restructuring program. The international community worked with the government to develop awareness and police training programs. These programs emphasized law enforcement, the constitution, values and ethics, professional development, the prevention of domestic violence, and fundamental standards of human rights, in addition to core policing skills and internal investigation mechanisms to curb security force corruption and abuses.

'Nevertheless, human rights problems persisted; observers criticized the inadequate preparation and lack of insensitivity [sic] of local security forces. Human rights

institutions expressed deep concerns about the limited oversight that existed for security institutions, especially the ALP.' [58c] (Section 1.d)

See also sub-section: Afghan Local Police and other local forces below.

Afghan Local Police and other local forces

10.21 The Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012, stated that, 'The failure of several police training efforts led to efforts, beginning in 2008, to develop local forces to protect their communities.' [10b] (p 36) The same report added that any 'local security organs' are 'firmly under Afghan government (mainly Ministry of Interior) control.' [10b] (p 37)

10.22 The CRS report described various local security initiatives as below:

'Village Stability Operations/Afghan Local Police (ALP). The Village Stability Operations concept began in February 2010 in Arghandab district of Qandahar Province. U.S. Special Operations Forces organized about 25 villagers into an armed neighborhood watch group, and the program was credited by U.S. commanders as bringing normal life back to the district. The pilot program was expanded and formalized into a joint Afghan-U.S. Special Operations effort in which 12 person teams from these forces live in communities to help improve governance, security, and development.

'An outgrowth of the Village Stability Operations is the Afghan Local Police program in which the U.S. Special Operations Forces conducting the Village Stability Operations set up and train local security organs of about 300 members each. These local units are under the control of district police chiefs and each fighter is vetted by a local shura as well as Afghan intelligence. As of March 2012, there are a total of about 12,660 ALP operating in 58 different districts. There are three ALP centers in Helmand province. A total of 99 districts have been approved for the program, each with about 300 fighters, which would bring the target size of the program to about 30,000. However, the ALP program, and associated and preceding such programs discussed below, were heavily criticized in a September 12, 2011, Human Rights Watch report ['Just don't call it a militia'] citing wide-scale human rights abuses (killings, rapes, arbitrary detentions, and land grabs) committed by the recruits. The report triggered a U.S. military investigation which substantiated many of the report's findings, although not the most serious of the allegations.

'The ALP initiative was also an adaptation of another program, begun in 2008, termed the "Afghan Provincial Protection Program" (APPP, commonly called "AP3"), funded with DOD (CERP) [US Department of Defense Commander's Emergency Response Program] funds. The APPP got under way in Wardak Province (Jalrez district) in early 2009 and 100 local security personnel "graduated" in May 2009. It was subsequently expanded to 1,200 personnel. U.S. commanders said no U.S. weapons were supplied to the militias, but the Afghan government provided weapons (Kalashnikov rifles) to the recruits, possibly using U.S. funds. Participants in the program are given $200 per month. General Petraeus showcased Wardak in August 2010 as an example of the success of the APPP and similar efforts. The National Defense Authorization Act (P.L. 111-84) called for a report on the program within 120 days of the October 28, 2009, enactment.

'Afghan Public Protection Force. A new force is being developed by the Ministry of Interior, in partnership with ISAF and U.S. Embassy Kabul. The Afghan Public

Protection Force is intended to be a guard force of about 14,000 personnel which will help guard diplomatic and development sites. The force was developed to implement Karzai's demands in 2010 that private security contractor forces be disbanded and their functions performed by official Afghan government forces by March 20, 2012. That deadline was extended because of the slow pace of standing up the new protection force, and some development organizations continue to use locally hired guard forces.' [10b] (p 36-38)

10.23 The Human Rights Watch report, 'Just don't call it a militia,' dated September 2011, stated that:

'…the ALP is officially designed to "secure local communities and prevent rural areas from infiltration of insurgent groups." It is supposed to supplement national security forces by providing community defense, but without law enforcement powers. It is seen by the US military as a way to deal with the immense time pressures of trying to hand control of security to the Afghan government by 2014 while maintaining stability in remote parts of the country… The ALP was approved by the Afghan government in July 2010 and established by presidential decree on August 16, 2010. According to the US military and the Afghan government, the ALP is being rolled out across the country to defend rural communities in areas where there is limited Afghan national army and police presence and while the national forces strengthen their capabilities. The Afghan government has an official target to hire 10,000 men for the ALP; the US Congress has approved funding for 30,000. As of August 2011, 7,000 men had been recruited to the ALP.

'The term "police" in the title of the ALP is a misnomer, as the ALP is not really a police force. Its terms of reference state that it is a "defensive force" that does not have law enforcement powers. Those supportive of the program say that it was created largely as a short-term fix for the Afghan National Police (ANP) and to free up the Afghan security forces to focus on offensive operations rather than defensive deployments. Afghan security forces will be expected to take the entire burden of such operations as the international troops withdraw. As one international official told Human Rights Watch, "ALP is the exit strategy."' [15j] (p 2)

10.24 The United Nations Report of the Secretary-General, dated 20 June 2012, described the postion of the Afghan Local Police: 'The Afghan local police have continued to expand, with over 13,000 personnel at 65 validated sites by mid-May. These local forces are supposed to focus on defence and have contributed to stability in a number of areas. Strong concerns remain over issues of impunity, vetting, command and control and the potential re-emergence of ethnically or politically biased militias.' [18i] (p 6)

10.25 The United Nations Assistance Mission in Afghanistan (UNAMA) commented on the ALP in a report entitled, 'Protection of Civilians in Armed Conflict; Annual Report 2011,' published in February 2012:

'With the start of transition in 2011, Afghan and international military forces relied increasingly on the Afghan Local Police (ALP) to fill gaps in securing rural and remote areas of the country. ALP units have been formed in specific districts where the Afghan National Police or Afghan National Army were not present in sufficient numbers to adequately secure local communities and comprise individuals recruited locally to provide security within a limited geographic area. Costing considerably less to train and maintain than Afghan National Police or Afghan National Army recruits, the ALP numbers 11,066 in 57 districts with the Ministry of Interior authorized to recruit up to

30,000 in 99 districts. According to the International Security Assistance Force in Afghanistan (ISAF), the ALP provides an “enduring physical security presence that operates with local support and national approval and oversight,” is a “key piece in the comprehensive joint Afghan-ISAF counter-insurgency effort”, and “part of the wider Afghan-ISAF security network.”’ [29b]

Afghan National Directorate of Security (Amniat-e Melli)

10.26 The Afghan Research and Evaluation Unit (AREU) report, ‘Local Governance in Afghanistan: A View from the Ground,’ dated June 2011, described the role of the NDS:

‘The primary role of the NDS is to gather information on anti-government activity and drug trafficking. The Directorate is located in the president’s office and operates covertly. In the districts, the NDS is independent of the woluswal [District Governor] and the chief of police, though it works closely and shares much of its information with them, as it does with ISAF. However, in some areas the NDS expressed concerns that police ties to figures it was investigating were undermining its operations and chose not to mount operations with them. The NDS works through a network of paid male and female informers spread across each district and maintains close links with maliks [village representatives] and qaryadars [also village representatives]. District officers reportedly received $400 a month to pay informants, occasionally supplemented by $10,000 windfall payments for successful arrests or the discovery of arms caches. The NDS are very well informed as to the composition, location and leadership of armed opposition elements in every district; NDS district officers supply information to their provincial and central commands as well as to the police and the PRTs. “Formerly we used to work for the KGB. Now we work under the CIA,” said one district officer.’ [8a] (p 23)

10.27 The Long War Journal reported the following in an article dated 20 September 2011:

‘Although the NDS has had success in dismantling a number of dangerous militant networks this summer, insurgents have increased their targeted killing of Afghan NDS operatives across the country. Three NDS officers were killed when their vehicle struck an IED in Helmand on Sept. 10, and another NDS officer and three Afghan soldiers were killed on Sept. 7 in an IED attack in Logar province. On Aug. 20, one NDS officer was killed and four others wounded when a remote-controlled IED destroyed their vehicle in the Joy Haft area of Jalalabad City...

‘The challenges facing the NDS come not only from the insurgents. International critics including the UN recently issued a confidential report to the Afghan government on the NDS, accusing the intelligence agency of facilitating grievous human rights violations including torture at its prison compounds. The prison under the greatest scrutiny is the counterterrorism prison department 124 (located in Kabul), run by NDS, along with other NDS prisons in Herat, Khost, Lagman, Kapisa, and Takhar. Two Afghan police-run prisons, in Kunduz and Tarin Kowt, are also under investigation. Because of the claims, NATO has since stopped sending detainees to some NDS prisons in Afghanistan. The Afghan Interior Minister blasted the UN report, saying, "We consider these unfounded excuses for not transferring the prisoners and prisons to the Afghans, and it will damage the process [of transition]."

‘Despite widespread concerns over the transition of security from NATO to the fledgling Afghan National Security Forces, including criticisms of the country's police and

intelligence agencies, the NDS remains the most capable and effective security organization operating at the national level.' [64a]

Afghan National Guard

10.28 JSCRA, Afghanistan, Police force, updated 21 April 2011, stated:

'The duties of the Afghan National Guard are to protect vulnerable personnel and installations. The first 600 soldiers graduated in April 2002, but the close protection of prominent figures in Afghanistan is still carried out in the main either by private Afghan militias or foreign private security contractors. The National Guard appears to be involved in protecting some facilities in Kabul…Foreign contract personnel provide close protection for President Hamed Karzai and other government figures in Kabul. They are not answerable to NATO [North Atlantic Treaty Organisation] or any other established force.' [9d] (Afghan National Guard)

INTERNATIONAL MILITARY FORCES

10.29 The Congressional Research Service report, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012, stated: 'Since 2006, the vast bulk of all U.S. troops in Afghanistan have served under the umbrella of the NATO-led "International Security Assistance Force" (ISAF). ISAF consists of all 26 NATO members [sic] states plus partner countries—a total of 50 countries including the United States.' [10b] (p 40)

10.30 The same report added: 'The International Security Assistance Force (ISAF) was created by the Bonn Agreement and U.N. Security Council Resolution 1386 (December 20, 2001, a Chapter 7 resolution), initially limited to Kabul… In August 2003, NATO took over command of ISAF—previously the ISAF command rotated among donor forces including Turkey and Britain.' [10b] (p 42)

10.31 The report explained:

'To combat the insurgency, the United States is in partnership with 49 other countries and the Afghan government and security forces. There are about 90,000 U.S. troops in Afghanistan as of May 2012, down from 99,000 in mid-2011, the height of the U.S. presence. The vast majority operate under NATO/ISAF command, but about 9,000 remain part of the post-September 11 antiterrorism mission Operation Enduring Freedom (OEF).' [10b] (p 19)

10.32 The report further explained the nature of Operation Enduring Freedom:

'Operation Enduring Freedom continues as a separate combat track, led by the United States but joined by at least 12 partners. ...The overwhelming majority of non-U.S. forces are under the NATO/ISAF mission. Prior to NATO assumption of command in October 2006, 19 coalition countries—primarily Britain, France, Canada, and Italy—contributed approximately 4,000 combat troops to OEF-Afghanistan. Most were subsequently rebadged to ISAF. However, several foreign contingents, composed mainly of special operations forces, including forces from the UAE, are still part of OEF-Afghanistan. This includes about 500 British special forces, some German special forces, and other special forces units. In early 2010, U.S. Special Forces operating in Afghanistan were brought under direct command of the top U.S. command in Afghanistan.' [10b] (p 31)

See also sub-sections: Operation Enduring Freedom and Security situation - International Military Forces for further information on these subjects

10.33 The NATO website provided the following undated information, which was accessed on 15 October 2012:

'NATO's primary objective in Afghanistan is to enable the Afghan government to provide effective security across the country in order to ensure Afghanistan can never again become a haven for terrorists . To achieve this goal, the 50 nations which make up the NATO-led International Security Assistance Force (ISAF) conduct security and stability operations throughout the country together with the Afghan National Security Forces (ANSF) and train and develop the Afghan forces. As repsonsibility for security is gradually transitioned to the Afghans, ISAF's mission is shifting progressively from a combat-centric role to a more enabling role focusing on training, advising and assisting.' [127a]

International Security Assistance Force (ISAF)

10.34 The ISAF undated website, accessed on 28 May 2012, described the mission of ISAF as follows:

'In support of the Government of the Islamic Republic of Afghanistan, ISAF conducts operations in Afghanistan to reduce the capability and will of the insurgency, support the growth in capacity and capability of the Afghan National Security Forces (ANSF), and facilitate improvements in governance and socio-economic development in order to provide a secure environment for sustainable stability that is observable to the population.' [42a]

10.35 The ISAF website also described the role of ISAF in relation to security:

'In accordance with all the relevant Security Council Resolutions, the main role of ISAF is to assist the Afghan government in the establishment of a secure and stable environment. To this end, ISAF forces conduct security and stability operations throughout the country together with the Afghan National Security Forces and are directly involved in the development of the Afghan National Security Forces through mentoring, training and equipping.' [42a]

10.36 The website further explained ISAF's role in reconstruction and development:

'Through its Provincial Reconstruction Teams, ISAF supports reconstruction and development (R&D) in Afghanistan, securing areas in which reconstruction work is conducted by other national and international actors. Where appropriate, and in close cooperation and coordination with GIROA and UNAMA representatives on the ground, ISAF also provides practical support for R&D efforts, as well as support for humanitarian assistance efforts conducted by Afghan government organizations, international organizations, and NGOs.' [42a]

10.37 The website also set out ISAF's role in regard to governance: 'ISAF, through its Provincial Reconstruction Teams (PRTS), helps the Afghan Authorities strengthen the institutions required to fully establish good governance and rule of law and to promote human rights. The principal mission of the PRTs in this respect consists of building capacity, supporting the growth of governance structures and promoting an environment within which governance can improve.' [42a]

10.38 Further information about ISAF can be obtained from the ISAF website: http://www.isaf.nato.int/mission.html

10.39 The Foreign and Commonwealth Office, Afghanistan: Progress report, September 2012, released on 8 October 2012, provided the following table:

Table One: International Contributions to ISAF Country	**Contribution**	**% of Total**
US	68,000	64.8%
UK	9,500	9.1%
Germany	4,737	4.5%
Italy	4,000	3.8%
France	2,418	2.3%
Poland	1,800	1.7%
Romania	1,762	1.7%
Australia	1,550	1.5%
Spain	1,450	1.4%
Turkey	1,328	1.2%
Others (38 nations)	8,360	8%
Current Total	**104,905**	**100.00%**

Above numbers are indicative of troop contributions as at 8 Oct 2012, actual numbers fluctuate daily.
Source: ISAF

Provincial Reconstruction Teams (PRTs)

10.40 The Congressional Research Service explained the role of PRTs in a report entitled, 'Afghanistan: Post-Taliban Governance, Security and US Policy,' dated 3 May 2012:

'U.S. and partner officials have generally praised the effectiveness of "Provincial Reconstruction Teams" (PRTs)—enclaves of U.S. or partner forces and civilian officials that provide safe havens for international aid workers to help with reconstruction and to extend the writ of the Kabul government—in accelerating reconstruction and assisting stabilization efforts. The PRTs, the concept for which was announced in December 2002, perform activities ranging from resolving local disputes to coordinating local reconstruction projects, although most U.S.-run PRTs and most PRTs in combat-heavy areas focus on counter-insurgency. Many of the additional U.S. civilian officials deployed to Afghanistan during 2009 and 2010 are based at PRTs, which have facilities, vehicles, and security. Some aid agencies say they have felt more secure since the PRT program began, but several relief groups do not want to associate with military forces because doing so might taint their perceived neutrality. Others, such as Oxfam International, argue that the PRTs are delaying the time when the Afghan government has the skills and resources to secure and develop Afghanistan on its own. It is likely that the PRTs in Afghanistan will either be phased out or transitioned to purely civilian leadership and roles as the transition unfolds.' [10b] (p 39)

10.41 The same report added that 'Virtually all the PRTs are now under the ISAF mission.' [10b] (p 39)

OTHER ORGANISATIONS

Private security firms

10.42 Radio Free Europe/Radio Liberty reported as follows in an article dated 17 August 2010: 'Afghan President Hamid Karzai has issued a decree that calls on all private security contractors to cease operations in the country within four months. The decree specifies that it applies not only to private Afghan security firms, but also to private international firms in Afghanistan.

'Karzai's spokesman Wahid Omar said the Afghan president made the decision because he thinks the tens of thousands of private security contractors now in the country are undermining Afghanistan's army and police.

'Karzai pledged in his inauguration speech in November that he would shut down both foreign and domestic security contractors by November 2011. Today's decree pushes his deadline on that pledge forward by a full year.

'Tens of thousands of private contractors now work in Afghanistan to provide security for embassies, NATO convoys, nongovernmental organizations, diplomats, and investors. The U.S. government alone employs about 26,000 private security contractors -- including 19,000 who work with the U.S. military. Those contractors include Afghans as well as foreign nationals.

'But with complaints that private security firms are poorly regulated, reckless, and effectively operate outside local law, the issue has become a point of contention between the Afghan government and the international community.

'Authorities in Kabul complain, in particular, about private firms hired to guard NATO supply convoys -- alleging the private guards are trigger-happy and sometimes fire at civilians without provocation.

'In a speech on August 7, Karzai urged the United States and NATO to stop supporting such private security companies. Karzai suggested private firms have created a separate security apparatus in Afghanistan -- and that some corrupt private Afghan security firms are involved in kidnappings, armed robberies, and organized crime.

'"Private security groups and private security companies are a cause of everyday misery in our country," Karzai said. "They abuse the rights of the people. They threaten the security and, God knows, they steal during the day and turn [into] terrorists during the night…"

'Dildar [Mohammad Shirzai Dildar, owner of one private Afghan security firm] … said that Karzai's government would be responsible for eliminating the jobs that at least 30,000 Afghans depend upon for their livelihood…

'Karzai's decree also is expected to meet resistance from NATO officials, foreign governments, and nongovernmental organizations, who rely heavily on private security guards.

'Ian Kemp, a London-based independent defense analyst, says that "it is going to be a major effort for Karzai to convince these various organizations to have confidence in the Afghan [government] security forces, who are very hard pressed at the moment expanding their mandate, particularly working alongside [NATO-led] coalition forces in combat operations."

'Kemp says that implementation of Karzai's decree also will be difficult because of the vast number of tasks performed by private security contractors -- not just armed-guard work, but also work by translators and liaison officers who go out on patrols with NATO troops into Afghan villages…

'In Washington, Pentagon officials already are questioning whether a four-month deadline for the elimination of all private security firms in Afghanistan is realistic. Pentagon spokesman Bryan Whitman said the U.S. military wanted private security firms to eventually be eliminated from Afghanistan -- but only when they are no longer needed…

'Afghanistan's Interior Ministry has licensed 52 security firms to work in Afghanistan. But U.S. military officials say some older contracts are still being completed by unlicensed firms.' [30i]

10.43 The Afghanistan Independent Human Rights Commission (AIHRC) commented further on the dissolution of private security companies in its 'Fifth Report; Situation of Economic and Social Rights in Afghanistan,' dated November/December 2011:

'The Afghan Government has time and again criticized the performance of private security companies and has demanded the dissolution of all such companies—a move that was opposed by some US officials. The Afghan Government has accused private security companies of causing insecurity, arbitrary killings, beatings, and harassment of people. In 1389 (2010/11), the Afghan President demanded the dissolution of these companies and eventually issued a decree that led to the practical dissolution of several private security companies. It seems that the presidential decree has not been fully implemented and as a result, not all private security companies have been dissolved.' [31a] (p 120)

10.44 The United States Department of Defense issued their 'Report on Progress toward Security and Stability in Afghanistan; United States Plan for Sustaining the Afghanistan National Security Forces,' dated April 2011, which commented on President Karzai's decree that all private security contractors must cease operations in the country in a four-month timeframe:

'Although the decree included exceptions for embassies and diplomatic personnel, it soon became clear that Afghan Government security forces could not adequately replace PSCs [private security companies] in such a short time period.

'In the fall of 2010, the MoI [Ministry of the Interior] disbanded some PSCs, allowed some licenses to expire, and stopped registering new PSCs/contracts. In February 2011, the international community and the Government of Afghanistan negotiated a twelve-month bridging strategy, which the Afghan Government approved in March 2011. The agreement allows for the continued use of PSCs for one year, while concurrently developing the capabilities and capacity of an existing, MoI-run guard force – the Afghan Public Protection Force (APPF). The strategy incorporates a reduction in, but not elimination of, coalition force reliance on PSCs and an acceptable use of PSCs for diplomatic entities, and international organizations until the Afghan Government can enlarge the APPF.

'As part of this plan, NTM-A [NATO Training Mission – Afghanistan] and USAID will assist the APPF to build the capacity needed to meet the needs of ISAF and the

international community. To support these efforts, the APPF is currently building a recruit training center with a projected training capacity of 1,000 guards per month. While it will take time to develop an Afghan Government security solution to replace a 50,000-personnel PSC industry, which spans static, convoy, and construction security, President Karzai has agreed to certain exceptions, such as allowing individual PSCs to exceed personnel limits if they are willing to recruit, train, and equip guards for later use by the APPF.' (p 63-64)

See also sub-section: Afghan Local Police and other local forces

HUMAN RIGHTS VIOLATIONS BY PRO-GOVERNMNENT FORCES

10.45 The Human Rights Watch, World Report 2012, Afghanistan, covering events in 2011, released in January 2012, observed that:

'In an effort to combat insurgency the Afghan government continues to arm and provide money, with little oversight, to militias in the north that have been implicated in killings, rape, and forcible collection of illegal taxes. As part of its exit strategy, the United States is backing "Afghan Local Police" (ALP), village-based defense forces trained and mentored primarily by US Special Forces, which have been created since 2010 in parts of the country with limited police and military presence. In its first year ALP units were implicated—with few consequences for perpetrators—in killings, abductions, illegal raids, and beatings, raising serious questions about government and international efforts to vet, train, and hold these forces accountable.' [15a]

The United Nations Assistance Mission in Afghanistan (UNAMA) commented on the ALP in a report entitled, 'Protection of Civilians in Armed Conflict; Annual Report 2011,' published in February 2012:

'Throughout 2011, UNAMA received mixed reports on the performance of the ALP and their impact on civilian protection. At year's end, most interlocutors reported improved security in areas where the ALP operated. Concerns persisted however regarding recruitment of known human rights abusers into the ALP in some areas and inadequate vetting, training, command and control, accountability and oversight. UNAMA documented inappropriate influence by local power brokers in the recruitment and conduct of ALP members in some areas, ALP commanders imposing illegal taxes on some communities in Paktika and Kunduz provinces, and forced recruitment of local residents including children in some districts in Paktika, Farah and Uruzgan provinces.' [29b] (p 6-7)

Impunity and corruption

10.46 The USSD report 2011 stated: 'Other human rights problems included …ineffective government investigations of abuses and torture by local security forces… [introduction]

'Official impunity and lack of accountability were pervasive… Observers believed that ALP and ANP personnel were largely unaware of their responsibilities and defendants' rights under the law. According to UNAMA, accountability of NDS and ANP officials for torture and abuse was weak, not transparent, and rarely enforced. There was limited independent, judicial, or external oversight of the NDS and ANP as institutions, and of crimes or misconduct committed by NDS and ANP officials, including torture and abuse.' [58c] (Section 1.b)

10.47 The UNAMA report, 'Treatment of conflict-related detainees in Afghan custody,' dated October 2011, stated: 'Accountability of both NDS and ANP officials for torture and abuse of detainees is weak, not public and rarely enforced. Limited independent, judicial or external oversight exists of both NDS and ANP as institutions and of alleged crimes committed by NDS and ANP officials including torture and abuse.

'As a matter of practice, most claims of criminal conduct, abusive or unprofessional behaviour are dealt with internally and they rarely (in the case of NDS) or inconsistently (in the case of ANP) result in cases being handed over to prosecutors for independent criminal investigation. When cases warrant criminal investigation, the process of referring cases to an external criminal agency is unclear and infrequently used.' [29h] (p 40-41)

10.48 The same report described accountability measures for NDS officials:

'Although the Constitution prescribes that investigation of criminal conduct by police, armed forces, and national intelligence officials shall be regulated by a "special law," the legal basis for the internal accountability framework of NDS is unknown and not public.172 While the bulk of the mandate of NDS is covered under the National Security Law, oversight and accountability measures are not set out in the law. It is unclear whether another confidential presidential decree exists supplementing the legal framework of NDS; in practice, some procedures for oversight of NDS are observed…

'Cases in which these criminal accountability measures are used appear to be minimal. In the situation of the NDS procedure using NDS courts, it appears there has never been an allegation of torture or abuse reaching that stage of the procedure. Senior NDS officials told UNAMA they have investigated only two claims of torture in recent years, neither of which led to charges being pursued against the accused NDS official.174 Despite repeated requests, NDS did not provide UNAMA with any information on any other disciplinary or criminal action against NDS officials for torture and abuse.

'Anti-corruption proceedings have produced criminal investigations and prosecutions of NDS officials. Sources within the Attorney General's Office pointed to nine cases in the last two years that led to a criminal investigation, prosecution and eventual conviction of NDS officials in anti-corruption proceedings. One of these cases involved an allegation of torture, which suggests the system of oversight of NDS through anti-corruption procedures may be more robust than NDS' internal mechanisms.175 Neither mechanism however is an effective deterrent against torture as it continues to occur with few cases pursued through either the internal NDS investigation system or any external measure.' [29h] (p 41–42)

10.49 The same report stated:

'On 28 December 2010, the NDS Chief of Foreign Relations announced the creation of a commission designed to provide oversight of "NDS detention facilities for any issues related with the mistreatment of the detainees and general condition of detention facilities." This commission consisted of representatives from three separate NDS Departments (18, 24 and 33) and the legal advisory and chief of staff offices. According to NDS, the commission's mandate required delegations to undertake unannounced trips to detention facilities in provinces throughout Afghanistan. These delegations were to examine case files in NDS to determine whether problems with due process issues existed and interview detainees regarding any allegations against NDS officials

for abuse or mistreatment.177 These delegations, upon completing a monitoring visit to a province, were to complete a report to the Director General of NDS.

'UNAMA followed the work of these oversight commissions as delegations made visits to facilities in Herat, Kandahar and Nangahar in January and early February 2011. UNAMA observed issues with the scope and quality of these inquiries. In spite of UNAMA's requests, NDS has provided no information on the conclusions or recommendations of this oversight body, whether representatives found any grounds for criminal or disciplinary action against NDS staff or recommended investigations into misconduct or abuse. It is unclear whether this commission is still operational. [29h] (p 42)

10.50 The same report added:

'The ANP has both internal and external accountability mechanisms for misconduct with the vast majority of cases against ANP members addressed internally through the MoI. There is limited independent or external oversight of cases of police abuse or criminal conduct. Crimes committed by ANP officials, however, are supposed to be referred to the Directorate of Military Affairs within the Attorney General's Office for investigation and possible criminal trial by a military prosecutor.178 Little information is available whether MoI refers any cases of ANP crimes to the judicial system.

'External oversight of the ANP is currently being developed with a police monitoring mechanism being introduced in the Afghanistan Independent Human Rights Commission to serve as a type of independent ombudsperson on police misconduct. It remains to be seen how well this office will be staffed and how free their access to the police, its offices, case files, and facilities will be. UNAMA is of the view that the mechanism could promote civilian accountability within ANP if properly designed and resourced.

'The internal accountability mechanisms of MoI are more numerous and developed than those of the NDS, although they lack cohesion and coordination. Established MoI policies require police officers to report misconduct or crimes committed by their fellow officials. Private citizens can also report such breaches of conduct or law through a special office established in the Office of the MoI (Central Office 119). This office reviews cases and decides if they have merit and should be pursued with further investigation or not. If a case is to be followed further, it is referred to one of three MoI structures with authority to investigate police misconduct: the Inspector General's Office, the Department of Gender, Human Rights and Child Rights, or the Criminal Investigation Department. Apart from this Central Office 119 referral mechanism, all three units can receive reports, complaints or cases directly from individuals who allege that an ANP official has violated the law, professional conduct or the rights of an individual.

'How these different departments and offices interact and the degree to which they coordinate their handling of complaints and cases of abuse is unclear – as are their activities. In addition, the precise standard used to determine when a case is to be addressed internally rather than through referral to a military prosecutor lacks clarity. Duplication of efforts and the possibility of serious criminal cases and human rights violations, such as torture, being referred to an internal investigation measure, rather than to a prosecutor are very high. Real concerns exist regarding how cases of serious abuse are handled, as there appear to be no standards or policies for internal investigative procedures that protect the anonymity, confidentiality or privacy of

complainants, victims or witnesses in police abuse cases.' [29h] (p 42-43)

See also section on Corruption for further information on this subject.

Arbitrary arrest and detention

10.51 The US Country Report on Human Rights Practices for 2011,Afghanistan, May 2012 stated: 'The law prohibits arbitrary arrest or detention; however, both remained serious problems. Many citizens were detained without enjoying essential procedural protections.

'According to NGOs, authorities continued to arbitrarily detain citizens without clear legal authority and due process. Local law enforcement officials reportedly illegally detained persons on charges not provided for in the penal code and used their official status to resolve petty disputes.' [58c] (Section 1.d)

10.52 Amnesty International's Annual Report 2012, Afghanistan, covering events in 2011, published in May 2012, stated, 'The National Directorate of Security (NDS), Afghanistan's intelligence service, continued to arbitrarily arrest and detain suspects, denying them access to a lawyer, their families, the courts or other external bodies.' [25d]

10.53 The USSD Report 2011 also noted:

'Arbitrary arrests were reported in most provinces. Incommunicado detention remained a problem and prompt access to a lawyer was rare. While detainees were allowed access to their families, there were many cases in which such access was not prompt. Some detainees were subjected to torture and other mistreatment, including being whipped, exposed to extreme cold, and deprived of food. UNAMA reported that police also detained individuals for moral crimes, breaches of contracts, family disputes, and to extract confessions. Observers reported that those detained for moral crimes were almost exclusively women.

'There was little consistency in the length of time detainees were held before trial or arraignment. Postsentence detention also was reportedly common.' [58c] (Section 1.d)

The US Department of Defense Country Report on Human Rights Practices for 2011 added that 'There were no reports that the government held political prisoners or detainees.' [41b] (Section 1.e)

See also section on Arrest and detention - legal rights for further information on the law in theory and breaches of the law

Torture

10.54 The USSD report 2011 also commented on torture and other cruel, inhuman, or degrading treatment or punishment, explaining:

'The constitution prohibits such practices; however, there were widespread reports that government officials, security forces, detention center authorities, and police committed abuses. Nongovernmental organizations (NGOs) reported that security forces continued to use excessive force, including torturing and beating civilians. For example, in March police severely beat an 18-year-old who died while in police custody in Kabul's District

11. He had been charged with stealing cell phones and about 200,000 afghani ($4,400) from his employer.

'In October UNAMA reported systematic torture of detainees at five NDS and ANP detention centers and found credible instances of torture and mistreatment at several other facilities, although UNAMA found no evidence that the torture was either institutionalized or a government policy. Extensive media reports linked ANP in Kandahar to reports of torture. One such case involved the arrest of two young boys working at a restaurant who allegedly brought food to insurgent fighters hiding outside the city. The ANP forces reportedly handcuffed the two boys, hung them from the ceiling, and beat them with a black metal baton and a cable.

'The Ministry of Women's Affairs (MOWA) and NGOs reported that police raped female detainees. There were reports that security officials and those connected to the ANP raped children with impunity... NGOs reported incidents of sexual abuse and exploitation of children by the Afghan National Security Forces (ANSF), although cultural taboos against reporting such crimes made it difficult to determine the extent of the problem. In May media officials reported that the ANSF detained and sexually abused three underage male suicide bombers who had crossed the border from Pakistan before turning them over to a juvenile detention center…

'In September Human Rights Watch (HRW) issued a report linking the Afghan Local Police (ALP) and armed militia to extensive human rights abuses. For example, in June the ALP allegedly detained two boys overnight and beat them, and also hammered nails into one boy's feet while he was in custody. International training and mentoring of ALP has sought to reduce abuse of authority such as in Helmand, for instance by revising initial ALP training procedures to promote practical application of human rights principles.' [58c] (Section 1.c)

10.55 The USSD report also commented that:

'There were reports of abuse of persons in detention. In October UNAMA reported that widespread mistreatment and torture of detainees occurred in NDS and ANP detention facilities. Security forces used suspension; beatings, especially with rubber hoses, electric cables, or wires and wooden sticks, most frequently on the soles of the feet; electric shock; twisting of detainees' genitals; stress positions; removal of toenails; and threats of sexual abuse. UNAMA found evidence of systemic torture at five NDS detention facilities in Herat, Kandahar, Khost, and Laghman, and the national facility of the NDS Counter-Terrorism Department 124 (formerly Department 90) in Kabul. UNAMA documented one death in ANP and NDS custody from torture in Kandahar in April. NGOs reported cases of prison officials raping female inmates.' [58c] (Section 1.c)

10.56 The USSD report added:

'NGOs and human rights activists noted that societal violence, especially against women, was widespread; in many cases the police did not prevent or respond to the violence. In April a 12-year-old girl in Takhar Province allegedly was gang-raped. According to some accounts, several of the perpetrators were wearing police (ANP) uniforms. Although the AIHRC and other civil society representatives undertook a high-profile investigative visit to Takhar, authorities made no arrests.' [58c] (Section 1.d)

10.57 Amnesty International's Annual Report 2012, Afghanistan, covering events in 2011, published in May 2012, stated:

'The NDS faced credible allegations of torturing detainees and operating secret detention facilities. NATO ceased transferring detainees to Afghan forces after a UN report, issued in October, documented the systematic use of torture by NDS officers. According to the report, prisoners had been tortured in 47 NDS and police detention facilities across 22 provinces.' [25d]

10.58 The Human Rights Watch World Report 2012, covering events in 2011, dated January 2012, stated:

'Torture and abuse of detainees in Afghan jails in 2011 led the ISAF to temporarily suspend the transfer of prisoners in eight provinces. Abuses in these jails documented by the UN Assistance Mission in Afghanistan include beatings, application of electric shock, threats of sexual assault, stress positions, removal of toenails, twisting and wrenching of genitals, and hanging detainees by their wrists. Inadequate due process protections for detainees held within the parallel US-administered system and for those prosecuted under Afghan law following US detention also continue to be a serious concern.' [15a]

10.59 The UNAMA report, 'Treatment of conflict-related detainees in Afghan custody,' dated October 2011, stated:

'UNAMA's detention observation found compelling evidence that 125 detainees (46 percent) of the 273 detainees interviewed who had been in NDS detention experienced interrogation techniques at the hands of NDS officials that constituted torture, and that torture is practiced systematically in a number of NDS detention facilities throughout Afghanistan. Nearly all detainees tortured by NDS officials reported the abuse took place during interrogations and was aimed at obtaining a confession or information. In almost every case, NDS officials stopped the use of torture once detainees confessed to the crime of which they were accused or provided the requested information. UNAMA also found that children under the age of 18 years experienced torture by NDS officials.

'More than one third of the 117 conflict-related detainees UNAMA interviewed who had been in ANP detention experienced treatment that amounted to torture or to other cruel, inhuman or degrading treatment.

'In situations where torture occurred, it typically took the form of abusive interrogation practices used to obtain confessions from individuals detained on suspicion of crimes against the State. The practices documented meet the international definition of torture.' [29h] (p 2-3)

10.60 Human Rights Watch commented in an article dated 10 January 2012:

'President Hamid Karzai should revoke a new decree that puts detainees in Afghan-run prisons at heightened risk of torture and ill-treatment, Human Rights Watch said today. The decree, signed by Karzai on December 17, 2011, would transfer control of Afghan prisons from the Justice Ministry to the Interior Ministry, which operates the Afghan National Police, on January 10, 2012…

'Placing all prisoners under Interior Ministry control increases the likelihood that the Afghan police, long implicated in torture and other ill-treatment, would have direct authority over criminal suspects during interrogation, Human Rights Watch said…

'Under-resourced and poorly trained Afghan Police units frequently rely on abusive law

enforcement methods, Human Rights Watch said. Giving police greater control over prisoners –in particular pretrial detainees – increases the risk of torture and cruel, inhuman, or degrading treatment as they try to obtain confessions and other information from suspects…

'Karzai's new decree further imperils the rights of prisoners, calling into question the government's stated commitment to end torture and ill-treatment, Human Rights Watch said.' [15k]

Extra-judicial killings

10.61 The USSD report 2011 stated: 'Other human rights problems included extrajudicial killings by security forces-- for example, the Afghan National Police (ANP) in Kandahar was implicated in several cases of torture and extrajudicial killings…' [58c]

10.62 The USSD report 2011 further commented on arbitrary or unlawful deprivation of life:

'There were credible reports that the government or its agents committed arbitrary or unlawful killings. Police beatings resulted in at least one death in custody in Kabul in March, and the United Nations Assistance Mission in Afghanistan (UNAMA) documented one death from torture in ANP and National Directorate of Security (NDS) custody in Kandahar in April... Media sources reported that police in Kandahar in the 3rd Afghan Border Police (ABP) Zone headquartered in Spin Boldak were involved in extrajudicial killings and torture.' [58c] (Section 1.a)

10.63 The Report of the UN Secretary-General to the Security Council, 'The situation in Afghanistan and its implication for international peace and security,' dated 20 June 2012, recorded the occurrence of serious incidents: 'Several serious incidents apparently involving local police personnel were recorded. In Paktya, a United States soldier was reported killed by a member of the local police on 26 March, nine local police personnel were murdered by a colleague in a similar incident on 30 March and several members of the local police were arrested in April, allegedly in possession of suicide vests. In Uruzgan on 7 March, there was also a reported fratricidal killing within the local police and on 31 March, 11 local police personnel are understood to have joined the insurgency with significant quantities of equipment and weaponry. More broadly, across all security forces, reports of personnel or individuals in uniform, killing colleagues and international counterparts are starting to constitute a worrying trend. This includes the killing of two British troops on 12 May by a local police officer in Helmand and the killing on 26 March of another two British soldiers by an Afghan national army officer, also in Helmand.' [18i] (p 6)

10.64 The United Nations Assistance Mission in Afghanistan (UNAMA) commented on the ALP in a report entitled, 'Protection of Civilians in Armed Conflict; Annual Report 2011,' published in February 2012:

'UNAMA received reports of murder, rape, violence and intimidation by ALP forces in Kunduz, Baghlan and Sari-Pul provinces and displacement of civilians in Uruzgan and Sari-Pul provinces caused by ALP abuses.

'To improve the conduct, accountability and oversight of the ALP, in December 2011 ISAF stated it would work with the Ministry of Interior to train ALP members on practical methods to prevent human rights violations, define force jurisdiction, position a senior ANP officer in ISAF to ensure Afghan involvement in oversight and accountability, and

develop local response, reporting and policy procedures for misconduct by ALP members. UNAMA welcomes these measures and this report's findings support the need for their prompt and full implementation before the ALP programme is expanded.' [29b] (p 6-7)

10.65 The Afghanistan Independent Human Rights Commission report, 'From arbaki to local Police,' dated Spring 2012, stated: 'In Uruzgan province, Roi Mohammad, Shojaee, Khial Gul, Saz Gul, and Fazl-ur-Rabbi, who are all ALP commanders, have perpetrated crimes and human rights violations for several times...

'During the past two years in which they have dominated us, over 15 innocent people have been killed and people's estate and property have been looted and set afire… People who have been killed by the police include two university students who had come from Ghazni to Khas district of Uruzgan. Haji Saheb Khan, resident of Lorgai village, was killed by Roi Mohammad in the public bazaar. Sadu Khan son of Mohammad Asef, Hayatullah son of Ekhtiar Mohammad, and Abdul Khaleq's son were also murdered by them…' [31h] (p 33-34)

See also Security situation - types of violence for further information about the impact of conflict on civilians. See Non-Government armed forces for information about human right violations by non-Government groups. See Security situation - 2012 for further information about incidents in that year.

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AVENUES OF COMPLAINT

Afghanistan Independent Human Rights Commission

10.66 President Karzai's Decree number 16, dated 12 May 2005, endorsed a Law on the Structure, Duties and Mandate of the Afghanistan Independent Human Rights Commission (AIHRC). Article 2 of this Law states:

'The AIHRC has been established, as an independent body, within the framework of the State of the Islamic Republic of Afghanistan and it shall function independently.'

Article 5 of the same Law states:

'The Commission shall have the following objectives:

'1. Monitoring the situation of human rights in the country;

'2. Promoting and protecting human rights;

'3. Monitoring the situation of and people's access to their fundamental rights and freedoms;

4. Investigating and verifying cases of human rights violations; and

5. Taking measures for the improvement and promotion of the human rights situation in the country.' [31c]

10.67 In its Annual Report 1389 (2010/11), undated, the AIHRC reeocrded the number of complaints it had received and dealt with in 2010: 'In 2010/1389, the AIHRC received

and recorded 2,551 complaints involving 809 cases of human rights violations. The AIHRC, despite many challenges, successfully investigated 98% of human rights violations (794 out of 809) and resolved 44% of them (355 cases). The rest, 95 cases (11.7%) was closed, and the remaining 44.3% (344) were followed.' [31d] (p 8)

See also section on Civil society, human rights institutions, organisations and activists for further information about the AIHRC and other human rights groups.

Incidents connected with ISAF and ANSF

10.68 UNAMA described NATO guidelines for addressing civilian casualties in connection with ISAF and ANSF incidents in its Protection of Civilians in Armed Conflict report, dated February 2012:

'On 11 June 2010, NATO adopted non-binding policy guidelines for addressing cases of civilian combat-related causalities, which focus on: prompt acknowledgement of civilian casualties or damage to property in combat-related cases and a requirement for investigating possible cases of civilian causalities, or damage to civilian property and provision of necessary information to the ISAF Civilian Casualty Mitigation Team. The guidelines stipulated that assistance should be offered in coordination with village elders or alternative tribal structures, as well as district-level government authorities and that systems by which payments are determined and made should be as simple, prompt and transparent as possible and involve the affected civilian at all points feasible.

'Although the system is in place, many Afghan civilians continued to receive limited information on how to pursue a claim for compensation from the Afghan government and ISAF if troops did not provide the appropriate forms at the scene of an incident that caused civilian casualties. The lack of a uniform compensation mechanism process and limited public information on how the process works compounded civilians' frustration and anger at civilian casualties and property damage by Pro-Government Forces.' [29b] (p 27-28)

10.69 The Open Society Foundations report, 'The cost of kill/capture: impact of the night raid surge on Afghan civilians,' dated 19 September 2011, stated:

'ISAF has made efforts in the last year to try to address complaints about accountability for civilian casualty incidents more generally, including those resulting from night raids. ISAF has continued to support the development of a Civilian Casualty Tracking Cell since it was created in December 2008, as well as other reporting and investigation processes. Incidents that ISAF suspects of resulting in civilian casualties are investigated by the Joint Incident Assessment Teams (JIAT), with investigations supervised by a one-star general or equivalent. Particularly controversial or murky cases may involve a site investigation by the JIAT, often undertaken jointly with Afghan government counterparts. These primarily involve an assessment of any evidence at the site, interviews with those troops involved, and with Afghan local officials.

'A Civilian Casualties Working Group was instituted in March 2011 to explore policy changes at an operational or tactical level that could better reduce civilian casualties and complaints. In the late spring and summer of 2011, ISAF demonstrated greater efforts to reach out to international and Afghan civil society by hosting or participating in conferences designed to allow civil society to engage with them on civilian casualty concerns, and taking more meetings with those raising independent concerns.

'Though these are positive steps forward, other aspects of accountability have failed to improve, or even worsened. ISAF has appeared less responsive to independent monitors raising civilian casualty concerns than in the past. For example, ISAF has more often than not refused to discuss a number of suspected civilian casualty cases, provide evidence that those alleged to be civilians were in fact combatants, share video or other on-site evidence (which used to be forthcoming in the past), re-examine initial findings where contrary evidence surfaces, or to report the final results of investigations.

'Public accountability also remains poor… Accountability issues are particularly weak for night raids because the forces responsible for the vast majority of night raids—the Special Forces Task Force Joint Special Operations Command (JSOC) (formerly under Admiral William McCraven)—are the least transparent of international forces operating in Afghanistan.' [43a] (p 20)

10.70 The same report commented on night raids: 'Some night raids are reportedly CIA operations. Though likely not constituting the majority of night raids, there is zero public accountability over CIA conduct during raids.

'In addition, it has been more difficult to raise concerns regarding night raids because of a strong presumption by ISAF and U.S. officials that these raids are accurate and effective. Because they are confident that night raid targeting has improved, ISAF and U.S. officials have shown a tendency to disbelieve allegations of civilian casualties. For example, after a night raid in May 2010 in Surkh Rod, Nangarhar, inquiries by the Afghan government, the UN, the Afghanistan Independent Human Rights Commission (AIHRC), and Human Rights Watch all concluded that this had been a case of mistaken identity, which had led to the deaths of nine civilians. ISAF and U.S. officials steadfastly rejected these claims, and continued to view the raid as a success. It is troubling that in instances like this, separate and unanimous inquiries by so many credible organizations are not sufficient to challenge ISAF's internal assessments, which too often appear to rely upon their own officials rather than interviews with eyewitnesses.

'Because of the overall lack of transparency over these night raids, when those involved in civilian casualty incidents or other misconduct are disciplined, these responses rarely—if ever—are publicly acknowledged. The result is a perception of impunity for the entire practice, if not for international forces as a whole.' [43a] (p 21)

10.71 The Open Society Foundations report also commented on the issue of compensation:

'While the payment of compensation in cases of civilian harm has become more prevalent overall in Afghanistan, compensation for victims of night raids is still uncommon. In most cases, payment of compensation (more commonly referred to as "condolences" or "ex gratia" payments because they are non-binding) in Afghanistan still depends on the civilian who was harmed raising a complaint. Those subject to night raids are often too afraid to request compensation. They may not be able to identify those troops involved in order to make a complaint given the lack of transparency about night raids and the special forces conducting them. The lack of any formal standards for compensating wrongful detention, and a sort of "presumption of guilt" by ISAF when it receives requests from night raids victims also hinder compensation in these cases. Perversely because ISAF has become more accurate in selecting its targets, and minimizing harm, it appears to have a presumption that most claims stemming from night raids are false.' [43a] (p 21)

Incidents in connection with Aghan National Army

10.72 The UNAMA report, 'Protection of Civilians in Armed Conflict,' dated February 2012, commented on how civilian casualties caused by incidents involving the Afghan National Army (ANA) are dealt with:

'While some cases of misconduct result in prosecution UNAMA notes that in the immediate stage following an incident, suspects were often arrested but in most cases the outcome was not clear (or the suspect released) and investigative findings were not communicated to victims and/or their families...

'UNAMA found that no systematic compensation mechanism exists in the ANA to address civilian grievances. Usually support is offered through general Ministry of Defence funds. In some incidents, compensation has been paid by the President's Discretionary 99 Fund, often on an ad hoc basis. According to the Director of the Human Rights Unit in the Ministry of Interior there is no compensation mechanism in cases where civilians are killed by Afghan national police officers.' [29b] (p 30)

The UNAMA Mid-Year report 2012, 'The Protection of Civilians in Armed Conflict,' dated July 2012, stated:

'Currently, both the Ministry of Defense and Interior have mechanisms in place to investigate allegations of civilian casualties. The Ministry of Defense Operations Directorate receives daily security incidents reports from ANA regional Corps. The incidents involving civilian casualties are referred to the Director of the Legal Division, who determines which incidents require investigation. The Legal Division sends those incidents requiring investigation to the regional ANA corps, which investigates the cases through the Military Prosecutor. If the allegations are substantiated, the Military Prosecutor refers the cases to the Military Court for prosecution. The Ministry of Interior also uses a similar procedure for allegations of ANP, ANBP, ANCOP and ALP involvement in civilian casualties. Although these mechanisms function, the focus is upon accountability of the individual accused, rather than mitigation and prevention of civilian casualties.

'UNAMA reiterates its recommendation for ANSF to establish permanent oversight and accountability mechanisms within the ANSF structure, in particular within the ANA, who are increasingly leading military operations independent from the international military. UNAMA is aware that the Ministry of Defence formed several ad hoc teams for this purpose, in particular, to follow up high profile civilian casualty incidents and they also appointed the Ministry of Defence's Legal Director as their focal point for civilian casualties. It is important, however, to establish a permanent and inclusive team of security officials, representing all ANSF institutions, in view of the ongoing transition of security responsibilities to Afghan control, envisioned to be completed by 2014.' [29g] (p 41)

Incidents in connection with Afghan Local Police

10.73 The same UNAMA report, 'Protection of Civilians in Armed Conflict,' dated February 2012, described how complaints concerning the Afghan Local Police (ALP) were addressed:

'UNAMA received reports that the ALP was abusing its authority and operating illegal vehicle check posts to extort money, forcing communities to pay "taxes" to their commanders, and other abuses of power. In late 2011, in Urgun district of Paktika province, UNAMA received numerous reports of a local ALP commander demanding

that local residents pay a 10 percent tax to him. Residents refused and brought their complaints to UNAMA. When made aware of these complaints, the district chief of police denied the villagers' claims. The chief of police in Baghlan province noted that his officers received many verbal complaints that ALP were charging local residents ushar, or taxes, but the ANP said they had problems in proving such cases...

'UNAMA notes that existing oversight procedures do not include formal legal mechanisms to investigate, discipline or dismiss ALP. In spite of its oversight responsibilities, ANP [Afghan National Police], in many districts, has been unable or reluctant to address human rights abuses or crimes committed by ALP due to the influence of local power brokers, the perception that certain ALP groups are "ISAF protected" or MoI [Ministry of Interior] institution-wide weaknesses in accountability for alleged abuses by any Afghan police or security forces. In most cases, it appears that investigation and oversight of ALP members and units is on a case by case basis and only if complaints are filed against an individual.

'In some serious cases, such as rape and murder, authorities initiated criminal proceedings against ALP members, but these cases have rarely led to convictions and punishment. For example, in Kunduz district, Government authorities arrested and prosecuted an ALP commander accused of the attempted rape of a child in June 2011. The primary court eventually dropped the case for lack of evidence.

'In Baghlan province, the ANP headquarters received complaints concerning ALP misconduct or criminal behavior, including murder, abduction and illegal seizures of land. These complaints have usually been viewed as politically or ethnically motivated leading ISAF and provincial authorities to mediate between ALP and local ANP commanders or residents. In some instances of the ALP seizing private property in Pul-i-Khumri district in the summer of 2011, the local ANP chief told UNAMA that the Criminal Investigation Division could not investigate the ALP commanders because they had the support of US Special Operations Forces.

'In late 2011, ISAF conducted an inquiry to assess the credibility of reported abuses by ALP units and concluded that a small number of the allegations were credible. As a result, ISAF stated it would address concerns with the ALP programme including inter alia, the need for the Ministry of Interior to train ALP units on practical methods to prevent human rights violations, better define force jurisdiction, position a senior ANP official within ISAF to improve and ensure Afghan involvement in oversight and accountability, and develop local response, reporting and policy procedures for violations committed by ALP members.' [29b] (p 35-36)

Incidents in connection with the National Directorate of Security

10.74 The Afghanistan Independent Human Rights Commission reported on abuses committed by the National Directorate of Security (NDS) in a report entitled 'Torture, Transfers, and Denial of Due Process: The Treatment of Conflict-Related Detainees in Afghanistan,' dated 17 March 2012:

'The NDS is Afghanistan's principle [sic] intelligence organization, with primary responsibility for handling conflict-related detainees. The NDS also receives conflict-related detainees transferred from international military forces and other Afghan National Security Forces (ANSF). Though the NDS has primary responsibility for national security cases, other Afghan security forces, like the Afghan National Police (ANP) and Afghan Local Police (ALP), also arrest and detain conflict-related detainees.

While mistreatment is a problem for detainees throughout the Afghan justice system, research and experience have shown that conflict-related detainees are particularly vulnerable to abuse and torture.' (Background, p 9)

10.75 The same report stated:

'The NDS exercises the power to both investigate and detain, which, in an environment where the rule of law is already weak, increases the risk of abuse. The conduct of investigations is a responsibility that under Afghan law normally belongs to prosecutors. In general, having both detention and investigative authority resting with the same state officials increases the risk that detainees' rights will be violated and that they will be tortured while in custody.' (p 52)

10.76 The same report commented on dealing with allegations of mistreatment:

'Several measures have been taken to improve detainee treatment at the NDS in particular. In December 2010 (Qaws 1390), the NDS created an oversight commission charged with monitoring detention facilities and responding to allegations of mistreatment. In response to the UNAMA detentions report, the Afghan government has also created a government committee to assess the allegations, and a Human Rights Unit in the NDS Office of Legal Affairs, which has access to detainees and is responsible for protecting detainee rights.' (p 61)

10.77 The report added:

'While the Afghan government's stated commitment to reform is welcome, and it has taken positive steps to end torture, the government has failed to take some of the most basic steps toward addressing detainee abuse, including holding individuals responsible for torture accountable and ensuring transparency by making findings of investigations public, publishing all laws relevant to the legal authority of the NDS, and ensuring independent monitors have access to all NDS detention facilities.' (p 62)

10.78 The AIHRC report also related the experiences of their staff when attempting to monitor NDS facilities:

'Over the research period for this report, AIHRC monitors were explicitly denied access to two NDS facilities: NDS Kunar and NDS Department 90/124. In February 2011 (Dalwa 1390), the director of NDS Kunar denied AIHRC access to the facility stating that NDS Kabul had not granted them permission to grant access to AIHRC monitors. The AIHRC has also repeatedly requested access to NDS Department 90/124, most recently on December 19, 2011 (28 Qaws 1390), and has yet to be granted access.

'Significantly, the NDS does not generally permit the AIHRC to conduct unannounced visits to any NDS facilities, which seriously undermines the ability of AIHRC to fulfill its legal mandate and conduct effective monitoring. Before visiting detention facilities, NDS officials usually require the AIHRC to submit a formal letter requesting access at least 1-2 days in advance. NDS officials also prohibit AIHRC monitors from bringing cameras into NDS facilities, which prevents AIHRC monitors from properly documenting physical evidence of abuse such as bruises, scars, and other injuries.' [31g] (p 64)

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11. MILITARY SERVICE

This section should be read in conjunction with Section 26: Children – Child recruitment

11.01 A report by CNA Analysis and Solutions, entitled, 'Conscription in the Afghan Army; Compulsory Service versus an All Volunteer Force,' dated April 2011, noted that military service was not compulsory in Afghanistan, but, 'In a widely publicized speech last year, Afghan President Hamid Karzai raised the possibility of a return to conscription in the Afghan army – as a way to forge national unity and reduce costs. At present, Afghanistan has a professional, all volunteer force.' [106a] (Preface)

The same report added: 'During the Soviet occupation of Afghanistan in the 1980s, the army relied heavily on conscription – mainly press ganging (i.e., random sweeps through populated areas to grab young men of fighting age). The practice met with widespread popular unrest. Tens of thousands of conscripts – sometimes entire units – defected with their weapons and joined the insurgency.

'During the civil war in the 1990s, many armed factions pressed young men into combat. The Taliban army that pushed into Afghanistan in 1994 relied mainly on volunteers. Yet, after defeats in the north in 1997, the Taliban turned increasingly to conscription. The policy met with substantial resistance, including open revolts in Kandahar. The Taliban today is a mainly volunteer force. Recruits join for many reasons, including money, prestige, and grievances against the government.' [106a] (Summary, p vi)

11.02 The CIA World Factbook, Afghanistan, updated on 5 October 2012, noted that the age to serve in the army is 22 years and 'inductees are contracted into service for a 4-year term (2005).' [1c] (Military)

See also Section on Security forces

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12. NON-GOVERNMENT ARMED FORCES

OVERVIEW

12.01 Human Rights Watch provided the following information in a report entitled 'Just don't call it a militia,' dated September 2011:

'In Afghanistan armed groups are proliferating. A decade after the US-led invasion ofAfghanistan following the attacks of September 11, 2001, the Taliban-led insurgency has intensified in many parts of the country. In response, the Afghan government and itsinternational supporters, as part of the international exit strategy, are expanding the national army and police at high speed. The government has reactivated various irregular armed groups, particularly in the north. Hundreds of small militias have also been created, by powerful local figures and sometimes by communities themselves, to respond to the deteriorating security situation in many parts of the country. International forces operating in Afghanistan work closely with militias, many of which have been accused of human rights abuses.For decades, Afghans have suffered serious human rights abuses at the hands of local militias, which include a diverse array of irregular forces ranging from armed groups working for tribal leaders to private security

companies, criminal gangs, and insurgent groups. The closest Afghan word for militia is arbaki... This term also encompasses irregular forces created by formal government programs. Militias of all varieties have participated in murderous tribal vendettas, targeted killings, smuggling, and extortion. Rapes of women, girls, and boys have been frequent.' [15j] (p 1)

12.02 The Human Rights Watch report, 'Just don't call it a militia,' dated September 2011, commented on the growth of militias in the north of the country:

'The northern provinces of Afghanistan have been beset for decades by armed groups associated with rival political and ethnic factions. Jamiat-i-Islami, Junbish-i-Mili, Ittihad-i-Islami, and Hezb-i-Islami have all been implicated in egregious laws-of-war violations, particularly during the civil war in the 1990s. Security in the northeast has deteriorated rapidly since 2008, with a pronounced increase in insurgent attacks in Kunduz, Baghlan, and Takhar provinces in 2010. Civilians pay a heavy price, caught between indiscriminate Taliban attacks, abusive militias, and increased operations by the Afghan and international armed forces.' [15j] (p 27)

12.03 In it's Freedom in the World 2012 report, Freedom House stated:

'In a prevailing climate of impunity, government ministers as well as warlords in some provinces sanction widespread abuses by the police, military, local militias, and intelligence forces under their command, including arbitrary arrest and detention, torture, extortion, and extrajudicial killings. The Afghan Independent Human Rights Commission (AIHRC) receives hundreds of complaints of rights violations each year. In addition to the abuses by security forces, reported violations have involved land theft, displacement, kidnapping, child trafficking, domestic violence, and forced marriage.' [38a]

See also Security Situation - Insurgent Groups for information about the main non-Government armed forces.

HUMAN RIGHTS VIOLATIONS BY NON-STATE ARMED GROUPS

12.04 Amnesty International's Annual Report 2012, Afghanistan, covering events in 2011, released in May 2012, (AI Report 2012) observed:

'The Taleban and other armed groups targeted civilians through assassinations and abductions, and harmed civilians indiscriminately in bombings (including multiple suicide attacks), violating the laws of war and committing a raft of human rights abuses. Targeted killings of Afghan civilians, including government officials and tribal elders, working for or allegedly supporting the government or international organizations increased.' [25d]

12.05 The US Department of State Country Report on Human Rights Practices for 2011, Afghjanistan, released on 24 May 2012, (USSD report 2011) described various abuses committed by non-Government armed forces:

'There were multiple and credible reports of abuses of power by "arbakai" (untrained local militia) commanders and their followers. These included accounts of murder, rape, assault, the forcible levy of informal taxes, and the transfer of a girl or woman to another family to settle a debt or grievance ("baadh"), after which the victim often was raped or beaten. In June a group of arbakai reportedly beat the headmaster of a girl's school in Kunduz. Observers claimed the violence stemmed from an inter-village rivalry over

access to government funds and the headmaster's complaint that area farmers were being forced to pay tribute to a neighboring village's arbakai.' [58c] (Section 1.c)

12.06 The same report explained that 'The Taliban continued to distribute threatening messages in attempts to curtail government and development activities. Insurgents used civilians, including children as young as age three, as human shields, either by forcing them into the line of fire or by basing operations in civilian settings.

'In the South and East, Taliban and other antigovernment elements frequently forced local residents to provide food and shelter to their fighters. The Taliban also continued to attack schools, radio stations, and government offices… [(Section 1.g)]

'Armed insurgents also operated illegal checkpoints and extorted money and goods. The Taliban imposed nightly curfews on the local populace in regions where it exercised authority, mostly in the southeast.' [58c] (Section 2.d)

See also Security situation - areas controlled by insurgents and Government, Security situation in 2012, Security situation - types of violence, and Security situation by region for further information on these issues.

Abductions

12.07 The US Department of State Country Report on Human Rights Practices for 2011, Afghanistan, published 24 May 2012, stated: 'There were reports that insurgent groups and criminals were responsible for disappearances and abductions in connection with the ongoing insurgency... For example, in August [2011] eight security officials who were kidnapped were found dead in Wardak province.' [58c] (Section 1.b)

12.08 The same reported added that, 'The MOI's [Ministry of Interior's] Anti-Crime Police reported over 100 abductions through year's end, as the Taliban targeted construction and mining projects, teachers, and citizens perceived to be cooperating with the international community... The actual number of cases may have been much higher.' [58c] (Section 1.g)

12.09 Reuters reported the kidnapping of up to 25 boys in an article dated 3 September 2011:

'Pakistani officials said… militants in Afghanistan kidnapped the boys after they mistakenly crossed the border while on an outing in the border tribal region of Bajaur on Wednesday. A Pakistani Taliban spokesman said they held the boys, and their fate would be decided by the militants from Bajaur. "We have kidnapped them as their parents and tribal elders are helping the government and are fighting against us," spokesman Ehsanullah Ehsan told Reuters from an undisclosed location…

'A group of around 60 boys took part in the outing but about 20 below ten years old were allowed to return to Pakistan, while up to 40 others between 12 to 14 years old were held, officials said earlier. Ehsan said they had a plan of mass-scale kidnappings and expected people in large number to visit the border region on Eid al-Fitr, a Muslim holy festival that was celebrated this week, marking the end of the fasting month of Ramadan

'The boys belonged to tribesmen from Mamoun who are opposed to al Qaeda and the Taliban and have raised militias to fight them, angering militants who often hit back with bombings and shooting attacks.' [28f]

12.10 Reuters reported on the kidnapping of aid workers in an article dated 2 June 2012: 'A NATO rescue team dropped by helicopter in the remote mountains of northern Afghanistan… freed four aid workers, including two foreigners, who had been seized by the Taliban last month, the alliance said.

'The aid workers, employed by Swiss-based Medair, were en route to flood-stricken parts of Badakhshan province when they were kidnapped… The kidnappers were armed with heavy machine guns, AK-47 assault rifles, and rocket-propelled grenades…

'The kidnapping of foreigners has become relatively common in parts of Afghanistan since U.S-backed Afghan forces toppled the Taliban government in 2001, heralding a 11-year anti-insurgent war.

'In 2010, 10 foreign medical workers, including six Americans, were killed in Badakhshan in an attack blamed on insurgents. Other attacks have been blamed on criminal groups looking for ransom. Police in Badakhshan earlier said the kidnappers in this case were demanding money, and they appeared to be members of a criminal gang.

'A statement from ISAF, however, identified the hostage-takers as members of the Taliban, who have stepped up violence across the country as foreign combat forces prepare to leave by the end of 2014.' [28g]

Torture, harassment and intimidation

12.12 The Human Rights Watch report, 'Just don't call it a militia,' dated September 2011, stated:

'Rape as a weapon of war has been strongly associated with militias, particularly during the civil war in the 1990s. Militias have continued to be implicated in sexual violence, particularly gang rape. They have also have used threats to forcibly obtain women and girls, which can be hard for powerless families to resist. An elder told Human Rights Watch: "The most powerful ones will sometimes select a girl and tell the family that they want to marry her. For families there are only two choices: give the girl, or leave the area and go to Pakistan or Iran."

'In 2011, a 12-year-old girl was raped in her home by men wearing Afghan army uniforms in Qulbars area, near the capital Taluqan, Takhar province. According to a local government official, who wished to remain anonymous, residents in Taluqan believe that "arbakis" dressed in uniforms were involved in the incident. At this writing, no arrests have been made.' [15j] (p 41)

See also Women - rape for further information on this subject.

12.13 The same report described the sexual abuse of boys by militias:

'Militia members have also been responsible for the sexual abuse of boys, including commanders "employing" boys in order to use them for sex. During Human Rights Watch interviews about militia abuses, few interviewees volunteered information unprompted about sexual abuse, though when asked all acknowledged that it was happening. A UN official told Human Rights Watch, "In the south and southeast most boys recruited under the age of 18 are recruited for sexual purposes, whether it's by the police or by arbaki. Pederasty is everywhere."

'There is a separate but related type of abuse known as bachabazi (literally, "boy play"). Bachabazi involves wealthy or powerful "commanders" keeping boys to be dressed up as girls and to dance, which may often entail sexual abuse. This practice is most prevalent in the north, where it is strongly associated with militias and the state security forces.' [15j] (p 41-42)

See also Children - child soldiers, Children - sexual violence and Children - bacha bazi for further information on these issues.

Night Letters

12.14 Human Rights Watch reported on the Taliban's use of 'night letters' to intimidate in an article dated 14 July 2010:

'"We as Taliban warn you to stop working . . . otherwise we will take your life away. We will kill you in such a harsh way that no woman has so far been killed in that manner. This would become a good lesson for women like you who are working." When Fatima K. received this letter she was terrified and left her job. Such messages-called night letters, since they are delivered after dark-are a common means of intimidation used by the Taliban.

'When 22-year-old Hossai received similar threats by phone from a man saying he was with the Taliban in Kandahar, she refused to be bullied. She loved her job at the American development company DAI, and her salary supported her family. But one day in April Hossai was shot by an unknown gunman as she left her office. She died from her wounds.

'A few days later another woman in Kandahar received a night letter. It demanded that she give up her job, or else she "will be considered an enemy of Islam and will be killed. In the same way that yesterday we have killed Hossai, whose name was on our list." This woman has since stayed home.

'These stories are seldom heard, but it's not because they are rare. The victims are often too terrified to report such attacks to the authorities, or have little hope that anything will be done if they do.' [15l]

12.15 The website 'Stars and Stripes' reported on the impact of night letters in an article dated 30 November 2010: 'The message addressed to the teacher and posted on the door of the new school was direct: "If you keep teaching here, you are going to die and we won't be responsible for your death." At the bottom of the handwritten missive was the unmistakable stamp of the Taliban.

'A village elder recently found a note stuck to the door of his home that said he had been seen visiting the nearby U.S. Marine base. "If you keep going, we're going to kill you," it said.

'Yet another message found on the door of a local mosque was somewhat more conciliatory: "This notice is to the Afghanistan National Army. The IED we emplaced is for the Americans. You guys are Muslims and just have no choice being with them. Salam, from Taliban."

'The Taliban is infamous for trying to exert its will here through roadside bombs, drive-by shootings and murder. But one of the more subtle and effective ways it makes its presence known is through "night letters" — threats written on simple pieces of paper,

sometimes bearing the Taliban stamp, which are posted on doors across the country under the cover of night.

'U.S. military officials here say they are not aware of the Taliban following through on any of the recently posted threats. Nonetheless, the night letters — examples of which were released, and translated or paraphrased by the Marines — do have an impact, and coalition forces want to find a way to stop their delivery.

'"They do have an effect on the psyche of the people," according to Capt. Ryan Christ, intelligence officer for the 2nd Battalion, 1st Marines in the Garmsir district of Helmand province. "One of the main parts of what we do here is bring security, and if somebody can put a note on your door, it does kind of show how close they can get to you.

'"We would like to see the night letters end."'

'The most common targets of the nocturnal missives are schools, teachers and contractors, said Christ, 38, of Bay Village, Ohio.

'"They don't like the kids going to school, they don't like the teachers teaching at the schools and they don't like contractors … who are making money through contracts with" coalition forces or the Afghan government, he said.

'Word of the written threats travels fast in what Christ calls the "gossipy culture" of Afghanistan, "and they will have an effect on attendance at the schools for a week, or maybe 10 days. Fifty percent of the students won't show up for a while, and then gradually it builds back up and people start sending their kids to school again."

'Sometimes a road project will be delayed, or a contractor will quit, Christ said, "but eventually another contractor will take up the contract."

'Capt. Robert Christafore, commanding officer for the 2-1's Company E, said whenever Marine officials here meet with area village elders, they always bring up the night letters.

'"If we start to get a pretty positive path and some information flow — just a pretty good working relationship with some of the elders of the villages — then a night letter happens and it snaps them back" to fearing the Taliban, said the 30-year-old from Oceanside, Calif.

'Christafore said the impact of the letters is frustrating, "but I guess I can see it, when they wake up one morning and all of a sudden there's a letter nailed to their door … saying, 'You do this again, we're going to take action against you.' "

'Christ said night letters are found two or three times each week in the Garmsir district.

'"Sometimes, you'll see a few more for whatever reason," he said. "Perhaps there is word pushed out through the enemy to get the message out."

'The tone of the letters run the gamut, Christ said, from sympathetic to direct threats, but the Taliban usually tries to distance itself from responsibility for whatever might happen.

'"More are like, 'These schools are not sanctioned and we will attack these schools, so don't send your kids to these schools. We won't be responsible for what happens if the school gets attacked, or if a school gets burned down … or if your kid is going to school and he steps on an IED,' " Christ said.

'"They are trying to mitigate how much backlash and blame they're getting for this stuff by covering their butts." he said. [68a]

12.16 Sky News reported in an article dated 16 April 2012 that 'The local police forces are currently receiving "night letters" reminding them that the Taliban know where they live.' [67a]

12.17 A blog on the website 'Wired' reported on the Taliban's use of other media, besides night letters, to spread fear; the blog was dated 17 March 2011:

'One of the Taliban's most effective tools to persuade Afghans not to work with the U.S. or its allies is the night letter — a note warning people they'll be targeted for death unless they change their infidel-loving ways. But that's too analog. These days, the Taliban is mass texting gruesome videos to Afghans' cellphones to spread the same message.

'The insurgency's media committee produces videos… and posts them on Taliban websites like Shahamat.info and Alemarah-iea.net. Befitting the growing importance of social media to insurgents, Facebook pages purporting to be adjuncts of Taliban propaganda networks pop up to display the imagery, hoping to slip past Facebook's usage police.

'But to maximize the videos' reach, insurgents send them out through SMS chains, until they eventually reach unsuspecting Afghans. It's a quick way to take night-letter videos viral — and disguise the usage chain from its origin, preventing authorities from shutting down the distribution system.

'The necessary cost of the SMS-borne videos is a departure from the intimidating specificity of the night letters. But it doesn't seem to have reduced any effectiveness. After watching one of them, a Paktia resident told Radio Free Europe, "I could not even sleep because I was just thinking of this scary video in which Taliban were slaying young men."' [66a]

Extra-judicial killing

12.18 The Report of the UN Secretary-General, 'The situation in Afghanistan and its implications for international peace and security,' dated 5 March 2012:

'The campaign of intimidation has been relentless, with targeted assassinations of influential political and religious leaders. As in the assassination of Mawlawi Rahmani, the identity of the perpetrators often remains unclear amid power rivalries on all sides. Over half of such incidents occurred in the southern provinces, the majority in Kandahar, including the attack against the Governor on 28 April, which was thwarted when two militants who breached the compound security were killed in a shoot-out. On 17 May, four attackers targeted the Governor's compound in Farah, but similarly failed in their objective.' [18a] (p 5)

12.19 The Human Rights Watch World Report 2012, dated January 2012 and covering the events of 2011, stated: 'A campaign of assassinations of public figures by the Taliban in the north and the south seeks to destabilize the government. Prominent figures killed included the mayor of Kandahar, Ghulam Haidar Hameedi; a northern police commander, Gen. Daud Daud; and President Karzai's half-brother, Ahmad Wali Karzai, a key southern powerbroker.' [15a] (p 291)

12.20 AI Report 2012 reported the following abuses by armed groups in 2011: 'On 28 June, Taleban gunmen and suicide bombers attacked the Intercontinental Hotel in the capital, Kabul, killing seven people…

'On 13 September, around 10 insurgents targeted the US Embassy, NATO headquarters and other high-profile targets in Kabul. At least 11 civilians, including students, and five policemen were killed; more than 24 others were injured. The Taleban claimed responsibility but the USA blamed the Haqqani network, believed to be based in Pakistan's tribal areas and supported by Pakistan.

'On 17 September, nine civilians, including five children, were killed when an improvised explosive device was detonated in Faryab province, north-west Afghanistan...

'On 6 December, a suicide bomb attack on the Shi'a Muslim Abul Fazl shrine in Kabul killed up to 71 people. Another four people were killed in a near simultaneous bomb blast at a Shi'a mosque in Mazar-e Sharif. The attacks marked a serious escalation of previously rare sectarian violence. Lashkar-e-Jhangvi, a Pakistani armed group linked to al-Qa'ida and the Pakistani Taleban, claimed responsibility for the attacks which took place during the Shi'a rite of Ashura.' [25d] (Abuses by armed groups)

12.21 The USSD report 2012 stated:

'In September a suicide bomber assassinated former President and chairman of the High Peace Council (HPC) Burhanuddin Rabbani in his home. The Afghan government accused the Taliban and Pakistan's Inter-Services Intelligence (ISI) of complicity, though both the Taliban and the Government of Pakistan denied any involvement. Afghan and Pakistani authorities continued to investigate at year's end. There were some reports of summary justice by the Taliban resulting in extrajudicial executions.' [58c] (Section 1.a)

See also Security situation - types of violence, Politicial affiliation - Government officials and individuals working for the international community.

Forced conscription

12.22 The Report of the UN Secretary-General, 'Children and Armed Conflict,' dated 26 April 2012, stated:

'In 2011, 316 cases of underage recruitment were reported in Afghanistan, of which the majority was attributed to armed groups notably the Taliban forces, including the Tora Bora Front, the Jamat Sunat al-Dawa Salafia and the Latif Mansur Network, as well as the Haqqani network and the Hezb-e-Islami. Children were recruited and used by armed groups to conduct suicide attacks and plant improvised explosive devices, as well as for transporting goods. In 2011, 11 children, including one 8-year-old girl, were killed while conducting suicide attacks. Some children unknowingly carried explosive packages. At least 20 reports of crossborder recruitment of Afghan children to Pakistan by armed groups, including the Taliban, were received. The boys were reportedly taken to Pakistan for training, and returned to Afghanistan to conduct military operations.' [18c] (p 2)

See also Children - child soldiers and Children - violence against children for further information on these issues.

12.23 The same UN report added:

'During the reporting period [January to December 2011], 31 incidents of abduction of children by armed groups were documented. All cases involved boys and were motivated by recruitment, kidnap-for-ransom, retaliation and intimidation for suspected association with pro-Government forces. Five of these incidents indicated a link to armed groups located in Pakistan, and involved the movement of children across the Afghanistan-Pakistan border.' [18c] (p 4)

See also Children - child soldiers for further information.

12.24 The European Asylum Support Office (EASO) Country of Origin Information Report; Afghanistan; Taliban Strategies, dated July 2012 (EASO report 2012), stated:

'An informant of Landinfo mentioned that, in Marjah in Helmand, direct coercion was used by the Taliban for the recruitment of fighters. A local source in Helmand confirmed the use of dictatorship and coercion in Helmand by the Taliban: "If someone resists, they accuse the person of being a spy and a 'slave to the foreigners' and punish or kill this person. This was the fate of hundreds of tribal leaders, elders and local chiefs in the south-western zone. They also force people to provide food and shelter". The IDP camps in Helmand are a location where the use of coercion for recruitment is reported.

'An RFE/RL [Radio Free Europe/Radio Liberty] article from June 2012 based on the testimony of Murad, an Anti-Taliban Militia fighter, states that families in Kunduz are joining the Taliban because they fear to be killed if they do not.

'According to a local source based in the east of Afghanistan, the Quetta Shura Taliban force people in regions under their control to take up weapons and fight with them. They approach people at home and accuse them of being spies. They also demand huge fines which the poor villagers can never afford. They ask for weapons. If they can't pay or give weapons they have to become a fighter. Those who refuse are either driven away from the region or labelled as spies and killed. The Taliban sometimes arrive in a group at a mosque and demand that the people provide 10 or 20 young men to join them for the jihad. It happens that young people are recruited for suicide bombings. According to the source, this kind of recruitment tends to happen on an individual basis. Local Taliban commanders are responsible for recruitment in their own area, but they receive help from the Pakistani intelligence network. According to David Kilcullen, Tier 2 Taliban in Kunar could be driven by fear of Taliban retribution if they would not cooperate with them.

'According to a local source in Khost, Afghan insurgent groups reside in North Waziristan and Kurram Agency in Pakistan where they can recruit easily among their own tribes, such as the Wazir and Dawar. The source mentions that the insurgents use coercion in areas under their control in order to recruit. The population does not dare to resist out of fear of execution.' [65a] (Section 3.2.3)

12.25 The EASO report 2012 continued:

'A local source in Afghanistan stated in April 2012 that there has been greater use of genuine persuasion and appeal to patriotic or religious duties to fight the "foreign invaders and the puppet regime" and much less coercion which is currently rarer than before. According to the same source there are few recorded cases of actual violence against individuals escaping recruitment and it would be against the Taliban's stated aims of justice and good governance and it would alienate communities.

'According to Giustozzi and Ibrahimi, Taliban cadres suggested that the refugee camps are the only locations where they have been able to forcibly recruit fighters. Families were forced to contribute one man. Giustozzi states explicitly that forced recruitment has not been a salient characteristic of this conflict. The insurgents applied it very marginally. According to Giustozzi, the use of direct coercion happened only in areas under their control to force men to serve as porters. Since 2006, there have also been reports of forced recruitment by the Taliban of medical staff in some areas for the treatment of wounded fighters.

'During interviews conducted in the framework of a fact-finding mission in Kabul in October 2011, Landinfo obtained information which corroborates the rare use of coercion in recruitment. It was mentioned that the Taliban have enough volunteers, so they didn't have to rely on this strategy. Exceptions might exist in areas under full control of the Taliban… During the Danish Immigration Service's fact-finding mission in Afghanistan, 25 February to 4 March 2012, the Afghanistan Independent Human Rights Commission (AIHRC) stated that "there is no reporting of forced recruitment by the Taliban and that most recruits joined voluntarily". The organisation mentioned Hazara communities in Uruzgan, subject to intimidation by the Taliban in order to make them join their ranks. This source explicitly added that this was exceptional. The Danish fact-finding mission report mentions UNHCR's statements about recruitment by the Taliban: "UNHCR referred to a leaked ISAF report on the state of the Taliban in relation to the change of strategy of the Taliban. According to this report, the Taliban do not have difficulties in recruiting people for their force. They have many volunteers and there is a willingness to join the movement. The Taliban may recruit collectively in the villages by offering education to poor people's sons and by brain washing people. Considering the acceptance by the local population of the Taliban, it could be assumed that forceful recruitment is not widely taking place, however, UNHCR added that very little is known on this at the present time." The Cooperation for Peace and Unity confirmed that there is no need for the Taliban to forcibly recruit. According to this source, they would rely on forced recruitment only in emergency situations.' [65a] (Section 3.2.3)

12.26 The situation was summarised in the EASO report as follows:

'Forced recruitment has happened in the past in Afghanistan. Recent sources (2010–12) mention that direct coercion for recruitment has happened in Helmand. Places mentioned are Marjah and the IDP camps. Furthermore, there are reports of fear of retaliation in case of refusing recruitment in Kunduz, Kunar and areas in Pakistan under the control of Afghan insurgent groups. Two sources mentioned the use of coercion or intimidation for recruitment in Uruzgan. In 2008, some foreign Taliban commanders recruited by force. The other source reported some Hazara communities who were intimidated to join the Taliban. Both sources stated that this has been rare or exceptional. Other sources stated explicitly that force or coercion were not used for recruitment in their provinces: Ghazni, Herat and Logar. Sources discussing the general situation in Afghanistan commonly state that coercion is rare in the recruitment process. They sometimes refer to locations where it did happen: refugee camps and areas under strong influence of the Taliban. One source mentioned that the Taliban recruited porters and medical staff by force in areas under their control. Some sources gave arguments against forced recruitment: it would alienate communities or there is no need for it, since the Taliban dispose of sufficient volunteers.' [65a] (Section 3.2.3)

Attacks on NGOs

12.27 The US Department of State Report on Human Rights Practices for 2011, published on 24 May 2012, stated: 'Suspected Taliban members fired on NGO vehicles and attacked NGO offices, guest houses, and hotels frequented by NGO employees. Violence and instability hampered development, relief, and reconstruction efforts. NGOs reported that insurgents, powerful local individuals, and militia leaders demanded bribes to allow groups to bring relief supplies into the country and distribute them.' [58c] (Section 1.g)

AI Report 2012 reported the following abuses by armed groups in 2011: 'Armed groups systematically targeted aid workers, killing 31, injuring 34 and kidnapping and detaining 140…

'On 31 October, Taleban gunmen and suicide bombers attacked UNHCR, the UN refugee agency, in Kandahar city, southern Afghanistan, killing three staff members.' [25d] (Abuses by armed groups)

Intimidation of journalists and the media

12.28 The US Department of State Country Report on Human Rights Practices for 2011, Afghanistan, published on 24 May 2012, stated that 'Journalists faced threats not only from state actors, but also from the Taliban and other insurgents. Some reporters stated that they no longer criticized the insurgency in their reporting because they feared the return of the Taliban.

'Violence and intimidation of journalists, reporters, and media outlets at the hands of insurgent forces and the Taliban remained a concern and continued to restrict journalists' operating space. In June the Taliban torched three mobile telephone towers in central Logar province after warning mobile telephone companies to cut their services between 6:00 pm and 6:00 am. The Taliban also destroyed two mobile telephone towers in Helmand province.

'The Taliban manipulated the media, especially print journalism, both directly and indirectly, by threatening to harm some journalists physically and by directly feeding news to others. Journalists reported receiving threats if they published stories favorable to the government.

'The Committee to Protect Journalists (CPJ) reported that local and foreign reporting teams continued to face a risk of kidnapping.' [58c] (Section 2.a)

12.29 Amnesty International reported the following in its Annual Report 2012, dated 24 May 2012: ''Journalists were abducted, beaten or killed in politically motivated attacks by government forces and insurgent groups. According to Nai, an Afghan media watchdog, 80 journalists were attacked and three killed. In areas controlled by the Taleban and other armed groups, journalists were actively prevented from reporting and were frequently attacked.

'The government failed to fully investigate and prosecute perpetrators of attacks on journalists, human rights defenders and others peacefully exercising their right to freedom of expression…' [25d] (Freedom of Expression)

See also section on Freedom of speech and media for further information.

Attacks on women

12.30 Amnesty International reported the following in its Annual Report 2012, published on 24 May 2012: 'Afghan women and girls … were frequent targets for attack by Taleban forces… In April, the Taleban abducted and killed a woman in Zurmat district, Paktia province. The Taleban claimed she was killed because she worked for an NGO, denying rumours that it had been an "honour" killing.' [25d] (Violence against women and girls)

12.31 The US Department of State Country Report on Human Rights Practices for 2011, published on 24 May 2012, stated that 'Women active in public life continued to face disproportionate levels of threats and violence and were the targets of attacks by the Taliban and other insurgent groups. Most female MPs reportedly experienced some kind of threat or intimidation; many believed that the state could not or would not protect them.' [58c] (Section 3)

See also sub-sections on Extra-judicial killing, and Women - honour killings and moral crimes.

Attacks on Schools

12.32 The US Department of State Country Report on Human Rights Practices for 2011, which was published on 24 May 2012, stated:

'Violence impeded access to education in increasing sections of the country. The Taliban and other extremists threatened and attacked school officials, teachers, and students, and burned both boys' and girls' schools. The MOE [Ministry of Education] reported that between March and October, 20 schools were attacked using explosives or arson, and insurgent attacks killed 126 students. For example, on May 24, the head of a girls' school in Logar province was shot near his home after receiving death threats from the Taliban warning him to stop teaching girls...

'The media reported hundreds of schools re-opened and attacks on schools declined in areas where local education leaders negotiated with the Taliban. A Kabul-based think tank reported at year's end that the government had struck deals over the years by which insurgents would end attacks on state schools in exchange for a more conservative religious curriculum and discretion in hiring Taliban-approved teachers, an allegation which the MOE denied.' [58c] (Section 6. Children)

In its Annual Report 2012, published on 24 May 2012, Amnesty International stated that 'The Taleban and other armed groups targeted schools, students, and teachers. In areas occupied by these groups, many children, particularly girls, were prevented from going to school… Official sources reported that more than 450 schools remained closed and around 200,000 children were unable to go to school due to insecurity mainly in the southern and eastern provinces.' [25d] (Right to Education)

See also Children - education for further information about the targeting of schools, teachers, and schoolgirls by insurgent groups.

WARLORDS AND COMMANDERS

12.33. An Immigration and Refugee Board of Canada (IRB) Response to Information Request, Afghanistan: Situation of warlords in Afghanistan, including state response to regional warlord control (2007 - 2010), dated 6 January 2011, stated:

'Warlords are sometimes described as "powerbrokers"… who reportedly "provide social services in their areas of influence," and "maintain private armies"… "regional strongmen"… or just "strongmen"… "local militias"… "faction leaders"… "local commanders"…; and "militia commanders"… The Kabul-based, English-language newspaper the Daily Outlook Afghanistan notes that the term "warlord" is often used to discredit political opponents, and defines it as "a charismatic military leader who, because of the weakness or absence of a state, ends up playing a political role, though he lacks political legitimacy" (6 Mar. 2010). The Canadian Press also explains that Afghan warlords are "regional leaders" who came to power during the war with the Soviet Union and the subsequent civil war…' [72a]

12.34 Human Rights Watch explained the following in an article dated 21 May 2012: 'A central problem, long avoided by Washington, is the rot at the heart of the Afghan government. In ousting the Taliban, the U.S. deliberately funded and financed power brokers and warlords, many of whom, such as Vice President Mohammed Fahim, have long histories of complicity in atrocities. Karzai is trapped by these men and dependent on them to remain in power.' [15m]

12.35 The Independent reported on warlords in Afghanistan, and although dated May 2009, the article provides relevant background : 'At the time of the terrorist attacks on the US in 2001, warlords including General Dostum and General Fahim were fighting for their lives or were in exile. But within hours of 9/11, the US was looking for local allies to provide the ground troops which, backed by US airpower, advisers and money, would overthrow the Taliban in Kabul.

'In a couple of months warlords, many from the main opposition grouping, the Northern Alliance, were the new rulers of Afghanistan. Few of them now wear uniform, but they have held power ever since... Aside from Hekmetyar [Gulbuddin Hekmetyar], most of the other warlords no longer exercise power through their private armies, but through a mafia-like control of jobs, security services, money, contracts and land.

'Mr Karzai has experience in keeping them divided by giving each a big enough cut of the cake to make sure that no credible replacement for himself as President ever emerges…

'Gulbuddin Hekmetyar Nicknamed "Engineer" he is a former prime minister of Afghanistan and a rebel military commander in the anti-Soviet war. He is wanted by the US for his links to Bin Laden.

'Rashid Dostum Born into a peasant family in 1954 the burly Uzbek and former plumber has a reputation for ferocious brutality. Changed sides numerous times and once backed the Taliban.

'Faryadi Zardad Former Mujahedin leader, aged 45, ran a violent milita that robbed, abducted and killed travellers. He fled to Britain, ran a pizzeria and is now in prison.

'Mohammad Qasim Fahim On America's "most wanted" list of terrorists, he is one of the most notorious warlords with, according to Human Rights Watch, "the blood of many Afghans on his hands".' [71a]

'Global Security' website explained that some former warlords and militia leaders, implicated in human rights abuses, are now part of the Afghan government; this is an extract of the article dated 25 July 2012: 'Afghanistan's former warlords and militia leaders have slammed the leaked findings of an unpublished report that implicates

hundreds of them in atrocities committed during the country's devastating civil war in the 1990s.

'Titled "Conflict Mapping In Afghanistan Since 1978," the damning report accuses up to 500 members and leaders of rival ethnic and political groups, some of whom currently hold prominent government positions, of being involved in widespread human rights abuses from the communist coup and subsequent Soviet invasion of the late 1970s to the fall of the Taliban in 2001…

'Mosadiq [Horia Mosadiq, Amnesty International's Afghanistan researcher] adds that those accused of atrocities in the report - including the massacring of civilians or prisoners and the indiscriminate destruction of towns and villages - include some of the most prominent members of the current Afghan government.

'In all, she says, some 500 Afghans are named in the report, including the country's revered national martyr, Ahmad Shah Masud, a Tajik warlord who held out against the Taliban before his assassination just before the September 11, 2001, terrorist attacks in the United States.

'Other prominent names on the list include ethnic Uzbek leader Abdul Rashid Dostum, the current chairman of the Joint Chiefs of Staff of the Afghan National Army; former ethnic Tajik warlord and current first vice president, Field Marshall Mohammad Qasim Fahim; and Hazara militia leader and current second vice president, Abdul Karim Khalili.

'The list also includes the names of former communist leaders and commanders of insurgent groups such as the Taliban, the Haqqani Network, and Hezb-i-Islami, some of whom are on the UN blacklist of terrorists.' [70a]

12.36 Institute for War and Peace Reporting described some of the issues associated with warlords and their standing within the community in an article dated 17 March 2011:

'Local warlords in the northwestern Afghan province of Ghor have taken to abducting and assaulting women with impunity, as no one dares confront them. IWPR has gathered evidence from provincial government officials, police and residents of Ghor, who report that numerous grave human rights abuses are being committed by militia forces which in theory are not even supposed to exist any more. The abuses they are accused of include assault, coerced marriage and public beatings for alleged immoral behaviour.

'Alauddin, 35, a resident of Taywara in the south of the province, said his brother was forced to give his daughter away in marriage to a powerful local militia commander. The commander threatened the family with assault and death if they refused. Alauddin said he was reluctant to report the case, even though he was aware the man was beating his new wife. "We know that all these individuals are supported by the government. Some of them call themselves national police and some local police, and they are all supported by high government officials. In fact, no one trusts the government, because there is no government."

'Mohammad Sharif, a tribal elder in the Dawlatyar district, recalled a case where a man was killed in spring last year, and his wife was abducted by a local commander and murdered a month later. No action had been taken on either killing since, he said. "Government forces in the district are fully aware of the crime, but since the commander is powerful and influential, they are unable to arrest and prosecute him," he said.

'Anjila Shafi, secretary of the provincial council of Ghor. Shafi said that in the past year, 50 cases of violence against women by militia commanders had been recorded, including assault and coerced marriages.

'General Bashir said police had received 20 reports of acts of violence allegedly committed by commanders in the Chaharsada, Tayvara and Dowlina districts, but he acknowledged this was likely to be an understatement of the true situation because people were too scared to complain. The intimidations in turn allowed the perpetrators to carry on with impunity, he added. In one case, he said, "An influential individual in Taywara district forced a father to give his daughter away to a 40 year old man. When district officials tried to secure her release the girl, the commander prevented them by force of arms."

'A provincial council member who asked to remain anonymous said that in recent weeks, two girls who were forced into marriage in Tayvara district committed suicide. "A local commander had forcibly married one of the girls himself, and the other to someone else," the councillor said. Islam forbids coerced marriages. Mawlawi Hafizullah, a religious scholar in Ghor, said that when such cases were discovered, the government must take action against those responsible.

'In three cases, militia commanders stand accused of ordering extrajudicial punishments of women. General Abdul Rashid Bashir, the chief of police for the province, said a militia commander in Tulak district ordered public lashings of two women. "The police found out about the incident ten days later, but to date, they have been unable to do anything about it," the police chief said, arguing that effective action against these powerful men would remain impossible until central government stepped in.

'Shafi of Ghor's provincial council alleged that Fazel Ahmad, an influential commander in Dowlina "lashed a woman for allegedly having a sexual relationship with a man in the district". Once again, nothing was done about the case, she said. IWPR spoke to Fazel Ahmad, who said that men under his command did carry out the beating. "Last year, my men identified a 40-year-old woman whose husband had died and who had sexual relations with another man," he said. "She was lashed in public so that other women and men would learn a lesson from it. This will prevent prostitution occurring in the area."

'Such cases are reminiscent of the arbitrary punishments carried out by the Taleban.

'Armed groups operating outside the law continue to operate across parts of Afghanistan, but because they are not fighting the government, their violent actions are often overshadowed by the killings committed by the Taleban and allied insurgents. Militia groups, many of them part of the mujahedin that fought the Soviet-backed government in the 1980s, had free rein to set up their own fiefdoms in the chaotic civil war of the early 1990s. Their brutal and lawless behaviour was one reason why many Afghans initially welcomed the rise of the Taleban at the time.

'These armed units, often affiliated with a political faction, were supposed to have been eliminated under the post-Taleban dispensation after 2001. The United Nations sponsored a Disarmament, Demobilization and Reintegration process, and when that ended in 2005, a second programme called Disbandment of Illegal Armed Groups specifically targeted the large number of informal units that remained, such as those that seem to have survived unscathed in Ghor.

'As Alauddin suggested, some militia forces may have reemerged under the pretence that they are part of the Afghan Local Police initiative, which is intended to formalise the status and command structure of a range of village defence forces. .. Women rights activists say they are unable to work in the remoter parts of Ghor because of the presence of long strongmen as well as more general security problems. Atifa Mansuri, a women's rights activist in western Afghanistan, said warlords were now a major threat to women there, but that "no government institution has ever been able to arrest or prosecute the perpetrators of such actions". Mansuri said women would continue to fall prey to powerful and violent men until the government established itself properly in these areas, and began prosecuting alleged perpetrators.' [39e]

12.37 The Nation reported on the power held by Afghan warlords in an article dated 21 June 2010:

'Security for key US military supply routes in Afghanistan is in the hands of a small group of powerful Afghan warlords who run a massive protection racket and may be paying off the Taliban, according to a Congressional report being released Tuesday. The report, an advance copy of which was obtained by The Nation, discloses that the Army has opened a criminal investigation into the payoffs, as an Army Criminal Investigation Command spokesman confirmed this evening to the Associated Press…

'Among the most significant findings in the report: "security for the US supply chain is principally provided by warlords"; "the highway warlords run a protection racket"; "protection payments for safe passage are a significant source of funding for the Taliban…"

'Driving home how much influence the warlords now have, the report includes a contractor's printed list of forty-four military supply routes, each apparently controlled by one of ten warlords. The subcommittee report compares it to a "prix fixe menu" for security.' [63b]

DISBANDMENT OF ILLEGAL ARMED GROUPS (DIAG)

12.38 Jane's Sentinel reported the following in its Afghan Security section, dated 26 April 2012:

'The massive inflow of weapons during nearly three decades of continuous conflict has left Afghanistan awash with small-arms. Estimates suggest that every adult male in rural areas possesses or has access to a weapon. Afghans are unlikely to surrender their weapons to any organisation for any reason, as this would render them vulnerable in the course of disputes, many of which are settled by the threat or use of arms.

'Well-meaning programmes to disarm individuals or armed groups have been undertaken and may result in the surrender of old, unserviceable or surplus weapons, and weapons caches will continue to be discovered (usually as a result of a rival's information) by US, NATO and Afghan troops. However, disarmament schemes have not been applied vigorously and have invariably achieved little.

'There is a continued inflow of weapons into Afghanistan from neighbouring countries. Pakistan's North West Frontier Province, where the tribal areas are semi-autonomous and increasingly used as an operational base by militants, is the main source of incoming armaments. There is also some evidence of traffic across the Amu Darya river from Uzbekistan and Tajikistan, and also from Iran, although accusations of Tehran's

complicity in this have yet to be proven. The expanding drug industry contributes to the trade in arms, which makes its eradication a prerequisite for successful disarmament.' [9b]

The Institute for War and Peace Reporting (IWPR) described the disarmament process in an article which, although dated May 2006, nevertheless provided useful background information: 'Disarmament presents a huge challenge in a country like Afghanistan, which has amassed countless weapons during three decades of war. If you don't know how many weapons you started with, how will you know when you are finished?

'No one is prepared to hazard a precise estimate of the number of illegal arms in the country, although military officials say privately that there may well be more than one million weapons in the northern provinces alone.

'Add on the large numbers of guns still floating around the rest of the country, and the 20,000 or so weapons that have been collected under the Disbandment of Illegal Armed Groups programme, DIAG, launched in June 2005, hardly seem cause for celebration, say some observers. Since 7,000 of them were old, rusty or otherwise unusable, it is clear that disarmament in Afghanistan has a very long way to go.

'DIAG is part of the Afghanistan's New Beginnings Programme, ANBP, funded under the United Nations Development Programme by an international consortium of donors including Japan, Canada, the United Kingdom, the United States, and the Netherlands.

'The first phase of disarmament, titled Disarmament, Demobilisation and Reintegration, DDR, targeted combatants belonging to semi-formal military units existing outside the Afghan National Army, and ended in July 2005.

'The subsequent DIAG scheme focused its attention instead on the irregular armed groups that surround various strongmen, who often terrorise and extort the local population based on their strength of arms.

'DIAG spokesman Ahmad Jan Nawzadi estimates that there are still 1,800 such armed groups, consisting of nearly 125,000 individuals, across Afghanistan.

'"Many of these groups are involved in drug cultivation and trafficking, assisting or protecting drug smugglers, and creating insecurity in the country," he told a press conference in Mazar-e-Sharif in early May.' [39c]

12.39 Freedom House commented as follows in their Freedom in the World 2012 report: 'Disarmament programs have stalled, and foreign military programs to rearm informal militias as a counterinsurgency force are actively undermining efforts to curtail and regulate the distribution of weaponry. Ongoing programs aimed at reintegrating former insurgents have failed to ensure that they disarm.' [38a]

See also sub-section Reintegration of insurgents below

12.40 The Institute for War and Peace Reporting provided further information about the disarmament process in an article dated February 2012: 'A six-month investigation conducted by IWPR suggests that 50,000 firearms are held in private hands in the Khost province of southern Afghanistan. With a total population estimated at 480,000 in a 2006 survey, that is one weapon for nearly every family in the province.

'When people are involved in personal or tribal conflicts, they reach for their weapons without any fear of the law. As a result, scores of people are killed or wounded every year. Afghan law requires a license for any firearm that is not for hunting, and the penalty for unlawful possession is a prison sentence. In reality, all kinds of unlicensed weapons are readily available at local bazaars…

'Khost men claim they keep unlicensed weapons to protect themselves and their families. They can easily buy them at a market in Miranshah, the capital of North Waziristan located on the Pakistani side of the border. Kalashnikov assault rifles, machine guns, rocket-propelled grenades, old bolt-action rifles and handguns manufactured in China and Russia are displayed at the market alongside Pakistani-made weapons.

'Khost province shares a 196-kilometre border with the Kurram tribal agency of Pakistan. Dozens of trucks are used each day to smuggle goods, including arms and ammunition, between the two countries, according to Naqibullah Motunwal, a political analyst in Khost…

'It is not just ordinary people who buy guns. Tanai district government chief Sayed Ahmad Wafa admits he has an illegal weapon at his home, even though the government supplies him with four bodyguards. "I bought a Russian-made Kalashnikov, which doesn't belong to the government, for my house," Wafa said. He estimated that 70 per cent of the residents of Tanai district's 124 villages own between one and three guns. "In the villages of Tanai district alone, there are about 10,000 Kalashnikovs," he said…

'But this access to illegal weapons contributes to the security problems in the region, according to Khost provincial governor Abdul Jabar Naimi. He says the government is trying to find new ways to collect these weapons.

'He said officials managed to convince elders from four tribes – Gurbez, Shamal, Moqbel, and Mangal – members of which are often killed and wounded in disputes – to turn in their guns before the end of 2011 under the Afghan government's Disbandment of Illegal Armed Groups (DIAG) program.

'"We set a condition that anybody who violates the agreement will be fined two million afghani [40,000 dollars]," Naimi said. He did not say whether the government had collected any fines, or how it would use the money. But he said men from the four tribes had turned in more than 100 weapons, including AK-47s, heavy machine guns and handguns.

'"People in Khost have one or two Kalashnikovs to protect themselves and their houses, so collecting all of these weapons will be impossible for the government in the short term," the governor said.

'Khost provincial police chief commander Sadr Mohammad Haji agrees that the biggest challenge to security and rule of law is the availability of illegally-held guns, which encourages fighting among tribes in mountainous areas. He said the police had stopped many inter-tribal tribal conflicts in the one year he had been in the job, by disarming what he called "irresponsible men". He said that during four separate sweeps of the area, police confiscated between 40 and 60 weapons. "We collected Kalashnikovs, machine guns, even Russian-made RPG launchers," the police chief said.' [39d]

12.41 The United Nations Development Programme commented on disarmament in an undated summary of Afghanistan's Millennium Development Goal of enhancing security, undated but accessed on 20 August 2012, noted: 'ANBP [Afghanistan's New Beginnings Programme] has been quite successful in the disarmament and demobilisation components of the DDR [Disarmament, Demobilisation and Reintegration] process. But in a fragile security environment, it will be impractical to aim for complete disarmament. Forcible disarmament of commanders and other powerful individuals may lead to increased insecurity.' [69a]

REINTEGRATION OF INSURGENTS

See also sub-section Disbandment of illegal armed groups above.

12.42 The Human Rights Watch (HRW) Report, 'The "Ten-Dollar Talib" and Women's Rights; Afghan Women and the Risks of Reintegration and Reconciliation,' dated 13 July 2010, stated:

'In January 2010 it emerged that the Afghan government had brought into force an amnesty law providing immunity from prosecution to combatants who agree to join the reconciliation process. The law violates Afghanistan's obligations under international law to prosecute all those responsible for war crimes, crimes against humanity, and other serious human rights abuses, including sexual crimes of war. This applies to perpetrators of atrocities on all sides, including Taliban and other insurgent leaders.' [15n] (p7)

12.43 The Afghan Peace and Reintegration Program was described in an undated article on the ISAF website:

'The APRP [Afghan Peace and Reintegration Program] is an Afghan-led peace program and aims to remove insurgents out of the fight and return them to their communities with honor and dignity to live peaceful and productive lives. This particular program is being driven by the Government of the Islamic Republic of Afghanistan as part of a Presidential decree published, June 29, 2010…

'During his inauguration speech in November 2009, President Hamid Karzai declared the central priority for GIRoA [Government of the Islamic Republic of Afghanistan] was peace and national reconciliation. The APRP was developed based on the recommendations of more than 1,600 broadly representative delegates to the Consultative Peace Jirga, June 2010. Karzai declared that GIRoA would implement the Jirga's recommendation.

'In addition to providing insurgents a peaceful alternative to combat, the APRP provides a monthly incentive for insurgents to turn-in their weapons and join the peace process. Reintegrates' can receive up to $240 a month for three months, while senior leaders can earn more. Before entering the program, each person is vetted and tracked for eligibility and compliance to the program.' [42c]

12.44 The USSD report 2011, described the APRP:

'The Afghanistan Peace and Reintegration Program (APRP) provided political amnesty to insurgents who met program eligibility criteria, including breaking ties with al-Qaida, renouncing violence, agreeing to abide by the constitution including its protections for women and minority groups, and formally enrolling in the program. Political amnesty is not defined. However, the program document states that the APRP "is not a framework

for pardoning all crimes and providing blanket amnesty." The APRP has not yet defined what offenses are eligible for amnesty. Reintegration candidates are informed prior to enrollment [sic] that entry into the program does not amount to blanket immunity from prosecution.

'There were instances in which local government officials, unaware of or knowingly ignoring APRP policy, promised amnesty to insurgents who had agreed to stop fighting but had not formally entered the APRP, such as in the case of a Taliban commander, Maulavi Isfandar, who oversaw the execution of Bibi Sanubar, a pregnant widow accused of adultery, in Badghis Province. These informally reintegrated persons were neither vetted by their community members for inclusion in the program nor informed about the APRP's position on amnesty. The government estimated that an additional 2,978 insurgents formally reintegrated during the year.

'Fourteen persons met the government's conditions for reconciliation (renunciation of violence, no links to international terrorist organizations, and respect for the constitution, including the rights of women and minorities) and were removed from the UN Sanctions List during 2010. An additional 15 persons met the conditions for reconciliation and were removed from the UN Sanctions List in 2011.

'The AIHRC and human rights activists continued to express concern that war criminals and human rights abusers remain in positions of power within the government.' [58c] (Section 1.d)

12.45 Reuters reported on the reintegration programme in an article dated 4 July 2012: 'David Hook, the British major general who heads NATO efforts to sign up local Taliban fighters to a three-step programme that gives them training, community grants and amnesty for some crimes, said the so-called reintegration plan had recruited some 4,700 people since October 2010, mostly in areas of western and northern Afghanistan beyond the Taliban insurgency's core…

'The programme has been less successful in areas like Helmand and Kandahar, traditional Taliban hotbeds, and in parts of eastern Afghanistan where insurgents operate with greater impunity. In volatile Paktika province, bordering Pakistan, just one fighter has signed up to date…

'While NATO believes only five fighters have rejoined the insurgency, Afghanistan's history of fleeting alliances raises questions about how long such arrangements will hold. The risks facing fighters who switch sides is enormous. "How can you lure the foot soldiers if you're still killing their commanders?" asked Sayed Mohammad Akbar Agha, an influential former Taliban whose cousin, Tayeb Agha, has represented the Taliban leadership in talks with U.S. diplomats.

'Asadullah Amarkhil, an official from the provincial High Peace Council in northern Kunduz, said four former Taliban commanders had been killed in the last several months, just weeks after joining the programme. "There is little protection for members of the Taliban who join the government," Amerkhil said. "If things remain as they are, we won't be able to encourage them into reintegration."' [28e]

12.46 The New York Times also reported on other issues faced in implementing the programme in an article dated 19 June 2011. For example:

'… each province must have a peace and reconciliation committee to serve as an intermediary between active Taliban commanders and the government. Special bank

accounts had to be set up to keep track of the money sent to the provincial governors to run the program. Afghan and NATO officials also have difficulty confirming the identities of those who say they want to switch. In Kunduz Province, many of the 400 Taliban who have changed sides in recent months have gone back to their villages to form armed groups known locally as arbakai, according to the leader of the peace and reconciliation committee there. "A number of them were given guns to secure their own villages after we received guarantees from the village elders about their honesty and loyalty to the government," said the committee leader, Asadullah Omerkhel. Some of those fighters are accused of taxing local people, running protection rackets and even rape, raising the question of whether they are just criminals.' [32b]

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13. JUDICIARY

OVERVIEW

13.01 The UN Office on Drugs and Crime summarised the justice situation in Afghanistan in its 'Country Programme for Afghanistan, 2012-2014' report, launched in May 2012, stating:

'Re-establishing the rule of law, building integrity, addressing impunity, and developing a professional judicial culture are essential pre-requisites for peace and stability in Afghanistan and is an essential basis to effectively addressing narcotics trafficking. In 2002, the UNODC Criminal Justice Reform Programme was constituted as an immediate response to the needs of Afghanistan's formal justice system, which was lacking the most basic material, qualified legal and judicial personnel as well as infrastructure. These challenges largely remain ten years on.' [85c] (p 47)

13.02 The Afghanistan Research and Evaluation Unit (AREU) A to Z Guide to Afghanistan Assistance 2012, May 2012 (AREU Guide 2012), listed the various sources of law in Afghanistan, stating, 'Formal sources of law in Afghanistan are: 1) Islamic law; 2) the 2004 Constitution; 3) codes, decrees and legislation; 4) international treaties and covenants; and 5) various types of regulations and orders. No law can be contrary to the beliefs and provisions of Islam (pursuant to Article 3 of the Constitution), and many of the country's codes and statutes reflect Islamic legal principles.' [8c] (p 52) (Laws in Afghanistan)

13.03 The US State Department's Country Report on Human Rights Practices 2011, Afghanistan, 24 May 2012 (USSD report 2011), stated, 'Most courts administered justice unevenly, according to a mixture of codified law, Sharia (Islamic law), and local custom.

'The formal justice system was relatively strong in the urban centers, where the central government was strongest, and weaker in the rural areas, where approximately 80 percent of the population lived. Nationwide, fully functioning courts, police forces, and prisons were rare. The judicial system lacked the capacity to handle the large volume of new and amended legislation. A lack of qualified judicial personnel hindered the courts. Municipal and provincial authorities, including judges, had minimal training and often based their judgments on their personal understanding of Sharia, tribal codes of honor, or local custom. The majority of judges graduated from madrassahs or had Sharia

training. Very few judges were graduates of a law school. Lack of access to legal codes and statutes hindered judges and prosecutors.

'There were widespread shortages of judges, primarily in insecure areas. The Supreme Court reported that there were an estimated 1,651 judges at the primary, appellate, and supreme court levels, including 143 female judges at year's end.

'In major cities, courts primarily decided criminal cases, as mandated by law. Civil cases often were resolved in the informal system. Because the formal legal system was often not present in rural areas, local elders and shuras (consultative gatherings, usually of men selected by the community) were the primary means of settling both criminal matters and civil disputes; they also levied unsanctioned punishments. Some estimates suggested that 80 percent of all disputes were resolved by shuras. Sometimes the shuras did not respect the constitutional rights of--and sometimes violated the rights of--women and minorities.

'In areas not under government control, the Taliban enforced a parallel judicial system based on strict interpretation of Sharia.' [58c] (section 1e)

13.04 On the subject of judicial procedures and remedies, the USSD report 2011 noted: 'Citizens had limited access to justice for constitutional and human rights violations, and interpretations of religious doctrine often took precedence over human rights or constitutional rights. The state judiciary did not play a significant or effective role in adjudicating civil matters due to corruption and lack of capacity.' [58c] (section 1f)

13.05 The Afghanistan Constitution can be accessed via the Afghan Ministry of Justice website [109a]

ORGANISATION

13.06 The AREU Guide 2012 explained the judicial system in Afghanistan:

'The major permanent justice institutions in Afghanistan are the Supreme Court, the Office of the Attorney General, and the Ministry of Justice. The 2004 Constitution states: "The judicial branch is an independent organ of the state of the Islamic Republic of Afghanistan. The judicial branch consists of the Supreme Court (Stera Mahkama), High Courts, Appeal Courts, and Primary Courts, the structure and authorities of which are determined by law." In June 2005, a new law regulating the judiciary and courts was passed by the Cabinet. Until this point, the system had been governed by the 1990 Law of the Jurisdiction and Organisation of the Courts of Afghanistan (Official Gazette no. 63, SY1369). The new law divides the courts into three tiers: the Supreme Court, the Courts of Appeal, and the Primary Courts. It allows for travelling or mobile courts in the event that they are needed; these must be approved by the President.' [8c] (p 89) (The Judiciary)

13.07 The AREU Guide 2012 further explained:

'The reach of the formal justice system varies significantly across the country. A large proportion of disputes in Afghanistan are settled outside the formal court system—particularly, but not exclusively, in rural areas. Community-based justice mechanisms—shuras, jirgas and jalasas— often settle civil and sometimes criminal disputes using Islamic and customary/tribal laws. The justice system is therefore composed of both formal and informal mechanisms that include civil law, Islamic, and customary/tribal law.

Many instances are found in which formal and informal mechanisms and actors engage with one another. There are common elements among these systems with respect to issues such as land and property, but they can diverge dramatically on criminal matters and the role and nature of punishment.' [8c] (p 89) (The Judiciary)

13.08 The AREU report, 'Local Governance in Afghanistan: A View from the Ground,' dated June 2011, noted: 'Although statutory law was given priority over Islamic law in the 1964 constitution, there remains a dual system in the 2004 constitution whereby primacy of one over the other rests with interpretation.' [8a] (p 27)

13.09 The AREU Guide 2012 stated that, 'The Constitution allows for judges to be trained in either civil or Islamic law. Sitting judges are not allowed to hold political party membership.' [8c] (p 90) (The Judiciary) The AREU Guide also noted provisions for juveniles: 'Only the Court of Appeal in Kabul has a Juvenile Court specially created to hear cases involving juveniles; however, in many provinces there are judges experienced or trained to deal with juvenile cases.' [8c] (p 90) (The Judiciary)

Supreme Court

13.10 The AREU Guide 2012 observed:

'In accordance with the Constitution, the Supreme Court has nine members, appointed for ten year terms by the President, with the approval of the Wolesi Jirga. The President selects one of the nine members to serve as Chief Justice. The Supreme Court manages the personnel, budgets, and policy decisions of the entire national, provincial and district court system. The Supreme Court convenes regular sessions, at least once every 15 days, and additional sessions can be convened by request. The presence of at least six members is needed for a Supreme Court quorum, and decisions are made by majority vote. The Supreme Court is divided into four sub-courts or departments (dewans)—General Criminal, Public/National Security, Civil and Public Rights, and Commercial—each headed by a Supreme Court Justice. The current Supreme Court members were sworn in on 5 August 2006. This Court is characterised as moderate, technocratic and highly educated in comparison to its ultra-conservative predecessor.' [8c] (p90)

Courts of Appeal

13.11 The same source observed that:

'Courts of Appeal are operational in all provinces (although a few in some provinces do not have the requisite number of judges to hear appeal cases). They comprise the Chief of the Court, other judicial members, and heads of dewans. Courts of Appeal in more populous provinces have five dewans—General Criminal (which also deals with traffic violations), Public Security, Civil and Family, Public Rights, and Commercial. Those in less populous provinces have four dewans—City Primary Court, General Criminal, Civil, and Public Security. Only the Court of Appeal in Kabul has a Juvenile Court specially created to hear cases involving juveniles; however, in many provinces there are judges experienced or trained to deal with juvenile cases. The Courts of Appeal oversee the rulings and decisions of the Primary Courts in their respective province, and have the authority to correct, overturn, amend, confirm or repeal these rulings and decisions. They are also responsible for deciding on conflicts of judicial jurisdiction.' [8c] (p 90)

See also sub-section on legal rights of children

Primary Courts

13.12 The source stated:

'At the district level, the City Primary Court (which is the primary court in the provincial capital) consists of five dewans—General Criminal, Civil, Public Rights, Public Security, and Traffic. Primary Courts in all districts outside the provincial capital have three dewans—General Criminal, Public Security, and Civil and Public Rights. Many districts do not currently have functional primary courts, mainly due to security concerns. In many cases, judges hold primary court sessions in the provincial capital. Criminal cases are initiated by the Prosecutor's Office filing them with the Primary Court; civil rights cases are filed with an office in the Ministry of Justice. Thereafter, a series of judicial sessions may be held until a decision is reached by the Primary Court. Almost as a matter of customary practice, most cases decided by the Primary Courts are appealed to the Courts of Appeal. When appeals reach the Supreme Court, judges often send the case back to the Primary Court for a new hearing.' [8c] (p 90-91)

See also Traditional justice sub-section below

INDEPENDENCE

13.13 The USSD report 2011 stated:

'The law provides for an independent judiciary, but in practice the judiciary was underfunded, understaffed, ineffective, and subject to political influence and pervasive corruption. Bribery, corruption, and pressure from public officials, tribal leaders, families of accused persons, and individuals associated with the insurgency threatened judicial impartiality. Most courts administered justice unevenly, according to a mixture of codified law, Sharia (Islamic law), and local custom.' [58c]

13.14 The Freedom House 'Freedom in the World 2012' report, covering events of 2011, noted a '… further deterioration in the independence of the judiciary.' [38a] (p 22)

See also section on Corruption

FAIR TRIAL

13.15 The USSD report 2011 explained:

'Trial procedures rarely met internationally accepted standards. The administration and implementation of justice varied in different areas of the country. By law all citizens are entitled to a presumption of innocence and defendants have the right to be present at trial and to appeal; however, these rights were not always applied. Trials were rarely public. Judges decided all criminal trials, since there is no right to a jury trial under the constitution. A defendant also has the right to consult with an advocate or counsel at public expense when resources allow. This right was applied inconsistently, in part due to a severe shortage of defense counsel. Defendants frequently were not allowed to confront or question witnesses. Citizens often were unaware of their constitutional rights. Defendants and attorneys were entitled to examine the physical evidence and the documents related to their case before trial; however, observers noted that in practice court documents often were not available for review before cases went to trial,

despite defense lawyers' requests. When the accused is held in custody, the primary court must hear the trial within two months. The appellate court has two months to review the case of an incarcerated person. Either side may appeal; an accused defendant who is found innocent usually remains detained in the legal system until the case moves through all three levels of the judiciary: primary, appeals, and the Supreme Court. The decision of the primary court becomes final if an appeal is not filed within 20 days. Any second appeal must be filed within 30 days, after which the case moves to the Supreme Court, which must decide the case of the defendant within five months. If the appellate deadlines are not met, the law requires that the accused be released from custody. In many cases courts did not meet these deadlines.' [58c] (Section 1.e)

13.16 The Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Afghanistan and on the achievements of technical assistance in the field of human rights, 19 January 2012, observed:

'Afghanistan is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Constitution guarantees the fundamental rights essential to a fair trial, including the right to counsel, the presumption of innocence and prohibition against the use of torture and arbitrary detention. In spite of such legal provisions, detainees lack access to remedial mechanisms where they can seek redress for human rights violations or challenge the legality of their arrest or detention. Government ministries, including the Ministry of Justice, began a process to reform the Criminal Procedure Code, however, progress has been slow. Many reforms designed to address the shortcomings of the criminal justice system have also been identified within the Afghan National Development Strategy (ANDS) and National Priority Program (NPP) on Law and Justice for All. These would include more responsible custodial measures (detainee case tracking system, forensic evidence collection and preservation mechanisms and the introduction of remedies for unlawful detention) which, if fully implemented, could improve the availability of legal safeguards and effective remedies for detainees.

'Another weakness in the justice system is the difficulty that detainees encounter to access legal counsel at all stages of the criminal justice process. Despite the constitutional guarantee for Afghans to have access to legal counsel from the moment of arrest, many detainees lack meaningful access to defence counsel. Currently there are around 300 lawyers providing legal aid for criminal cases in 25 provinces in Afghanistan. Despite the increase in the number of legal aid lawyers, most are based primarily in provincial capitals with almost no representation at district level. Legal aid is only targeted towards women and children, although more than 90 per cent of the detainees are adult men. Legal aid providers have limited access to many detention facilities, including those of the NDS and ANP. Due to lack of access to detainees, there is an increasing practice of legal aid providers defending cases in absentia. OHCHR/UNAMA has supported mechanisms for referring cases to legal aid providers, and has been working closely with legal aid providers and Government to ensure that defense attorneys have access to clients in all detention facilities.' [52c] (p13)

See also section on Arrest and detention - legal rights

PENAL CODE

13.17 The Afghan Penal Code is dated 7 October 1976.

CODE OF CRIMINAL PROCEDURE

13.17 On 17 December 2009, the UN Office on Drugs and Crime reported that:

'UNODC is supporting the Afghan Government to draft legislation for a sound judicial system in line with international and human rights standards. As part of this support, UNODC through an MoU with the Ministry of Justice, established a working group on criminal law reform, made up of representatives from the Afghan national justice institutions and international criminal justice experts. The working group has been formulating a criminal procedure code for the past year that will form the backbone of the judicial system in Afghanistan…

'As a next step, the revised criminal procedure code will be presented to the Afghan parliament for endorsement before it can be adopted as legislation. It is hoped that the criminal procedure code will contribute to strengthening the rule of law in Afghanistan, in line with current international standards.' [85d]

13.18 The 'Human Rights and Democracy: The 2011 Foreign and Commonwealth Office Report,' dated April 2012, stated, 'We continued our work with the Afghan government and the international community to implement the new criminal procedure code.' [37c] (p 161) The International Committee of the Red Cross (ICRC) website provided a copy of the 'Interim Criminal Procedure Code for Courts 2004.' [101b] The United States Agency for International Development (USAID) published an English translation of the Shiite Personal Status Law in April 2009. [19f]

See also Section 25: Women for information on the situation of women

TRADITIONAL JUSTICE

13.19 Human Rights Watch reported as follows in its World Report 2012, covering the events of 2011, released in January 2012:

'Afghanistan's justice system remains weak and compromised, and a large proportion of the population relies instead on traditional justice mechanisms, and sometimes Taliban courts, for dispute resolution. Human rights abuses are endemic within the traditional justice system, with many practices persisting despite being outlawed. For example Baad, where a family gives a girl to another family as compensation for a wrong, continues even though it is banned by the 2009 Law on Elimination of Violence against Women.' [15a]

13.20 The USSD report 2011 stated, 'In cases lacking a clearly defined legal statute, or cases in which judges, prosecutors, or elders were unaware of the law, judges and informal shuras enforced customary law; this practice often resulted in outcomes that discriminated against women.' [58c] (Section 1.e)

13.21 The same report added:

'Because the formal legal system was often not present in rural areas, local elders and shuras (consultative gatherings, usually of men selected by the community) were the primary means of settling both criminal matters and civil disputes; they also levied unsanctioned punishments. Some estimates suggested that 80 percent of all disputes were resolved by shuras. Sometimes the shuras did not respect the constitutional rights of - and sometimes violated the rights of - women and minorities.

'In areas not under government control, the Taliban enforced a parallel judicial system based on strict interpretation of Sharia.' [58c] (Section 1.e)

See also section on Women and sub-section on Human rights violations by pro-government forces

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14. ARREST AND DETENTION – LEGAL RIGHTS

14.01 Chapter 2 and Article 31 of the Constitution of Afghanistan, dated 2003 and agreed in January 2004, accessed via the UK Foreign and Commonwealth Office website, stated:

'Every person upon arrest shall seek an advocate to defend his rights or to defend his case for which he is accused under the law. The accused upon arrest has the right to be informed of the attributed accusation and to be summoned to the court within the limits determined by law. In criminal cases, the state shall appoint an advocate for a destitute. The duties and authorities of advocates shall be regulated by law.' [37b] (Afghanistan Country profile; History)

14.02 The US Department of State's Country Report on Human Rights Practices for 2011, Afghanistan, published 24 May 2012 (USSD report 2011), provided this information about the law regarding arrest and detention:

'The law provides for access to legal counsel and the use of warrants, and limits how long detainees may be held without charge. The ICRC [International Committee of the Red Cross], the AIHRC [Afghanistan International Human Rights Commission], and other observers reported that arbitrary and prolonged detention frequently occurred throughout the country. Authorities often did not inform detainees of the charges against them. Police have the right to detain a suspect for 72 hours to complete a preliminary investigation. If they decide to pursue a case, the file is transferred to the Attorney General's Office (AGO), which must interrogate the suspect within 48 hours. The investigating prosecutor can continue to detain a suspect without formal charges for 15 days from the time of arrest while continuing the investigation. With court approval the investigating prosecutor may detain a suspect for an additional 15 days. The prosecutor must file an indictment or release the suspect within 30 days of arrest. Investigation may continue even if an indictment cannot be completed within the 30 days.' [58c] (Section 1.d)

14.03 However, the USSD report 2011 continued:

'In practice many detainees did not benefit from any or all of these provisions, largely due to a lack of resources. The law provides that upon request by defense counsel, the court shall release a detainee held over the 30-day period when an indictment is not filed. However, many detainees were held beyond 30 days, despite the lack of an indictment. Observers reported that prosecutors and police detained individuals on average for nine months without charging them, sometimes for actions that were not crimes under the law, in part because the judicial system was inadequate to process detainees in a timely fashion.

'On August 25, President Karzai called on the Minister of Justice, the Attorney General, the head of the NDS, and the head of the Supreme Court to process cases more

expeditiously and not to detain persons without cause. He also called for the release of prisoners whose terms had been completed but who were still in jail due to a lack of financial or other guarantees.' [58c] (Section 1.d)

14.04 The USSD report also commented on arbitrary arrests:

'Arbitrary arrests were reported in most provinces. Incommunicado detention remained a problem and prompt access to a lawyer was rare. While detainees were allowed access to their families, there were many cases in which such access was not prompt…There was little consistency in the length of time detainees were held before trial or arraignment. Postsentence detention also was reportedly common.' [58c] (Section 1.d)

14.05 The USSD report 2011 added:

'Authorities frequently did not rearrest defendants even after an appellate court convicted them in absentia. There was no bond system, although a rudimentary personal recognizance system was utilized in some areas where international observers monitored cases; authorities justified posttrial detention because defendants released pending appeal often disappeared.

'Prosecutors did not exercise discretion in making decisions on charges.

'International mentors observed that prosecutors filed indictments in cases transferred to them by the police, even where there was a reasonable belief that no crime actually was committed.' [58c] (Section 1.d)

14.06 The Human Rights Watch World Report 2012, which concerned events of 2011, and was dated January 2012, commented on US-administered justice in Afghanistan: 'Inadequate due process protections for detainees held within the parallel US-administered system and for those prosecuted under Afghan law following US detention also continue to be a serious concern.' [15a] (p 291-292)

See also sub-sections Security forces - arbitrary arrest and detention, Judiciary - fair trial, Children - arrest and detention conditions, Women - imprisonment

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15. PRISON AND DETENTION CENTRE CONDITIONS

15.01 The International Centre for Prison Studies, a partner of the University of Essex, undated, stated that the total Prison population in Afghanistan (including pre-trial detainees /remand prisoners) was 24,613 at September 2012. The same provided the following table about the prison system in Afghanistan:

Country	**AFGHANISTAN**
Ministry responsible	**Ministry of Justice**
Prison administration	**Central Prison Department**
Contact address	**Kara-e-Parwan, Kabul, Afghanistan**
Telephone/fax/website	tel: **+93 20 2100 319**

Head of prison administration (and title)	**(General) Amir Muhammad Jamshed** General Director		
Prison population total (including pre-trial detainees / remand prisoners)	**24,613** at September 2012 (national prison administration)		
Prison population rate (per 100,000 of national population)	**74** based on an estimated national population of 33.2 million at September 2012 (from United Nations figures)		
Pre-trial detainees / remand prisoners (percentage of prison population)	**24.4%** (December 2011)		
Female prisoners (percentage of prison population)	**2.8%** (September 2012)		
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	**4.0%** (January 2007 - juveniles)		
Foreign prisoners (percentage of prison population)	**0.9%** (January 2007)		
Number of establishments / institutions	**251** (2010 - 34 provincial prisons, 187 district detention centres, 30 juvenile rehabilitation centres. Not including facilities run by the Ministry of the Interior or the National Security Directorate.)		
Recent prison population trend (year, prison population total, prison population rate)	2004 2006 2009	**5,262** **9,604** **14,857**	**(20)** **(34)** **(49)**

[121a]

15.02 The UN General Security Council's report of the Secretary-General, dated 20 June 2012, stated that 'The prison population of Afghanistan continues to grow significantly, placing pressure on facilities and staff.' [18i] (p 9)

15.03 The United States Country Report on Human Rights Practices for 2011, Afghanistan, 24 May 2012 (USSD report 2011), stated, 'There were 34 provincial prisons under MOJ/CPD control and 187 active MOI detention facilities, including 30 juvenile rehabilitation centers. The total number of active detention facilities reportedly fluctuated from month to month. Overall, the MOI lacked sufficient detention facilities. No official information was available on the number of prisoners the NDS held, or the number of facilities the NDS operated.' [58c] (Section 1.c)

15.04 The UN General Security Council's report of the Secretary-General, dated 20 June 2012, commented that 'There have been concerns over the transfer in January [2012] of

the Central Prison Directorate from the Ministry of Justice to the Ministry of the Interior, particularly as provincial prison directors have been seen to be reporting to local police chiefs. In March [2012], the Minister of the Interior issued an internal order reiterating the operational independence of the division.' [18i] (p 9)

15.05 The USSD report 2011 stated:

'Prison conditions remained poor. Most prisons and detention centers, particularly Ministry of the Interior (MOI) detention centers, were decrepit, severely overcrowded, unsanitary, and fell well short of international standards. The Afghanistan Independent Human Rights Commission (AIHRC) and other observers continued to report that inadequate food and water, poor sanitation facilities, insufficient blankets, and infectious diseases were common in the country's prisons. However, some observers have found the food and water to be sufficient throughout the Central Prison Directorate (CPD). The CPD has a nationwide program to feed prisoners, but on an extremely limited budget. Many prisoners' families supplement food and other necessary living items.' [58c] (Section 1.c)

15.06 The USSD report 2011 stated:

'NDS and the MOI cooperated with coalition forces and the international community to address concerns, improve training, and review facilities. The government granted the International Security Assistance Forces access to the facilities named in the UNAMA report for the purposes of monitoring the treatment of detainees and undertook to train detention officials in human rights standards. The NDS in December created a new Human Rights Cell charged with investigating claims of detainee mistreatment. The NDS also welcomed international and NGO input on allegations of detainee abuse in order to effectively investigate such claims. The effectiveness of such NDS efforts could not be determined by year's end. Government officials in Khost invited UNAMA to provide human rights training at prison facilities and welcomed international prison monitoring visits.

'There was an informal grievance procedure within the CPD. The MOJ, the attorney general, and some governors monitored or assessed prison conditions, although investigations and monitoring did not fully meet international standards. The MOI, MOJ, MOD, and NDS permitted the AIHRC, UNAMA, the International Committee for the Red Cross (ICRC), and other human rights organizations to visit their detention facilities. Security constraints and obstruction by some authorities occasionally prevented visits to some places of detention. The United Nations and other human rights organizations did not have access to NDS Department 124 for monitoring of prison conditions. There was no formal prisoner complaint system in place. Although varying by prison, commanders designated certain inmates to report back to them on security and internal situations.' [58c] (Section 1.c)

15.07 The UN General Security Council's report of the Secretary-General, dated 20 June 2012, commented as follows:

'In the reporting period, UNAMA provided human rights training to the National Directorate of Security and police personnel in 16 provinces. It also continued a detention observation programme with visits to over 80 facilities managed by the National Directorate of Security, the police and the Central Prison Directorate to reassess the treatment of conflict-related detainees. On 19 March, ISAF announced that it had recertified 13 Afghan detention facilities and resumed transfers after remedial

action by the authorities to prevent mistreatment. Transfers to 16 facilities were halted following a report released by UNAMA in October 2011 entitled "Treatment of conflict-related detainees in Afghan custody".' [18i] (p 9)

15.08 The USSD report 2011commented on segregation of prisoners:

'Authorities generally did not have the infrastructure capacity to separate pretrial and posttrial inmates. As of December the CPD reported 5,271 male pretrial detainees, 16,244 male prisoners, 121 female pretrial detainees, and 500 female prisoners. In most instances limited infrastructure hindered housing prisoners by their classification, but where it was feasible the CPD separated them. Women were not imprisoned with men. Authorities generally did not have the infrastructure capacity to house juveniles according to the nature of the charges against them.' [58c] (Section 1.c)

15.09 The UN General Assembly Security Council's report of the Secretary-General, dated 13 September 2012, commented on the transfer of Parwan detention facility (previously known as Bagram prison) to Afghan control, and facilities for juveniles there:

'The transfer of detainees from the Parwan detention facility, which is under the control of the United States military, to the custody of the Afghan authorities continues under the memorandum of understanding of March 2012 between the two Governments. Up to 100 juveniles were transferred to the Kabul Juvenile Rehabilitation Centre, highlighting concerns about overcrowding and the security risks that may arise by placing high-risk juveniles in a facility not intended to house high-level security detainees. UNAMA has emphasized to the Government the need to separate this group from other juveniles under detention and to ensure that additional security measures are provided.' [18j] (p 11)

15.10 The USSD report 2011 noted that, 'The law provides prisoners with the right to leave prison for up to 20 days for visits; however, this right was not respected in most prisons' and, 'In government detention facilities, observers reported that prisoners were permitted religious observance.' [58c] (Section 1.c)

15.11 The Institute for War and Peace Reporting described conditions inside a new prison in an article dated 12 September 2011:

'Inmates at a new model prison in Uruzgan province say conditions are poor, with inadequate nutrition and inhumane conditions. Local officials accept that there are problems but say they are trying to sort them out. Inmates were transferred into the purpose-built prison in the main provincial town, Tarin Kowt, two months ago, from the old, cramped facilities where they were held previously. There are currently 130, all male. They complain that they are still being held six or seven to a cell designed for four, that food and healthcare provision are poor, that no provision is made for recreation and education, and that they not allowed to pray together in the prison mosque…The acting prison governor, Colonel Ahlullah, acknowledged the sums earmarked for food were too small…

'Officials at the provincial justice department agreed the funding levels were problematic, but said they were the same as in other parts of the country. The department's head, Sayed Mahmud Sadat, said had informed his superiors about the issues...

'On health issues, Mohammad Anwar [an inmate] said a doctor saw inmates once a week and conducted only cursory checks. If anyone fell ill overnight, they had to wait until morning. "There's one tablet that the doctor gives everyone for all kind of illnesses. There are no other medicines." Sadat said the doctors' visits actually took place twice a week, although he accepted that the lack of a clinic was a "major problem".

'Another common complaint is the lack of privacy for visits by female relatives.' [39f]

WOMEN AND CHILDREN

15.12 The USSD report 2011 stated, 'Under the law children younger than seven may live in prison with their mothers who have been convicted of a crime. However, this practice was reduced significantly under the direction of the CPD and in conjunction with the opening of some children's support centers.' [58c] (Section 1.c)

Radio Free Europe/Radio Liberty described the conditions in Badam Bagh women's prison in Kabul in an article dated 31 May 2011:

'Lida and more than 160 other women - and in some cases their young children - are housed in the modern, three-story prison located in the Afghan capital's Tahya Maskan region. They are allowed to wear colorful traditional clothes, can freely move about the prison, and are guarded by an all-female staff. Each cell is equipped with a television, and literacy, computer, dressmaking, and embroidery classes are available, among others.

'That's a far cry from where Lida, who declined to give her full name, served the first years of her 16-year murder sentence. At Kabul's notorious Pul-e Charkhi prison she was incarcerated under appalling conditions along with some 5,000 male inmates. Female inmates had separate cells, but were watched over by male guards. After reports and complaints emerged that female inmates had become subject to sexual exploitation in prisons and detention facilities in Badghis, Ghor, and Logar provinces, the fortunes of women inmates began to change for the better.

'In the past three years, the first Afghan women's prisons, including Badam Bagh, were built with the help of Western donors in Kabul and several other cities, including Herat in the country's west, and in the northern town of Khost. Prison is prison, but in Badam Bagh, inmates say they live in "bearable conditions inside a clean building," and, most importantly, no longer live in fear.

'Activists, including Afghanistan's Independent Human Rights Commission (IHRC), have welcomed the efforts to finally build separate prisons. "However," IHRC adviser Ghulam Nabi Hakak notes, "with the exception of a few big cities and provinces, there are no separate prison buildings for female inmates in other places." He adds that in the provinces of Panjshir, Kapisa, Logar, Maidan-Wardak, and others, "female inmates there are kept in cells inside men's jails. It is not easy or safe for them even to go to the bathroom there."' [30b]

15.13 The Report of the United Nations High Commissioner for Human Rights on the human rights situation in Afghanistan and technical assistance achievements in the field of human rights, 18 January 2012, observed:

'… OHCHR/UNAMA documented that in a large number of cases, families refused to accept women released from prisons back to their homes. Without proper post-release transition shelters for women, provincial departments of women affairs and local women's shelters have been accommodating several released female detainees. As courts commonly convict women for adultery in Afghanistan, it is common for families to reject the return of released female prisoners. Moreover, women fear that they will face violence and/or be forced into marriages on their return home. To address the problem, the United Nations Office on Drugs and Crime (UNODC), in partnership with relevant Government ministries and non-governmental organizations, established the first post-release transition shelters in Mazar-e-Sharif and Kabul to facilitate successful reintegration of women prisoners into civilian life prior to and after their release, including through providing shelter, security, food, psycho-social and capacity-building support.' [52d] (p14)

See also sub-sections Arrest and detention – legal rights, Security forces - Human rights violations by pro-government forces, Women - imprisonment of women, Children - arrest and detention conditions and Medical issues - mental health

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16. DEATH PENALTY

16.01 Human Rights Watch reported in an article entitled, Afghanistan: Commute 'Green on Blue' Death Sentence, dated 18 July 2012, that, 'While the death penalty is permitted under Afghan law, and death sentences have been handed down by courts with some frequency, executions have been infrequent since the fall of the Taliban regime in 2001. A single execution was carried out in 2004, followed by a three-year unofficial moratorium that ended in 2007 with the execution by gunfire of 15 people at Pul-i-Charkhi prison in Kabul. At that time, the government announced that it intended to continue executing those on death row, and further executions were held in 2008, sparking condemnation from the United Nations and the European Union. In recent years there appears to have again been a lull in executions, with the exception of the rapid execution in June 2011 of two men convicted of participating in a February 2011 attack on a bank in Jalalabad in eastern Afghanistan that resulted in 38 deaths. President Hamid Karzai holds the final say over whether executions ordered by Afghan courts will be carried out.' [15p]

16.02 The Amnesty International Annual Report 2012, published in May 2012 and reporting on events of 2011, stated, 'There were two executions. More than 140 people remained on death row and nearly 100 had their death sentences confirmed by the Supreme Court.

'In June, two men – one from Pakistan, the other an Afghan national – were executed in Kabul's Pul-e-Charkhi prison, after their appeal for clemency to the President failed. The men had been found guilty of killing 40 and injuring more than 70 people – mostly civilians – in a February attack on a bank in Jalalabad city, Nangarhar province.' [25d]

Human Rights Watch reported on 18 July 2012 that a death sentence had been imposed on an Afghan soldier convicted of killing French soldiers: 'Afghanistan's Ministry of Defense announced on July 17 that an Afghan soldier, Abdul Saboor, was convicted of the killings by a military court and sentenced to death by hanging. In January 2012 five French soldiers serving in Afghanistan's Kapisa province as part of

NATO forces were killed and fourteen other soldiers were wounded. The incident reportedly took place following a verbal altercation.' [15p]

16.03 In information for 2012 the 'Hands Off Cain' website, undated, explained the legal position regarding the death penalty, stating:

'The 2004 Afghan Constitution, in article 23 asserts the right to life, envisaging at the same time the possibility of its deprivation by the provision of law. However, in accordance with Article 396 of Afghanistan's Constitution, a convict sentenced to death can appeal to two higher courts and article 129 of the Constitution establishes that "... All final decisions of the courts shall be enforced, except for capital punishment, which shall require presidential approval."

'The 1976 Penal Code, still in force nowadays, identifies the crimes subject to capital punishment in numerous articles, which refer to two main categories: crimes against the security of the State and crimes against individuals, namely certain types of aggravated murder.

'Other provisions of aggravated murder have been included in recent legislation, such as: the Anti Narcotic and Drug Law issued in November 2003, which provides for the death sentence in the case where a drug smuggler, while resisting arrest, kills a law enforcement officer; and the presidential decree of July 3, 2004 that foresees the death penalty for those convicted of child kidnapping and smuggling aimed at using the victim's body parts whenever a death is caused as consequence.

'Crimes punishable by death are also listed in the Law on Crimes against Internal and External Security of 1987, and in the Military Law of 1989, both of soviet inspiration and still in force. Such crimes are mostly related to the security of the State, especially in time of war. The crimes identified by these laws are processed respectively by the National Security Court and by the Military Court.

'However, the newly adopted Juvenile Code, that defined as juvenile "a person who has completed the age of 12 and has not completed the age of 18", clearly states, under article 39, paragraph c, that children cannot be convicted to death penalty…' [107a]

16.04 Hands Off Cain also referred to Afghanistan's constitution of 2004 and Islamic provisions for crime against Islam, explaining:

'The 160 articles make no explicit reference to Sharia law, but the constitution declares Afghanistan to be an "Islamic republic" and states that "no law shall be contrary to the beliefs and provisions of the sacred religion of Islam." – and the Islamic provisions do foresee capital punishment, namely for crimes against Islam (armed robbery, adultery, and apostasy or blasphemy), and for crimes against the person (murder). However, another constitutional provision, article 27, requires the existence of an approved law for the qualification and punishment of a crime, and it may be argued that the Islamic provisions on death penalty are not approved laws.

'In fact, since the end of the Taliban regime, in Afghanistan no judicial death sentences have been issued for crimes, such as adultery and apostasy, which are foreseen by Islamic principles and have no correspondence in positive laws.' [107a]

16.05 The Hands Off Cain website also noted that 'in 2011 and 2012, extra-judiciary sentences by stoning were carried out in Afghanistan in the zones controlled by the Taliban.' [107a]

See also Section 12 - Non-Government armed forces

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17. POLITICAL AFFILIATION

FREEDOM OF POLITICAL EXPRESSION

17.01 In its 'Freedom in the World 2012' report, covering events in 2011, released in March 2012, Freedom House stated that

'Afghanistan is not an electoral democracy. The overall results of the 2004 presidential election and delayed 2005 parliamentary elections were broadly accepted by Afghans and the international community, despite allegations of intimidation by militias and insurgent groups, partisanship within the electoral administration, and other irregularities. However, the 2009 presidential and 2010 parliamentary elections were critically undermined by fraud and other problems, and state institutions have failed to provide effective governance or transparency. Afghanistan's district council elections, which were scheduled to take place in 2010, were canceled.' [38a]

17.02 The US State Department Country Reports on Human Rights Practices 2011, Afghanistan, which was published on 24 May 2012 (USSD report 2011), stated:

'The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice in the September 2010 parliamentary elections based on universal suffrage. The elections were marred by serious, widespread fraud and corruption. The parliamentary elections were disputed for nearly a year after President Karzai established a special elections tribunal to investigate the election results. On August 10, President Karzai issued a decree acknowledging that the IEC [Independent Election Commission] was the sole authority to resolve the parliamentary impasse.' [58c] (Section 3)

17.03 The same report described the parliamentary elections of 2009 and 2010:

'The September 2010 parliamentary elections were held amid significant security and logistical challenges. The elections themselves generally followed the constitutional process, although widespread fraud and corruption, particularly at the subnational level, hampered the election. International observers and civil society groups documented instances of ballot stuffing, ghost polling stations, and some interference by staff of electoral bodies; fraud was especially notable in areas with high levels of insecurity, limited observer and candidate agent coverage, and insufficient female electoral staff. While security preparations improved relative to the 2009 presidential election, security was still inadequate in many locations, and numerous irregularities occurred, including pervasive intimidation of voters, polling staff, and candidates, especially women.

'Due to newly implemented antifraud procedures, the IEC [Independent Election Commission] proactively threw out 1.3 million of the estimated total 5.6 million votes cast, based on evidence of fraud or other procedural irregularities. The IEC cited evidence of fraud at more than 2,500 polling stations and invalidated approximately 23 percent of the ballots cast. The Electoral Complaints Commission (ECC) disqualified more than 300 polling stations and invalidated the votes for 24 preliminarily elected candidates due to evidence of fraud or noncompliance with IEC rules and regulations.

Limited transparency on the part of both commissions during the tally and adjudication processes fueled the perception that political bias might have affected the invalidation process. The IEC certified the official election results on December 1, 2010.

'In response to protests about the election results in December 2010, President Karzai appointed a special tribunal to investigate and recommend changes to the election results. The IEC, parliamentarians, and NGOs challenged the legality and constitutionality of the special tribunal, calling repeatedly for its dissolution. The parliamentarians viewed the special tribunal as an attempt by the executive to weaken parliament and interfere with its composition. Despite the special tribunal's ongoing review, parliament was inaugurated on January 26. The special tribunal remained in place and the political impasse over the disputed races and the disposition of seats continued until June, virtually halting legislative action. In June the special tribunal recommended replacing 62 sitting members of parliament (MPs). On August 10, the president issued a decree that returned the review of the disputed cases from the special tribunal to the IEC for a final decision. On August 21, the IEC, which legally assumed the powers of the ECC, overturned nine of the ECC's disqualifications, and issued certificates to nine new MPs. After an internal boycott and heavy resistance to the IEC's decision, parliament had its first quorum after months in October and began voting on long-pending legislation.

'In 2009 citizens voted in their second contested presidential election. The IEC declared Karzai president for a second term, after his challenger, Dr. Abdullah Abdullah, withdrew from a run-off election. The elections were similarly marred by serious allegations of widespread fraud.' [58c] (Section 3)

FREEDOM OF ASSOCIATION AND ASSEMBLY

17.04 The USSD report 2011 stated that: 'The constitution provides for freedom of assembly and association, and the government generally respected these rights.' [58c] (Section 2.b)

17.05 The same report provided further information about freedom of assembly, stating, 'A lack of physical security, as well as interference from local authorities and security forces, inhibited freedom of assembly in some areas of the country.

'There were numerous generally peaceful protests during the year related to a variety of causes, including the parliamentary impasse and the special tribunal, the rights of persons with physical disabilities, and concerns over public land use. Citizens also frequently protested against civilian casualties allegedly caused by progovernment forces. In August citizens in Zabul province took to the streets to protest night raids and at least three protesters were killed by police. The Zabul police chief claimed that the police opened fire due to insurgents present in the crowd who killed an officer.' [58c] (Section 2.b)

17.06 The USSD report 2011 also commented on freedom of association, stating:

'The 2009 law on political parties obliges parties to register with the MOJ [Ministry of Justice] and requires them to pursue objectives consistent with Islam. The law raised the hurdles for registration of parties; for example, parties are required to have at least 10,000 members registered. Antigovernment violence affected the ability of provincial council candidates and political parties to conduct activities in many areas of the country.' [58c] (Section 2.b)

17.07 The Freedom house 'Freedom in the world 2012' report commented, 'The constitution guarantees the rights to assembly and association, subject to some restrictions, but they are upheld erratically from region to region. Police and other security personnel have occasionally used excessive force when confronted with demonstrations or protests.'

OPPOSITION GROUPS AND POLITICAL ACTIVISTS

17.08 The USSD report 2011 stated that 'There were no reports that the government held political prisoners or detainees.' [58c] (Section 1.e)

17.09 The same report stated:

'Negative associations with warlords and the communists have led many citizens to view political parties with suspicion. The 2009 Party Law replaced the initial law of 2003, which granted parties the right to exist as formal institutions for the first time in the country's history. The new law required parties to have membership papers of 10,000 members (from a minimum of 22 provinces). The law was passed in September 2009 and allowed very little time for parties to complete the registration process in advance of the 2010 parliamentary elections. The National Democratic Institute (NDI) reported that a number of parties complained about the process, citing fraud in the Ministry of Justice, which is responsible for registration of political parties, and the unequal treatment of parties by the registration department. As of November 2010, the MOJ had accredited 33 political parties under the law. By April 38 parties were registered, according to NDI. However, only five parties were accredited in time for the September 2010 elections, and very few parliamentary candidates were shown to be affiliated with a party during the campaign. Political parties were not always able to conduct activities throughout the country, particularly in regions where antigovernment violence affected overall security. A total of 21 political parties had representation in the lower house.' [58c] (Section 3)

GOVERNMENT OFFICIALS AND INDIVIDUALS WORKING FOR THE INTERNATIONAL COMMUNITY

This section should be read in conjunction with the sections Non-Government armed forces and Security situation - types of violence for information about the targeting of individuals by anti-government groups.

17.10 The UNHCR Eligibility Guidelines for assessing the international protection needs of asylum-seekers from Afghanistan, dated 17 December 2010, commented on the possible needs of individuals associated with, or perceived as supportive of, the Government and the international community, including the International Security Assistance Force (ISAF): 'There is a systematic and sustained campaign by armed anti-Government groups to target civilians associated with, or perceived as supporting, the Afghan Government or the international community, particularly in areas where such groups are active.

'Attacks by armed anti-Government groups, which have ranged from intimidation, assassinations, abductions and stand-off attacks, to the use of improvised explosive devises (IEDs) and suicide attacks, increasingly target civilians associated with or perceived as supportive of the Government and the international community/ISAF. Targeted civilians include Government officials and civil servants, Government-aligned tribal leaders, Ulema Council (a national clerics' body) members, religious scholars, judges, doctors, teachers, and workers on reconstruction/development projects.

'The majority of targeted attacks on civilians by armed anti-Government groups have occurred in those groups' strongholds. However the number of targeted assassinations and executions of civilians has also increased in other parts of the country previously considered more secure. In the south-eastern and central regions, the number of assassinations and executions allegedly committed by armed anti-Government groups in 2010 has increased in comparison to 2009. Such targeted attacks rose dramatically in parts of the southern region, particularly in Kandahar, where the Taliban have been conducting a systematic and targeted assassination campaign since the beginning of 2010. An average of 21 assassinations per week (compared to seven per week during the same period in 2009) was recorded from June to mid-September 2010, mostly in the southern and south-eastern regions.

'UNHCR considers that persons associated with, or perceived as supportive of, the Government and the international community and forces, including Government officials, Government-aligned tribal and religious leaders, judges, teachers and workers on reconstruction/development projects, may, depending on the individual circumstances of the case, be at risk on account of their (imputed) political opinion, particularly in areas where armed anti-Government groups are operating or have control.' [53a] (p 7-8)

17.11 The UNHCR Eligibility Guidelines also focussed on civilians associated with, or perceived as supportive of, ISAF, noting:

'A recently intercepted message from Mullah Omar, the spiritual leader of the Taliban movement, ordered Taliban members to capture and kill any Afghan who is supporting or working for Coalition forces or the Government of Afghanistan, as well as any Afghan women who are helping or providing information to Coalition forces. The message, which departs from his previous instructions to minimize civilian deaths, has fuelled fears of Taliban retaliation among ISAF civilian support personnel, such as Afghan interpreters.

'The increased targeting of civilians is perceived as part of an effort by armed anti-Government groups to gain control over territories and populations. Local inhabitants are reportedly coerced into supporting anti-Government groups through threats or the use of force. These intimidation tactics are compounded by the reduced public confidence in the capacity of the Afghan Government and international forces to maintain security and provide basic services. Intimidation tactics used by armed anti-Government groups against the civilian population reportedly include: individual or community warnings or threats, often in the form of "night letters" (shab nameha), to stop working for, or supporting, the Government or international forces, upon pain of death; as well as setting up road blocks. It is also reported that individuals, including children, suspected of "spying" on behalf of the Afghan military or international forces have been summarily executed by armed anti-Government groups.' [53a] (p 8-9)

17.12 The UN Assistance Mission to Afghanistan (UNAMA), Afghanistan, Mid-Year Report 2012, Protection of civilians in armed conflict, July 2012, covering events between 1 January and 30 June 2012 (UNAMA mid-year report 2012), stated:

'Anti-Government Elements increasingly targeted and killed civilians they perceived to support the Government of Afghanistan or international military forces. In the first half of 2012, there were 237 incidents of targeted killings which resulted in the death of 255 civilians and injuries to 101 more, a 53 percent increase compared with the same period in 2011 in which UNAMA documented 190 civilians killed and 43 others injured under

such circumstances. Government employees, off duty police officers and civilian police, tribal elders, civilians accused of spying for Pro-Government Forces and government officials remained the primary focus of these anti-government attacks.

'On 2 May 2012, the Taliban announced that their "Al-Farooq" Spring offensive would specifically aim to kill civilian targets, including high ranking government officials, members of Parliament, High Peace Council members, contractors and "all those people who work against the Mujahideen". International humanitarian and human rights laws prohibit the deliberate and systematic targeting of civilians, which amount to war crimes and violations of the right to life. Such actions are meant not only to weaken the Government, through depriving them of their most capable public servants, but also to intimidate local communities. Many such incidents have occurred over the last six months [report listed five]]'. [29g] (p 17-18)

Government officials

17.13 The Danish Immigration Service stated the following in its report of May 2012 describing its fact-finding mission of February to March 2012:

'According to an international organization, the Taliban considers any person working for the government as a traitor and thereby as a target. Truck drivers, for example, who bring food to military bases or people working for the ministries can be viewed as supporting the enemy side and thus become a target. It is the individual who is targeted but it could also expand to their families.

'As regards government employees, it is mainly people working in high positions in Kabul who come under threat, according to IOM. There are also examples of government employees whose families have been kidnapped. IOM had so far not heard of a low profile government employee being targeted in Kabul.

'MORR [Ministry of Refugees and Repatriation] informed the delegation that for people working for the Afghan government in Kabul, it is too risky to travel back to their villages if it is in the North, South or Southeast. MoRR also mentioned that it is difficult for female teachers in the rural areas to carry out their work as they might be targeted.

'Regarding employees of the Afghan government, UNHCR explained that many ministers have settled their families in other countries so that they are ready to exit the country after the withdrawal of the foreign forces. According to UNHCR, Afghan government employees at all levels are at risk. Some government employees may have had unofficial discussions and agreements with the Taliban at the local level in order to be able to carry out their work, but those people who have had a stronger voice on behalf of the government or who have been affiliated with the international community will be at risk. According to UNHCR, employees of the MOI [Ministry of Interior] (Police/NDS) are particularly at risk. This includes employees from junior to high ranking staff. Considering the number of attacks on governors' offices, government buildings, schools or medical facilities such as the attack on the ANA hospital in Kabul in May 2011, it is fair to say that the risks range from threats to targeted or indiscriminate killings.

'Regarding employees of the Afghan government, AAWU [All Afghan Women Union] said that employees at the highest level have their protection in place, but someone working at a lower level – and especially security guards – is at risk.

'Regarding government employees, CPAU [Cooperation for Peace and Unity] stated that they are at risk of being targeted by the Taliban. CPAU added that government officials are not staying in the villages but stay in the provincial capitals and even there one does not find them in many places. Judges for instance are not available and there is no functioning state judiciary. Categorizing the government employees according to the risk of being targeted, CPAU stated that employees in the security forces such as the police, the intelligent service and the military run the highest risk, followed by teachers and employees at health clinics.

'When asked what benefit the insurgent groups could derive of targeting a medical clinic, CPAU replied that the main objective of such actions is to create an atmosphere of fear by which these groups can rule, and to obtain this objective they do not hesitate to target teachers or medical workers. However, CPAU stated that the Taliban lately has changed its policy and now allows even girls to attend school but with certain conditions.

'According to CPAU, contrary to families of employees in NGOs and contract companies, families of government employees are at risk of being targeted because they often live close to the workplace of the employee.

'According to AIHRC, people working with the Afghan government, government employees and even ordinary people who support the Government are targeted by the Taliban.

'IPCB [International Police Coordination Board] said that working as a police man is a risky job vis-a-vis the Taliban as the police force is the face of the Afghan government. IPCB added that for every Afghan soldier killed, there are two policemen who die on their job. Members of the Afghan government and deputy ministers are also at high risk of being targeted by the Taliban.

'According to DRC [Danish Refugee Council], government employees definitely run a risk of being targeted in the rural areas. According to an independent research institute in Kabul, employees of the Afghan government at all levels are at risk as soon as they are outside Kabul or outside provincial capitals (i.e. outside those areas "controlled" by the Karzai government), especially in areas controlled by the Taliban.

'Within the last 12 months, it has become more dangerous for government employees to travel due to criminals as well as insurgent groups. Ordinary citizens can travel but government staff has to sanitize their phones etc. and take the risk of travelling as ordinary individuals.

'The source added that whether the threats would also include family members of the government employee depends on the community in which they live and especially the level of education the community has. This means that, in general, the more educated the community is, the less the family is threatened.' [124b] (p 23-25)

Individuals working for ISAF

17.14 The Guardian reported on the challenges for Afghan interpreters in an article dated 30 August 2011:

'When Khan and the other interpreters go to the bazaar to do their shopping for their iftar meal, which breaks the Ramadan fast each evening, the locals know who they are and what they do. "They think we are the enemy; they call us infidels."

'Afghan interpreters pay a heavy price for working with the British armed forces. According to recently released Ministry of Defence figures, 21 have been killed and more than 90 injured in the last five years. This year three have died and 19 have been injured while carrying out their duties. They regularly face intimidation and death threats from the Taliban. Khan himself has received 40 warnings from the Taliban, telling him to stop working with Isaf or else. His relatives in Pakistan have also received warnings as have his family living in other parts of Afghanistan…

'He explains, the following day, that interpreters find themselves in an impossible situation. "We're trapped. The president opposes us, parliamentarians oppose us, the Taliban oppose us, the locals oppose us, the mullahs oppose us.' [59c]

17.15 IOL reported attacks on interpreters for NATO in an article dated 14 November 2012: 'Taliban insurgents on Wednesday dragged two young Afghan men from their car and shot them dead because they worked for NATO troops as interpreters, police said. The bloodied bodies of the men were found next to their car on the side of a road in Logar province, less than 80 kilometres south of the capital Kabul.

'"They were interpreters working for NATO troops in Camp Shank," Din Mohammad Darwish, the provincial administration spokesman, told AFP, referring to a NATO outpost in the province. He blamed Taliban insurgents for the attack.

'Deputy provincial police chief Rais Khan Sadeq confirmed the incident and said the pair were driving to work from Kabul when killed. "They were going to work. Along the road they were stopped by Taliban, dragged from their car and shot in the head. Their bodies and their car were found on the side of the road," Sadeq told AFP.

'Thousands of Afghans, mostly young men, are hired by NATO's International Security Assistance Force in various capacities to help some 100,000 foreign troops fighting Taliban insurgents. They are regularly targeted by the militants while on the way to or from work on the bases, and interpreters are also killed and wounded while deployed on operations with NATO forces.' [112a]

See also sub-sections on Extra-judicial killing

17.16 The 'Report from Danish Immigration Service's fact finding mission to Kabul, Afghanistan, 25 February to 4 March 2012, released May 2012, in its section 'Association or employment with US military/ISAF', reported the views of a number of interlocutors:

'Concerning the risk run by persons who are associated or employed with US military, an independent policy research organization in Kabul informed the delegation that these employees do not run a high risk if their workplace is in Kabul, but if one works in a military base outside Kabul, then there is a risk of being targeted regardless of one's position and type of work. That includes contractors as well as service staff and drivers. As regards other people working for the US military, the independent policy research organization in Kabul stated that for instance interpreters are high targets. Another factor determining the level of risk in this connection is one's place of living. Employees who live locally outside bases run a higher risk compared to those who are originating from another area than where the bases are located. The same source stated that many of those who work for the military keep their jobs a secret if they can.

'DRC [Danish Refugee Council] stated that persons working for the international forces are definitely a target in the rural areas.

'According to UNHCR, all persons who are seen to support NATO-soldiers and people working for NATO, as well as foreigners and people working for foreigners are at risk of being targeted by the Taliban. UNHCR commented that regarding staff employed by the US military or ISAF, there is a high possibility for every staff member being intimidated by the Taliban. Interpreters as well as local drivers working for companies supporting the bases are at risk. UNHCR mentioned it as a rule of thumb that all blue collar employees who are seen going in and out of military bases as well as PRT-camps on a regular basis, may be at risk of intimidation by the Taliban. As UNHCR expressed it: "the more visible you are the higher the risk you run of beingtargeted". In practice, however, it is difficult to distinguish between the various levels of employment according to UNHCR. In general, all Afghans who are associated with foreigners could be at risk in Kabul as well as in the country side. However, the risk is higher for people outside Kabul, according to UNHCR.

'People working for US military or ISAF run a higher risk than other groups, according to IOM. Translators are more at risk than other employees such as cleaning staff, which IOM explained by the fact that translators are more in contact with the military staff. Family members of these employees would always be included in the threats, according to IOM. IOM further said that contractors working for the US military or American or British companies are also targeted, and contractors working for Indian companies are to some extent also targeted.

'According to AIHRC, people working with international forces are targeted by the Taliban. Translators working for U.S. military or ISAF forces were mentioned by AIHRC among the Taliban's targets. As regards family members of people working for the international forces, there areexamples that the Taliban has intimidated their families and acquaintances, but the real risk is for the person working for the forces.

'An independent research institute in Kabul informed the delegation that especially interpreters employed by the international forces are at risk, but drivers and service staff could also be targeted. They can be kidnapped, blackmailed or killed because of this association. NATO convoy drivers are also often killed.

'AAWU [All Afghan Women Union] stated that men who work within the security forces and interpreters working for the foreign forces are high targets.' [124b] (p 17-18)

Employees of western companies

17.17 The Danish Immigration Service's report on their fact-finding mission to Kabul, 25 February to 4 March 2012, published in May 2012, stated:

'Regarding employment with Western Companies, AIHRC explained that employees in companies who have contracts with international forces or foreign organizations are at risk. This does not include companies which import western commodities but only companies which have contracts.

'According to AIHRC, if people travel with ID cards of international organizations or NGOs and they are stopped at the Taliban check points, they will be at risk. In such cases, the Taliban will sometimes even kill people. However, this is usually not the case in the big cities where people will rather be subjected to intimidations. The AIHRC

representative interviewed by the delegation has himself been a target for such intimidation.

'UNHCR stated that the risk of intimidation of employees of international organizations is generally high and many former employees of international organizations are leaving the country for the same reason, including some of UNHCR's own staff. UNHCR found that especially the mid-level management in these organizations is targeted. It happens that people do not disclose their employment with international organizations even to their closest family.

'When asked about possible threats posed to persons who are associated or employed with International organizations, UNAMA stated that it happens that its employees are threatened. Those of UNAMA's employees who are involved in activities in conflict areas do not disclose even to their families that they are working for UNAMA due to possible threats not only from the Taliban but also from criminal gangs. This is particularly the case for local staff in Kandahar and other areas in the South, but to some extent also in the South East. UNAMA added that its staff is generally under pressure in different ways: intimidation by night letters, threatening phone calls, people approaching the employees in the mosque or in the street threatening them to stop working for UN or otherwise they might get killed. UNAMA explained that these cases are reported through its security staff.

'UNAMA knew of a case in Kunduz where the names of persons who worked for international organizations were disclosed on a Taliban-controlled radio station, and a female employee was subsequently killed.

'UNAMA stressed, however, that threats and intimidation are not a norm but it happens once in a while. Nevertheless, it was pointed out by UNAMA that night letters are quite disturbing for its employees' work, and threats and intimidation apply to its employees at all levels. UNAMA mentioned, however, that no killings or kidnapping of its employees have been reported so far. According to UNAMA, in a few cases the families of the employees have been threatened. UNAMA reported one incident in the southern region of an employee's young son being kidnapped, held for two months and rescued from captivity through an Afghan police operation…

'IOM informed the delegation that their staff members receive threats and night letters due to their employment with IOM. According to IOM, their staff at all levels is targeted by the Taliban, as for instance drivers and cleaners. Some of the staff have also experienced that family members have been kidnapped. IOM explained that the Taliban is considering people employed by international organizations as traitors of the country, for which reason their lives might be in danger, and the threats might also be extended to their family members. IOM has had a case from the country side where the family of a staff member was threatened. IOM further informed the delegation that the organization has also had a case where a staff member involved in community work got killed, and this was assumed to be related to his work. Due to the danger the local staff is facing, IOM is instructing them not to wear any signs or carry any documents related to the organization when they travel outside Kabul. In Kabul, the staff would not face any problems according to IOM. IOM added that if it happened in Kabul or Mazar or Herat, the ANP would take action**.**

'IOM further explained that previously mostly NGO workers were threatened, but within the last 1½ year the threats are more and more being posed to the United Nations (UN).

These threats are made openly to agencies working with the UN. The threats are not targeting specific positions but are directed at all levels.

'An international organization stated that the level of risk for persons associated with international organizations depends on how much these organizations expose their local staff. As an example, interpreters have a job which is connected with risks if it is performed by local staff. For sensitive tasks, it is often better to have expatriates than local staff being in charge. Liaison-officers who are networking with various organizations/donors can also be the target of the insurgent groups, according to the same source. Support staff and service staff can also be perceived as supporting "the other side" although it is difficult to assess how much they are a target. The staff normally takes its precautions for themselves as well as for their families.
To what extent persons working for international organizations and Western companies are at risk of being targeted by the Taliban or other insurgent groups depends, according to an independent policy research organization in Kabul, on the organization in question. Regarding the type of employees targeted, the organization stated that employees at all levels have been killed. The same source pointed out, however, that it is not always clear how the assaults have taken place and who is behind: the Taliban, criminal groups or even the government.

'AAWU informed the delegation that women who work for Afghan as well as foreign organizations, NGOs and the Afghan government face a high risk of being targeted by the Taliban. However, it was pointed out that women working for foreign organizations and companies are to a larger extent protected - compared to the low profile women working for the government or Afghan organizations - as they work in highly protected workplaces, drive in secure cars and sometimes even have bodyguards.

'According to AAWU, the threats posed to employees in international organizations, Western companies, and the Afghan government may end in violence, including killing, kidnapping, or throwing acid on people. AAWU mentioned that someone once shot at AAWU's office which was assumed by AAWU to be a warning from those who are opposed to its work.

'Asked if employment by international organizations could have consequences for the family of the employee, an independent research institute in Kabul said that in rural areas the Taliban would also warn the family to call back their "sons". This warning would often come by a night letter.' [124b] (p 19-21)

NGO workers

Information about the treatment of individuals working for non government organisations, including human rights groups, see section Human rights institutions, organisations and activists.

17.18 The Danish Immigration Service's report on its fact-finding mission to Kabul, published in May 2012, stated:

'According to CPAU [Cooperation for Peace and Unity], in general everyone who is associated or employed with NGOs who are involved in political activities is a target for insurgent groups. If someone is working for US funded projects or organisations or for a contractor who works for Americans, he or she will be a high target not only because of his or her job but also because of the money he or she is perceived to have. Kidnapping would be a possible way to ask for money from such persons.

'CPAU stated that persons working for American organizations are at high risk of being targeted because these employees are not allowed to move around in non-armoured vehicles which in turn make them a visible target. According to CPAU, the more a person moves around in a low profile and invisible manner the less he will make himself a target for insurgent groups.

'CPAU has taken its own security precautions to avoid attacks when they travel in the country side. Travelling in a low profile manner, not driving in big or armoured cars, using the employees who speak the local language, refraining from carrying satellite phones or cell phones containing contact information (names, phone numbers, call logs, etc.), and pretending to be researchers from the university are some of the methods used by CPAU to avoid possible risks.

'CPAU added that the NGOs cooperating with military groups conducting development work - for example The Provincial Reconstruction Teams (PRT) - in different provinces in Afghanistan are also at risk of being targeted by insurgent groups. This is because they cannot distinguish between who is who as PRT is a mix of contractors, military personnel, business companies and NGOs.

'When asked which groups tend to pose a threat to international organisations, NGOs and Western companies, CPAU replied that they comprise the Taliban or other insurgent groups, criminal groups, and individual government employees who carry arms - especially those policemen who are part of the local militia and are not wearing any uniform. The last group is called Arbakis by the local population.

'To the question of whether the employees' families also are targeted, CPAU stated that in general it is only the individual employee who is in danger. This is due to the fact that one normally does not find educated people in the villages that are capable of carrying out NGO work and employees at the international organizations, and NGOs are therefore often not locals and their families live in other places.

'An independent policy research organization in Kabul explained that it nowadays does not entail a great risk to work for NGOs. In this connection, the independent policy research organization referred to reports from ANSO from which it clearly appears that NGO work has become less dangerous and that attacks on NGO staff have gone down. This is contrary to for example employees in security and development companies or demining organisations who are potential targets. The same source added, however, that the level of risk depends on the place where the organisation operates. In some areas, it is possible to establish an agreement with the Taliban in order for the NGOs to be able to carry out their work. In other areas as for instance in the East, there are foreign commanders operating who make the situation much more dangerous.

'The independent policy research organization in Kabul mentioned that it sometimes happens that employees at an NGO, which normally is not a target, are kidnapped and then released after a couple of days; ANSO refers to this as kidnap for information gathering, i.e. the Taliban want to find out what the NGO does. According to the same source, whether a particular person is a target for the Taliban depends on his job, his position within an organisation, and his social ties, that is whether he through his social ties (relatives, tribal links, shared membership of a mujahedin group etc.) is related to persons in the Taliban.

'DRC explained that persons associated or employed with international organisations, including NGOs and Western companies, are not targeted in Kabul, and it is only

outside Kabul and in the rural areas where they run a risk. Regarding its own staff, DRC has never heard any from its staff complain about their security being threatened. There have been very few cases of abduction, but these cases could also be related to people's income and status rather than who they work for, according to DRC. In general, NGO employees are, according to DRC, not threatened, at least not those working in Kabul.

'An international NGO did not consider it as a high security risk to be employed by an international NGO. According to the NGO, Taliban's strategy has changed in recent years and their activities have become more and more focused on targeting employees of the Afghan government and foreign troops rather than NGO staff. However, the Taliban has its own opinion on the various NGOs depending on which issues they are working with.

'Local Afghan staff employed by the international NGO has not had any problems over the last year. Normally, the NGO is able to work with the local population through agreements with the local community. However, the NGO is taking its precautions and operates in a discrete manner. For instance it uses locally hired vehicles, and the staff is not carrying ID-cards when they are operating in high-risk areas.

'The international NGO stated that the Taliban would like to appear as a better alternative to the government and deliver access to basic needs such as food and drinking water. That is why organizations working with these issues are less targeted.

'An independent research institute in Kabul pointed out that especially women working with NGOs are at a real risk of being killed or kidnapped by the Taliban. In Kabul there may be kidnappings for ransom by criminal groups, but as regards politically motivated kidnappings, there are not many cases. According to the independent research institute in Kabul, the problems arise when people travel in areas controlled by the Taliban. The institute's researchers "clean" themselves when going to the field by removing SIM cards from their cell phones and not showing any signs which may link them to an organization working with the international community. An independent research institute in Kabul also pointed at human rights activists as a category of people who are in danger and especially activists working with women's rights. The research institute added that most international NGOs have cut down their staff to a minimum in the rural areas as working conditions have become more and more difficult.

AIHRC stated that there have been a handful cases where family members to people employed by NGOs have also been harassed and extorted.' [124b] (p 21-23)

17.19 CBC News reported on Afghans employed by the Canadians and Americans in an article dated 12 September 2011:

'Two of every three Afghans who sought refuge in Canada after risking their lives working for the military in Kandahar have been turned away, including some who worked alongside Canadian soldiers during the bloodiest days of battle. The special-measures program was announced with much fanfare by Immigration Minister Jason Kenney in the fall of 2009 and brought Canada in line with other NATO countries which had already launched similar initiatives. It ends Monday.

'Applicants had to demonstrate they faced extraordinary risk as a result of their work with Canada. Few didn't. Working as an interpreter for NATO forces in southern

Afghanistan was akin to having a Taliban bull's-eye on the back of a shalwar khameez…

'The other major requirement for acceptance was a bit tougher: interpreters must have worked for Canada for 12 consecutive months between October 2007 and July 2011, when the mission in Kandahar came to an end.' [114a]

17.20 However, the article continued to explain that claims were being denied due to timeframe restrictions: '"Not only are legitimate Afghan refugee claims being denied, here we have a program that lures desperate Afghans into service and sacrifice for Canada and then 'thanks' them by refusing their claims for protection," Niren told CBC News in an email. "This brings our immigration and refugee program to an all time low."

'Around 550 Afghan nationals are expected to settle in Canada as a result, including translators, as well as their spouses and children.

'The Associated Press recently reported that 2,300 Afghans applied for a similar program run by the American government. The U.S. Afghan Allies program is supposed to award up to 1,500 visas each year through 2013. Not a single visa has been handed out.' [114a]

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18. FREEDOM OF SPEECH AND MEDIA

Officials are advised to read this section in conjunction with Political affiliation and Civil society, human rights institutions, organisations and activists to gain a fuller understanding of freedom of expression generally.

18.01 Reporters without Borders stated in an article dated 13 June 2012, 'Afghanistan's independent media find themselves squeezed between, on the one hand, media that are funded and controlled by warlords and foreign governments such as Pakistan and Iran, who are thus able to meddle in the country's internal affairs, and, on the other, by the Taliban and by corrupt government officials who pressure them to say nothing.' [103a]

On 10 September 2012, Tolonews reported, 'Freedom of speech and freedom of the press are widely considered to be one of the main achievements of the Afghan government in the past decade, but recent moves to introduce more restrictions in the media law have shown that these gains may be weaker than they appear.' [102a]

The Freedom House report 'Freedom of the Press, 2011,' September 2011 (FH report 2011), covering events in 2010, stated, 'The media landscape in Afghanistan, although diverse and robust, faces issues of insecurity, censorship, biased media content, and little protection for journalists.' [38b]

On 25 November 2011 Reporters without Borders stated, 'Afghanistan has never had more news outlets, with 200 print media, 44 television stations, 141 radio stations and at least eight news agencies. On the other hand, in the past decade it has witnessed growing violence against news organizations and journalists.' [103b]

On freedom of speech, the US State Department Country Report on Human Rights Practices for 2011, Afghanistan, 24 May 2012 (USSD report 2011), stated, '… the Authorities used pressure, regulations, and threats to silence critics. Freedom of speech was even more constrained at the provincial level, where warlords owned many of the broadcasting stations and print media.' [58c] (Section 2.a)

18.02 The Freedom House report, Freedom in the World 2012 – Afghanistan, March 2012, covering events in 2011, observed:

'Afghan media continue to grow and diversify, but face major challenges including physical attacks and intimidation. Though a 2007 media law was intended to clarify press freedoms and limit government interference, a growing number of journalists have been arrested, threatened, or harassed by politicians, security services, and others in positions of power as a result of their coverage. Media diversity and freedom are markedly higher in Kabul than elsewhere in the country, but some local warlords display limited tolerance for independent media in their areas. Dozens of private radio stations and several private television channels currently operate. Some independent outlets and publications have been criticized by conservative clerics for airing programs that "oppose Islam and national values," or fined by the authorities for similar reasons. The use of the internet and mobile telephones continues to grow rapidly and has broadened the flow of news and other information, particularly for urban residents, but increased Taliban attacks on mobile-phone transmission infrastructure has recently worked against this trend. In September 2011, an Afghan journalist with the British Broadcasting Corporation was killed by NATO forces who mistook him for a suicide bomber during a battle against insurgents.' [38a]

For an overview of press freedom and current television and radio stations and printed publications, see the regularly updated BBC news Afghanistan profile

LAW ON, AND REGULATION OF, THE PRESS

18.03 The US State Department Country Report on Human Rights Practices for 2011 stated, 'The constitution provides for freedom of speech and of the press; however, the Government restricted these rights.' [58c] (Section 2a)

18.04 The US State Department International Religious Freedom Report 2011, covering 1 January to 31 December 2011, stated:

'The constitution protects freedom of expression and of the press; however, the Mass Media Law of Afghanistan (media law), passed in 2006 and amended in 2009, includes articles detrimental to the freedoms of religion and expression. The media law prohibits publicizing and promoting religions other than Islam. Many authorities and most of society view proselytizing by adherents of other faiths to practicing Muslims as contrary to the beliefs of Islam.

'Article 45 of the media law prohibits production, reproduction, printing, and publishing of the following materials: works and materials contrary to the principles of Islam; works and materials offensive to other religions and sects; works and materials humiliating or offensive to real or legal persons; works and materials considered libelous to real and legal persons and that may cause damage to their personality and credibility; works and materials contrary to the constitution and considered a crime by the penal code; publicizing and dissemination (promotion) of religions other than Islam; disclosure of identity and pictures of victims of violence and rape in a manner that damages their social dignity; and articles and topics that harm the physical, spiritual, and moral well-

being of persons, especially children and adolescents. Also under the media law, the proprietors of newspapers, printers, and electronic media companies must be licensed by and registered with the Ministry of Information and Culture.

'The ambiguity surrounding what constitutes offensive material offers the potential for restrictions on and abuse of press freedom and intimidation of journalists. These rules also apply to non-Muslims and foreign-owned media outlets. An amendment to the media law instructs National Radio and Television Afghanistan (RTA), the state run media outlet, to provide balanced broadcasting that reflects the culture, language, and religious beliefs of all ethnic groups in the country. According to the law, RTA was obligated to adjust its programs in light of Islamic principles and national and spiritual values.' [58h] (Section II. Legal/policy framework)

18.05 The FH report 2011 described the legal situation:

'Article 34 of the constitution allows for freedom of the press and of expression, and a revised 2005 Mass Media Law guarantees the rights of citizens to obtain information and prohibits censorship. However, there are broad restrictions on any content that is "contrary to the principles of Islam or offensive to other religions and sects." A newly revised media law, drafted by a coalition of journalists, government bodies, nongovernmental organizations (NGOs), and media organizations, was submitted to the National Assembly in 2010. However, because there have been four media laws approved since March 2002, many journalists are unsure of which media law is under effect and thus often practice self-censorship of content in an effort to avoid violating cultural norms or offending local sensitivities.' [38b]

18.06 The USSD report 2011 explained:

'The law prohibits dissemination of material contrary to the principles of Islam or other religions and sects; works considered defamatory, insulting, offensive, or libelous; materials contrary to the constitution and penal code; disclosure of the identity and pictures of victims of violence and rape in a manner that damages their social dignity; and works and material that harm the psychological security and moral well-being of individuals, especially children and adolescents. The mass media policy had not been implemented by year's end.

'The law contains provisions establishing a media oversight structure, headed by a High Media Council (HMC). The HMC had two representatives of the media selected by the MOIC [Ministry of Information and Culture] who were not generally accepted by the wider journalism community. The provisions in the Mass Media Law allowing journalists open access to information also have not been implemented.' [58c] (Section 2.a)

18.07 The FH report 2011 stated:

'…the legal environment does not allow for extensive protections for journalists. Article 130 of the constitution stipulates that courts and Islamic jurists can rule on a case "in a way that attains justice in the best manner," allowing for ambiguity and discriminatory rulings. Under Afghan law, cases involving journalists should be handled by the Media Commission, but this is not always upheld. For example, in September 2010, the NDS [National Directorate of Security] arrested Hojtallah Mujadadi, a radio station director. They denied him access to a lawyer and detained him for helping insurgents, despite President Hamid Karzai's pleas to free him. Mujadadi was still detained at year's end. In March, journalist Ahmed Ghous Zalmai and two publishers were released from prison

sentences that began in September 2008 for publishing a translation of the Koran in the Dari language without the Arabic original.' [38b]

18.08 The Freedom House report added: 'Afghanistan's state of war has left the political environment fraught with unclear guidelines for journalists and threats from various groups. In September, NATO arrested Mohammed Nadir, a cameraman for Al-Jazeera, and Rahmatullah Naikzad, a journalist for Al Jazeera and the Associated Press, after accusing them of spreading propaganda for the Taliban; however, both journalists were released one week later.' [38b]

18.09 Human Rights Watch reported on a draft media law which would further curtail freedom of speech and media in an article dated 2 July 2012:

'The Afghan government should withdraw a draft media law that would expand government control over the media and chill free speech. The draft law raises serious questions about the Afghan government's commitment to freedom of expression.The proposed law, which would replace the 2009 media law, was recently circulated by the Ministry of Information and Culture to other government bodies for comment before it goes to parliament. It would greatly increase government control over the media by the information and culture minister, deputy ministers, and other officials within a complex set of regulatory bodies. The minister would be director of the High Media Council, which would have expanded powers to set policies and modify implementation of laws governing the media and to influence the composition and budgets of all other media oversight bodies.' [15o]

18.10 However, on 3 July 2012 Pajhwok Afghan News reported that the draft bill had been withdrawn:

'Deputy Minister of Information and Culture Din Mohammad Mubarez Rashidi acknowledged the proposed legislation had problems and was presented for a debate in haste. He said some media organistaions, donors and human rights bodies had expressed concerns about the bill. "The draft has been nullified. In my view, the time is not yet ripe for a new law. So the existing law remains valid," he remarked.

'The government believed in reforms that facilitated the press freedom of press and laws creating problems for them were unacceptable, remarked the deputy minister, who insisted there had been a lot of improvement with regard to the freedom of speech in Afghanistan, but problems remained.' [100b]

PRINT MEDIA, RADIO AND TELEVISION

18.11 The FH report 2011 report stated:

'As of September 2010, there were 20 private TV channels, 220 radio stations, and 300 newspapers operating in the country. The government owns some media networks, including print press and radio and television stations, but it does not control most media. The media landscape reflects the disparate political and cultural beliefs across the country. Major sources of funds for media outlets include political parties, ethnic groups, the military, international donors, and foreign governments such as Iran and Pakistan, all of whom are pushing for some influence in the country. Private broadcast media outlets, particularly those that are commercially viable, such as Tolo TV, exercise the greatest amount of independence in their reporting. Low literacy rates and fragmented geography mean that local pockets of the population receive varying

information from different media sources. International radio broadcasts in Dari or Pashto—such as those from the British Broadcasting Corporation, Voice of America, and Radio Free Europe/Radio Liberty—remain key sources of information for many Afghans. Despite high levels of government and self-imposed censorship, international and local media organizations have for the past decade been promoting training programs aimed at developing a genuinely independent media in the country.' [38b]

18.12 The USSD report 2011 addressed freedom of the press:

'Some independent journalists and writers published magazines and newsletters, although circulation largely was confined to Kabul. Newspapers tended to reflect more openly on domestic developments in comparison to broadcasters. Satirical programming was widespread; every private television station had at least one comedy-satire program that openly criticized government officials.

'Despite the obstacles they faced, media sources and observers asserted that the country's independent media continued to expand and became increasingly sophisticated. Independent media were active and reflected differing political views. An NGO offered safe houses for threatened journalists. Many Afghan journalists stated they had more freedom than their regional neighbors. Numerous international and local organizations provided regular training and mentoring for journalists; some programs ended with job offers for talented participants.' [58c] (Section 2.a)

18.13 The Guardian reported on the funding of newspapers by powerful interest groups on 2 March 2011:

'Afghanistan's small band of independent-minded media outlets is a little smaller with the demise of Kabul Weekly, a lively newspaper that claims it has been put out of business after daring to criticise Hamid Karzai. On Wednesday staff met with their editor, Mohammad Faheem Dashty, for the final time after producing the last edition of a newspaper that has been a regular sight on the streets of the capital since 2002.

'Dashty said he had no choice but to shut down after more than a year of losses in a media market where most publications are simply bankrolled by warlords. "To preserve our independence we tried to rely on the normal revenue streams of newspapers around the world, advertising and subscriptions, but in Afghanistan everything is political," he said.

'After years of modest profitability, things went awry during the 2009 presidential election when Kabul Weekly earned the ire of Karzai's presidential campaign with a front-page article claiming the president was looking weak after allegedly losing the support of Afghanistan's western backers. Karzai's campaign manager, who now serves as his official spokesman, promptly dropped the political ads it had been running in the paper. But more serious was the drying up of advertising from the country's biggest companies, including banks and airlines, although Dashty won't say which ones. "All these companies were financing the presidential campaign so they could make back their money through legal and illegal contracts after he won," he said.

'The demise of a paper that has been vocal in its opposition to Karzai further concentrates media power in Afghanistan in the hands of powerful interest groups. The hundreds of newspapers, radio and television stations that have sprung up since 2001 are nearly all paid for either directly by the government or by a motley band of still

powerful warlords who use newspapers and television stations to beat the drum for their own, often ethnic, interests.

'"This one is paid for by the Iranians, this one the Americans," Dashty says as he tosses a pile of the day's papers – which he claims are bankrolled by foreign intelligence services – across his desk in his central Kabul office. "This one is a daily with a print run of 10,000, no adverts and it is not sold anywhere – how do they pay for that?"' [59b]

For an overview of press freedom and current television and radio stations and printed publications, see the regularly updated BBC news Afghanistan profile.

INTERNET

18.14 Internet World Stats, Usage and population statistics, undated, accessed 1 October 2012, provided a breakdown of internet access and penetration (number of users as a percentage of the population) and the number of facebook users:

'… 30,419,928 population (2012) - Area: 645,807 sq km

'Capital city: Kabul - population 2,998,351 (2012)

'1,520,996 Internet users as of June 30, 2012, 5.0% penetration, per IWS.

'331,720 Facebook users on Sept 30/12, 1.1% penetration rate.' [122a]

18.15 The USSD report 2011 stated:

'There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including e-mail messages.

'The CPJ [Committee to Protect Journalists] reported that government regulators were not fully able to enforce their rules. Government requests for Internet bans were made to private Internet service providers; filtering equipment was not reported as widely used. The Taliban also used the Internet and sites like Twitter to spread its messages, despite purported government controls. Lack of public infrastructure limited public access to the Internet.' [58c] (Section 2.a)

18.16 The FH report 2011 stated:

'Illiteracy also accounts for a low penetration rate of internet use, at 4 percent of the population in 2010. However, insecurity in the country has also hampered the development of an optic-based internet network. Though Afghan blogs and websites are not numerous or greatly developed, the government still imposes online censorship. In June, the Ministry of Communications blacklisted websites that "promoted alcohol, gambling and pornography, as well as ones that hosted dating and social networking services."' [38b]

18.17 Reuters reported on the use of social media in an article dated 22 July 2012: 'Afghanistan's intensifying war by social media has stepped up a notch with free speech activists launching a campaign using Twitter and Facebook to fight wide confusion over competing NATO and Taliban claims, as well as looming government media curbs.

'Foreign troops and insurgents have for years sparred on Twitter over the extent of victories against one another, while Afghan journalists are locked in a row with their government over press freedoms and new media laws. "Social media is a free tool to use to transfer information without the influences of the government, warlords, or Talibs," said Abdul Mujeeb Khalvatgar, executive director of Afghan media advocacy group Nai, launching the new campaign on Sunday. "But right now there's the problem of having an audience," said Khalvatgar, pointing to the limited uptake of new media in the war- and poverty-racked country. Just 2 million of Afghanistan's 30 million people have Internet access.

'While Afghans have enthusiastically embraced improved access to phones and communications since the 2001 ousting of the former Taliban government by U.S.-backed Afghan troops, a majority continue to live in simple homes, often made of mud brick. Only one in three have electricity. The austere Taliban banned Internet use to stop people viewing what they derided as vulgar, immoral and anti-Islamic material, although they are now among many groups using social networking to communicate and promote their messages.

'While Internet cafe use has sprouted in towns and cities, particularly among young people, the use of social media has mainly been confined to combating conservative cultural norms like limited women's rights, which are more difficult for mainstream media to confront without provoking a backlash. "Where traditional media are weak, that is where social media step in," Khalvatgar said. Nai, he said, was launching its campaign to encourage government officials, rights groups and aid organisations to widen the use of social media and combat negative conceptions of the Internet among some Afghans.

'Some Afghan families forbid women to have social media accounts, either due to interpretations of Islam or for fear of shaming family honour. When women do have accounts, they often refrain from posting pictures or real names. "Facebook is popular among women, they can obtain information and express their opinions, and privacy settings make it easy for them to do so," said Zahra Furmoly, 23-year-old female adviser at Nai.

'And with the government mulling a media law to tighten its grip over the fledgling but lively Afghan press corps, Nai hoped social media could help safeguard political and social freedoms, as occurred during the wave of uprisings across the Middle East.' [28n]

ACADEMIC AND CULTURAL FREEDOM

18.18 The USSD report 2011 stated:

'The government restricted academic freedom by restricting curriculum [sic] it deemed un-Islamic. Academic research and curriculum [sic] were subject to prior approval of "concerned ministries and institutions," such as the Ministry of Hajj and Religious Affairs. The government funded rehabilitation and preservation of several historical sites and monuments, including both Islamic and Buddhist-period sites. Through foreign government and World Bank funds some emergency recovery and preservation efforts were underway at an extensive Buddhist site near Kabul. The recovery of that cultural heritage was occurring in advance of the copper mining (tendered to a Chinese firm) that was expected to eventually destroy the archaeological remains collocated with the world's second largest copper deposit. Music has made a strong return since the departure of the Taliban.' [58c] (Section 2.a)

See also Children - education

JOURNALISTS

Government practice

18.19 The USSD report 2011 stated:

'Some media observers contended that individuals either could not criticize the government or practiced self-censorship due to fear of reprisal. Journalists self-censored reporting on corruption or legal violations due to fear of violent retribution by provincial police officials and powerful families. Journalists stated that the government not only failed to protect them, but that officials sometimes actively worked against them through other media sources, through intimidation, or by pressuring others to withdraw advertising revenue.' [58c] (Section 2.a)

The US Department of State report also commented on freedom of speech, stating, 'Authorities used pressure, regulations, and threats to silence critics. Freedom of speech was even more constrained at the provincial level, where warlords owned many of the broadcasting stations and print media.' [58c] (Section 2.a)

18.20 Amnesty International Annual Report 2012, Afghanistan (AI report 2012), released in May 2012, covering events in 2011, noted: 'The NDS and the Ulema Council (Council of Religious Scholars) brought criminal proceedings against people for writing or talking about matters deemed a threat to national security or considered blasphemous.' [25d]

The USSD report 2011 stated:

'The Ministry of Information and Culture (MOIC) has the authority to regulate the press and media; however, the Ministry of Hajj and Religious Affairs, and the country's council of religious scholars (the "Ulama"), both also attempted to regulate or constrict the media. Although complaints and alleged violations of media regulations are to flow through the Media Complaints Commission into the MOIC, the Ministry of Hajj and Religious Affairs reported in May that it would establish a Vice and Virtue Department to control "un-Islamic" and "immoral" media programs. The Ulama criticized a newspaper that reported on the radicalization of young women in religious madrassahs, stating "the newspaper should be put under pressure" for its criticism of Islam.

'Parliamentarians voiced concern about the foreign cultural invasion of the country and stated that the MOIC should do more to stop the proliferation of immoral television programs. Members of the Ulama lobbied the president's office to cease broadcasting what it considered immoral television programs, such as the soap opera "Forbidden Love," which was broadcast on private Tolo TV. Tolo TV eventually took the program off the air to avoid having to close down the television station.

'Following what the Ulama and the MOIC saw as a trend in negative programming, both threatened to revoke the activity licenses of any media groups that failed to comply with the law…

'Although censorship of book publishing was relatively limited, prominent journalist and author, Razaq Mamoon, who wrote a book critical of Iran, was the victim of an acid attack by unidentified men.' [58c] (Section 2.a)

18.21 FH report 2011 stated:

'In March, the National Directorate of Security (NDS), an Afghan intelligence agency, told the media not to cover stories live from the sites of terrorist attacks, a move that drew criticism from journalists. The government later distanced itself from that directive. In the same month, the Ministry of Information and Culture and the Afghan journalist community agreed to protocols for the media and state agencies regarding the coverage of terrorist attacks. In July [2010], the ministry shut down Emrooz TV, a private broadcaster, following criticism from Islamic conservatives, though the station was reopened after several days.' [38b]

18.22 Reuters reported on the banning of the YouTube website in an article dated 12 September 2012: 'Afghanistan banned the YouTube website on Wednesday to stop Afghans watching a U.S.-made film insulting the Prophet Mohammad that sparked protests in North Africa and the killing of the U.S. ambassador to Libya. "We have been told to shut down YouTube to the Afghan public until the video is taken down," Aimal Marjan, general director of Information Technology at the Ministry of Communications, told Reuters.

'Afghan President Hamid Karzai condemned the film, in which Mohammad is portrayed as a philanderer and a religious fake, saying its makers had done a "devilish act" and that insulting Islam was not allowed by freedom of speech… Marjan declined to say if the order to close YouTube in Afghanistan was to prevent violence or to protect his countrymen from being offended.' [28m]

18.23 The USSD report 2011 described violence and harassment experienced by journalists:

'Threats, violence, and intimidation were used regularly to silence opposition journalists, particularly those who spoke out about impunity, war crimes, government officials, and powerful local figures. An Afghan media development and vocational education agency reported that incidents of violence against journalists increased overall during the year; through December there were 80 incidents, compared with 60 in 2010.

'A December [2011] Media Watch report entitled "Afghan Media in 2011" indicated there was a 38 percent rise in violence against media workers in 2011 compared with 2010. The report records three media worker deaths, six injuries, two detentions, 33 assaults, 15 cases of verbal abuse, and 21 incidents of threats for a total of 80 cases. Media Watch reports that State authorities were responsible for the majority of incidents, with government officials responsible for 49 incidents.

'Journalists were vulnerable to physical harm and reported numerous instances of pressure from multiple sources to influence reporting, including national and provincial governments. Violence against journalists continued, and a combination of government repression, armed groups, and manipulation by foreign groups and individuals prevented the media from operating freely.' [58c] (Section 2.a)

18.24 The FH report 2011 observed

'Violence and security remain issues of considerable concern. For example, a veteran Afghan television journalist, Sayed Hamid Noori, was stabbed to death in September, although the cause of his death is under investigation. Noori was known to be a political activist on behalf of groups opposed to Karzai. In March, Kosuke Tsuneoka, a Japanese freelance journalist, was kidnapped by the Taliban, but was freed in September. However, two French journalists and their Afghan translator and driver, who had been kidnapped in December 2009, were still detained at the end of 2010. In addition to

targeted killings and kidnappings, journalists face the dangers of reporting in a war zone.' [38b]

18.25 On 25 November 2011, Reporters without Borders reported on violence and harassment carried out against the media:

'Never before in Afghanistan's history have its people had so much free access to information provided by Afghans for Afghans. However, these gains are under daily threat…The use of violence and illegal restrictions, as well as the constant threat of being branded as heretics, have been the main weapons used against journalists in recent times. As organizations that support journalists and the media in Afghanistan, we urge the authorities to put an end to the practice of harassing and discriminating against journalists on the basis of religious belief or racial or tribal affiliation.

'In the past decade, Afghan journalists have paid a high price for their activities. Sixteen have been killed and so far no-one has been brought to justice in any of these cases.' [103b]

18.26 The AI report 2012 stated:

'Journalists were abducted, beaten or killed in politically motivated attacks by government forces and insurgent groups...The government failed to fully investigate and prosecute perpetrators of attacks on journalists, human rights defenders and others peacefully exercising their right to freedom of expression.

'On 18 January, Hojatullah Mujadedi, director of Kapisa FM radio based in the north-east, was released after four months in NDS [National Directorate of Security] detention in Kabul. He had been accused of acting as an accomplice to the Taleban.' [25d]

Harassment and intimidation by non-state groups

See also section, Non state armed groups for information about human rights violations committed by these groups

18.27 The US Department of State Country Report on Human Rights Practices for 2011 described threats from non-state sources: 'Factional authorities reportedly controlled media in some parts of the country. In addition, according to many media sources, private Iranian, Pakistani, and Gulf state citizens actively influenced the media, shaping it through both ownership and threats. There were allegations that Iran intimidated reporters in the western provinces to increase antigovernment reporting and decrease anti-Iranian articles.

'Journalists faced threats not only from state actors, but also from the Taliban and other insurgents. Some reporters stated that they no longer criticized the insurgency in their reporting because they feared the return of the Taliban.

'Violence and intimidation of journalists, reporters, and media outlets at the hands of insurgent forces and the Taliban remained a concern and continued to restrict journalists' operating space. In June the Taliban torched three mobile telephone towers in central Logar province after warning mobile telephone companies to cut their services between 6:00 pm and 6:00 am. The Taliban also destroyed two mobile telephone towers in Helmand province.

'The Taliban manipulated the media, especially print journalism, both directly and indirectly, by threatening to harm some journalists physically and by directly feeding news to others. Journalists reported receiving threats if they published stories favorable to the government.

'The Committee to Protect Journalists (CPJ) reported that local and foreign reporting teams continued to face a risk of kidnapping.' [58c] (Section 2.a)

18.28 In an article dated 25 November 2011, Reporters without Borders added: 'Unions and organizations that support open media, and Reporters Without Borders, recorded hundreds of cases of such violence between 2001 and 2011. The largest number – 85 – took place in 2009, most of them in the provinces of Kabul, Herat and Helmand. Some of provinces in the south and east of the country are no-go areas for journalists since they are controlled by the Taliban who restrict journalistic activities.' [103b]

18.29 Reporters without Borders reported on groups harassing the media in the same article of 25 November 2011: 'Violence against journalists is carried out in many cases by religious groups that have strong support among Afghan authorities. The Council of Religious Scholars, for example, has blamed journalists and media for the violence rather than the Taliban, terrorists, warlords and drug traffickers…

'Some warlords and countries such as Pakistan and Iran, whose control of some media organizations allows them to interfere in Afghanistan's internal affairs, are increasingly relaying Taliban propaganda. Free media organizations, faced with the Taliban and the actions of corrupt government officials, are surrounded and forced into silence.' [103b]

18.30 The USSD report 2011 described violence and harassment experienced by journalists:

'Journalists operated in a dangerous environment; even if not targeted, some were victims of indiscriminate attacks. For example, on July 28 in Uruzgan, Ahmad Omid Khpalwak, a 25-year-old reporter with the BBC Pashto-Dari radio service and Pajhwok Afghan News, was filing his morning report in a building and was killed by a spray of more than 20 bullets. Farhad Taqaddosi, a cameraman for Iran's Press TV, died of injuries he sustained in the Taliban's September 13 attack on prominent international buildings. Jafar Wafa, a reporter for the Laghman-based Radio Kalagosh, was killed in a roadside bomb attack in Laghman province on December 12.' [58c] (Section 2.a)

18.31 The USSD report 2011 stated:

'The number of female journalists remained low and female reporters found it difficult to practice their profession, although some women oversaw radio stations across the country and some radio stations were devoted to women's issues. Kabul University's Jawida Ahmadi, a lecturer and deputy dean of the journalism faculty, launched the Saboot News Agency which offers capacity building courses in journalism, leadership, and management for female journalists, and also produces news reports about various parts of the country in Dari, Pashto, and English. However, a number of factors reduce the motivation of women to be part of the media industry, including poor security, low capacity, lack of access to the training that was a prerequisite of the modern media industry, and a lack of safe working conditions. Salam Watandar held a female broadcasters gathering in December with 12 women from Balkh, Kunduz, Baghlan, Jalalabad, Kandahar, and Herat provinces. They highlighted the need for qualified female journalists and proposed specialized programming with material provided by six radio stations led by women.' [58c] (Section 2.a)

18.32 Reporters without Borders described the situation for women in an article dated 25 November 2011: 'Violence against journalists, particularly women, has been encouraged by the failure to prosecute those responsible. In recent years, women journalists have become increasingly the target of threats from various organizations, particularly the Taliban.

'In the towns of Kunduz and Ghazni, the Taliban have threatened women journalists and driven female-owned media organizations out of business. In Kabul, security forces have on many occasions beaten women journalists carrying out their professional activities. Many have been forced to quit their jobs because of social pressure and fears for their safety.' [103b]

Details on journalists that have been killed in Afghanistan since 1992 can be located on the Committee to Protect Journalists (CPJ) database. The Reporters without Borders website included further details of journalists that have been attacked, threatened, abducted and imprisoned.

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19. CIVIL SOCIETY, HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

Officials are recommended to read this section in conjunction with Political affiliation and Freedom of speech and media to gain a fuller understanding of freedom of speech generally. Information about the targeting of non-government organisations and human rights defenders is available in Security situation and Non-government armed groups sections.

19.01 The Afghanistan Research and Evaluation Unit (AREU) report, 'Local Governance in Afghanistan: A View from the Ground,' dated June 2011, focused on research carried out in six provinces of Samangan, Jawzjan, Sar-i-Pul, Day Kundi, Laghman and Wardak. The report noted: 'Nongovernmental actors have made a substantial contribution to the achievements that have taken place since 2002 in respect of health, education, rural development, civil engineering and construction. This includes a number of international NGOs (INGOs) present in Afghanistan during the Taliban period, that have long-standing relations of mutual respect with the communities with whom they work. Where given permission by the Taliban, INGOs have been able to operate in areas not controlled by the government to deliver health, education and support for the NSP [National Solidarity Program].

'The commitment, industry and outputs of INGOs are impressive across all sectors. They have combined technical assistance and a wide range of capacity-building activities with the effective use of indigenous knowledge. The majority of their activities are managed by competent Afghan staff, and it is not uncommon to find INGO-trained staff moving on to apply their skills in government institutions. INGOs paid far more attention than the government to employing and using the skills and abilities of women.' [8a] (p 32)

19.02 The United States International Grantmaking website provided the following information about NGOs operating in Afghanistan in an article which was current as of May 2012:

'NGOs are defined broadly in the 2005 Law on Non-Governmental Organizations (NGO Law) to include both domestic and foreign non-governmental organizations. A domestic NGO is simply "a domestic non-governmental organization which is established to pursue specific objectives." (Article 5(2)) To establish a domestic NGO, the Law requires at least two founders, who may be domestic or foreign, natural or legal persons, at least one of whom has a residence and exact address in Afghanistan. (Article 11(1)) To become registered, NGOs must apply to the Ministry of Economy. (Article 4) As of September 2011, the NGO Department within the Ministry of Economy reported that 1680 NGOs (including both foreign and domestic) were registered in Afghanistan.' [80a] (A. General Legal Forms)

19.03 The same source observed that, 'Afghanistan has two main categories of registered, nongovernmental, not-for-profit organizations with legal entity status:

'Non-governmental Organizations (NGOs), which number approximately 2000 (1707 local and 292 foreign NGOs), as of April 2012; and

'Social Organizations (SOs), which number approximately 3100, as of April 2012.

'Under a January 2005 Cabinet of Ministers' decision, social organizations face additional (though somewhat undefined) constraints in receiving foreign funding (See Section III-A below). Actual practice has shown, however, that the foreign funding prohibition is not being enforced, at least not in connection with social organizations. This Note will provide information relating to both organizational forms.' [80a] (A. Types of Organizations)

19.04 The Afghan Ministry of Economy website published a list of international NGOs which are currently registered with the Ministry, and these numbered approximately 300: http://moec.gov.af/content/files/NewNGOsList.pdf [76a]

19.05 The Afghanistan Peacebuilding website, undated, accessed 1 October 2012, provided the following undated overview of NGOs operating in Afghanistan:

'The majority of the NGOs are Afghan ones, but the largest programmes are implemented by international or multinational ones. Most NGOs are involved in provision of emergency relief and in running of health, education and agricultural programmes. There are, moreover, a few NGOs that have involved themselves in peace building, human rights and advocacy work. The latter includes civic education for the Constitutional Loya Jirga and the election process.

'There are 4 NGO coordinating bodies, being the Afghan NGOs Coordination Bureau (ANCB), Agency Coordinating Body for Afghan Relief (ACBAR), Islamic Coordination Council (ICC) and the South West Afghanistan and Baluchistan Association for Coordination (SWABAC). Of these, only ACBAR has a formalised collaboration with UNAMA while the others have established links with ATA or local authorities.

'In addition to the NGOs the International Committee of the Red Cross, the International Federation of the Red Cross and the Red Crescent and the Afghan Red Crescent are in involved in a range of protection issues, as mandated for ICRC by the Geneva convention, and rehabilitation and development programmes.

'Coordinating bodies:

'ACBAR http://www.acbar.org/site/aboutus.htm

'ANCB http://www.ancb.org/' [110a]

19.06 The United States Country Report on Human Rights Practices for 2011 stated: 'NGOs that ran women's shelters in Kabul reported an increase in referrals from police, possibly reflecting improved ANP training and awareness.' [58c] (Section 6; Women)

19.07 The Human Rights Watch World Report 2012, commenting on the events of 2011, noted that 'A government-proposed regulation in 2011 would have prevented NGOs from independently operating shelters for women and jeopardized the existence of Afghanistan's few existing shelters,' but added that 'the regulation was significantly improved following strong domestic and international criticism…' [15a]

19.08 The US State Department Country Reports also stated, 'Three parliamentary committees deal with human rights in the Wolesi Jirga: the Gender, Civil Society, and Human Rights Committee; the Counternarcotics, Intoxicating Items, and Ethical Abuse Committee; and the Judicial, Administrative Reform, and Anticorruption Committee. In the Meshrano Jirga, the upper house of parliament, the Committee for Gender and Civil Society addresses human rights concerns.' [58c] (Section 5; Government Human Rights Bodies)

HUMAN RIGHTS INSTITUTIONS

International instruments

19.09 The Afghan Independent Human Rights Commission (AIHRC) website, undated, accessed on 10 September 2012, listed the the international treaties and instruments that Afghanistan is party to:

'1- The International Covenant on Civil and Political Rights (CCPR) was ratified on 24th April 1983.

'2- The International covenant on Economics, Social and Cultural Rights (CESCR) was ratified on 24th April 1983.

'3- The International Convention on the Elimination of all Forms of Racial Discrimination (CERD) was ratified on 5th August 1983.

'4- The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) was ratified on 5th March 2003.

'5- The Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) was ratified on 26th June 1987.

'6- The Convention on the Rights of the Child (CRC) was ratified on 27th April 1994.

'7- The Optional Protocol of the Convention on the Rights of the Child (CRC-OP-SC) on the sale of children, child prostitution and child pornography was ratified on 19th October 2002.

'8- The Optional Protocol to the Convention on the Rights of the Child (CRC-OP-AC) on the involvement of children in armed conflict was ratified on 24th Sept. 2003.' [31f]

19.10 The UN has established committees mandated to monitor State parties' compliance to their treaty obligations. Reports on Afghanistan submitted by the government, NGOs

and the UN Country Team as well as the committees' concluding comments are available on the Office of the High Commission of Human Rights' website:

Human rights bodies:
http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx [52]

Human rights in Afghanistan:
http://www.ohchr.org/EN/countries/AsiaRegion/Pages/AFIndex.aspx [52]

Afghanistan Independent Human Rights Commission

19.11 The USSD 2011 report stated:

'The constitutionally mandated AIHRC continued to address human rights problems and generally operated without government funding. In December President Karzai decided not to renew the terms of three commissioners whose terms expired on December 16. The decision was widely regarded as a government effort to exercise greater control over independent institutions. Tolo News linked the decision to the expected publication of the AIHRC's long-anticipated conflict mapping report covering serious crimes and abuses committed by armed factions from 1978 to 2001.' [58c] (Section 5; Government Human Rights Bodies)

19.12 The Afghanistan Independent Human Rights Commission (AIHRC) described its mandate in its Annual Report 1389 (2010/11), stating,

'The AIHRC is enshrined as a national human rights institution under Article 58 of the Constitution:

'"To monitor respect for human rights in Afghanistan as well as to foster and protect it, the state shall establish the Independent Human Rights Commission of Afghanistan. Every individual shall complain to this Commission about the violation of personal human rights. The Commission shall refer human rights violations of individuals to legal authorities and assist them in defense of their rights. Organisation and method of operation of the Commission shall be regulated by law."

'The Law on the Structure, Duties and Mandate of the Afghanistan Independent Human Rights Commission was adopted by the Council of Ministers in May 2005. Under the Law, the AIHRC is mandated to protect and promote rights and freedoms enshrined in Afghani- stan's Constitution, international declarations, international conventions on human rights, human rights protocols and other international human rights instruments.

'Article 5 of the Law establishes five objectives for the AIHRC:

'1. Monitoring the situation of human rights in the country

'2. Promoting and protecting human rights

'3. Monitoring the situation of and people's access to their fundamental human rights and freedoms

'4. Investigating and verifying cases of human rights violations

'5. Taking measures for the improvement and promotion of human rights in the country.' [31d] (p 10)

19.13 The 'Human Rights and Democracy: The 2011 Foreign and Commonwealth Office Report,' dated April 2012, stated, 'The UK continues to provide financial support to human rights defenders in Afghanistan, with £400,000 funding allocated to the Afghan Independent Human Rights Commission (AIHRC). Our support to the AIHRC is provided through a multi-donor trust fund, and the AIHRC provide quarterly and annual reports on their accounts.' [37c] (p 160)

19.14 The Agency Co-ordinating Body for Afghan Relief (ACBAR) explained its mandate in its Strategic Plan 2010-2012, February 2010, stating:

'The Agency Co-ordinating Body for Afghan Relief (ACBAR) was created in August 1988, in response to the demand from the many aid agencies and their international donors for a coordinated approach to humanitarian assistance in Afghanistan and for Afghan refugees in Pakistan. Originally, the organization was based in Peshawar, Pakistan, where it focused mainly on coordinating NGOs' humanitarian response. Since it moved to Afghanistan, ACBAR provides the framework within which Non-Governmental Organisations (NGOs), the Afghan Government, the UN and bilateral donors can exchange information, share expertise and establish guidelines for a more coordinated, efficient and effective use of resources for aid to the Afghan people. Its activities have focused heavily on information to its members and the aid community in general, coordination of activities at the national and regional levels, and advocacy on issues affecting the work of its members in Afghanistan.

'ACBAR has registered 105 members both national and international organizations working in all sectors of humanitarian assistance and development. The members are the drive behind ACBAR, and their active participation is essential to ACBAR's continued dynamism. All member organisations provide humanitarian and development assistance to the Afghan people regardless of their ethnic backgrounds, political affiliations, or religious beliefs, and do not use such assistance to proselytise. No member organisation seeks to influence Afghan politics nor do they support or participate in military activities.

'ACBAR members must adhere to the NGO Code of Conduct ... These principles embody the values which set NGOs apart from other development actors.' [111] (p 3)

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NGO WORKERS/HUMAN RIGHTS DEFENDERS

See also Security situation and Non government armed groups for more information on the treatment of NGO and human rights workers.

19.15 The Freedom House report, Freedom in the World 2012, Afghanistan, covering events in 2011, released March 2012, noted:

'The work of hundreds of international and Afghan nongovernmental organizations (NGOs) is not formally constrained by the authorities, but their ability to operate freely and effectively is impeded by the worsening security situation and increasingly restrictive bureaucratic rules. Both foreign and Afghan NGO staff members have been

targeted in a growing number of kidnappings and violent attacks by criminals and insurgents. Civil society activists, particularly those who focus on human rights or accountability issues, continue to face threats and harassment.' [38a]

19.16 The Afghanistan NGO Safety Office (ANSO) reported in an undated article in their Quarterly Data Report, Q3, 2012 that seven NGO staff had been killed and thirteen injured in the third quarter of 2012. This level of killing and injury was at a four-year low and had dropped by 20% from the same quarter in 2011. The source explained that the main reason for the reduction in incidents was the decrease in exposure to opposition activity. [123a]

ANSO produce quarterly and annual reports documenting security incidents affecting NGOs. For further details, see ANSO's website: http://ngosafety.org/index.php?pageid=67

19.17 The US State Department Country Reports on Human Rights Practices for 2011, Afghanistan, 24 May 2012, stated, 'A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The lack of security and instability in parts of the country severely reduced NGO activities. Insurgent groups and the Taliban directly targeted NGOs during the year.' [58c] (Section 5)

19.18 The same source also noted that 'Suspected Taliban members fired on NGO vehicles and attacked NGO offices, guest houses, and hotels frequented by NGO employees. Violence and instability hampered development, relief, and reconstruction efforts. NGOs reported that insurgents, powerful local individuals, and militia leaders demanded bribes to allow groups to bring relief supplies into the country and distribute them.' [58c] (Section 1g; Other conflict-related abuses)

19.19 The UNHCR Eligibility Guidelines for assessing the international protection needs of asylum-seekers from Afghanistan, dated 17 December 2010, stated that 'UNHCR considers that humanitarian workers and human rights activists, who are perceived to be associated with the Government and/or the international community, or to express or hold critical views on sensitive issues, such as corruption, conservative practices related to Islam and women's rights, may be at risk on account of their (imputed) political opinion or religious views, depending on the circumstances of the individual case.' [53a]

19.20 The Amnesty International Annual Report 2012 noted that 'The Afghanistan NGO Safety Office documented 170 attacks on NGO workers – a rise of 20 per cent compared to 2010…

'Targeted killings of Afghan civilians, including government officials and tribal elders, working for or allegedly supporting the government or international organizations increased… On 31 October, Taleban gunmen and suicide bombers attacked UNHCR, the UN refugee agency, in Kandahar city, southern Afghanistan, killing three staff members…

'The government failed to fully investigate and prosecute perpetrators of attacks on journalists, human rights defenders and others peacefully exercising their right to freedom of expression… In April, the Taleban abducted and killed a woman in Zurmat district, Paktia province. The Taleban claimed she was killed because she worked for an NGO, denying rumours that it had been an "honour" killing.' [25d]

The United States Country Report on Human Rights Practices for 2011 stated, 'Women who took on public roles that challenged gender stereotypes (such as female lawmakers, NGO leaders, and news broadcasters) received "night letters" most often sent by conservative elements, political powerbrokers, or insurgents to intimidate them and their families. NGOs reported increasing violence against women working in the public and nonprofit sectors, including killings.' [58c] (Section 6; Women)

See also Women - violence against women in the public sphere

20. CORRUPTION

OVERVIEW

20.01 The Foreign and Commonwealth reported as follows in its Tackling Corruption report, dated 10 January 2012: 'Afghanistan has been rated by Transparency International, in 2011, as the joint-second most corrupt country in the world. Corruption hampers socio-economic development and undermines the legitimacy of the Government of Afghanistan.

'The Afghan Government entered into important anti-corruption commitments at the London conference on Afghanistan in January 2010 and the Kabul Conference in July 2010. Whilst there has been progress in some areas, corruption remains a serious problem in Afghanistan.' [104a]

20.02 The US Department of State Country Report on Human Rights Practices for 2011, Afghanistan, 24 May 2012 (USSD report 2011), stated, 'Corruption was endemic throughout society, and flows of money from the military, international donors, and the drug trade exacerbated the problem. The International Crisis Group released a study in July that concluded that corruption and poor governance had enabled the Taliban to extend its reach deeply into the east central part of the country (the five provinces surrounding Kabul).' [58c] (Section 4)

20.03 The following is an extract written by the chairwoman of Transparency International, an anti-corruption organization and published in the New York Times on 6 July 2012:

'Corruption in [Afghanistan] … is nothing new, but it is worsening. Afghanistan has had a long history of conflict, contraband and war. It falls almost at the bottom of the list of the most corrupt and poorly governed countries, including the Corruption Perceptions Index produced by Transparency International. Estimates from local watchdog Integrity Watch Afghanistan show bribe payments - for everything from enrolling in elementary school to getting a permit - doubled between 2007 and 2009, topping $1 billion a year. Corruption and black-market trading, which is closely linked to drugs and arms trafficking, have reached over $12 billion annually, according to calculations by NATO…' [32c]

20.04 The same source observed that:

'The major donors and Afghan government officials meeting in Tokyo on Sunday to discuss future aid to Afghanistan have to face up to a bitter truth: As much as $1 billion of the $8 billion donated in the past eight years has been lost to corruption…

'There is a strategy - known as the National Priority Program on Transparency and Accountability - but it has not been fully endorsed by the government or international

representatives. A large part of the critique is that it is not realistic or ambitious enough…There is now a joint Afghan-donor government body on anti-corruption. It combines a highly reputed group of Afghan and international experts, including a former French judge, Eva Joly, who work to monitor anti-corruption progress against clear goals and benchmarks.

'Still greater political will and stronger leadership are needed in order to take action against those accused of state looting. This includes members of the government and their families. One key step forward would be the adoption of an access to information law, which has yet to pass. Greater levels of transparency and accountability are essential across the board.' [32c]

20.05 In the 'Freedom in the World, 2012' report, Afghanistan, covering events in 2011, released in March 2012, Freedom House stated:

'Corruption, nepotism, and cronyism are rampant at all levels of government, and woefully inadequate salaries encourage corrupt behavior by public employees. The international community, concerned that government corruption is crippling the counterinsurgency campaign, has pressed the administration of President Hamid Karzai to make the issue its top priority. However, a massive scandal involving fraud at Kabul Bank that emerged in 2010 continued to plague confidence in Afghan financial institutions in 2011. The International Monetary Fund withheld approval for transfers of donor funds until late in the year, when it finally acknowledged sufficient progress in Afghanistan's efforts to address the damage from the banking scandal. Afghanistan was ranked 180 of 183 countries surveyed in Transparency International's 2011 Corruption Perceptions Index.' [38a]

20.06 The following is an extract from the 'About Corruption' web page of the Afghan High Office of Oversight and Anti-Corruption,' and is undated:

'The causes of corruption in Afghanistan are deep rooted, structural and have internal and external factors. From internal factors, it is attributed to a series of factors such as: weak institutional capacity of public administration at the centre and provinces, weak legislative and regulatory framework as well as weak enforcement of the laws and regulations; poor and/or non-merit based recruitment of public officials; low salaries and insufficient numbers of law enforcement officials; the lack of complaint mechanisms and systems for public scrutiny; and illegal profits through the opium trade and cross border smuggling.

'External factors are largely attributed to unprecedented large inflows of international assistance, with much pressure to spend resources quickly. In addition to development and humanitarian aid, this includes large inflows and contracts related to international military forces and their activities, as well as international and domestic security firms and aid to Afghan security forces. According to a recent report, the total assistance pledged to Afghanistan since 2001 has been 55 billion dollars while the actual spent is 38.9 billion. Of the 38.9 billion only 5.7 billion is has been spent by the regular and development budgets of the government. The rest is spent directly by donors…

'A striking feature of Afghanistan is the enormous importance of the drug economy (accounting for close to one-third of GDP); drug-related corruption appears to be a dominant source of corruption in the country, and drug-financed corruption appears to be undermining the state and political system (through so-called "grand corruption" and "state capture")…' [105a]

LEGAL POSITION

20.07 The US Department of State provided the following information in the Country Report on Human Rights Practices for 2011:

'The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The minimal progress made in initiating and prosecuting high-level corruption cases was largely due to international assistance in creating special anticorruption law enforcement investigatory, prosecutorial, and judicial entities.' [58c] (Section 4)

20.08 The following is an extract from the 'About Corruption' web page of the Afghan High Office of Oversight and Anti-Corruption,' and is undated, accessed 1 September 2012:

'Since the Bonn Conference in 2001, the Afghan government, with support from the international donor community, has put in place a number of agencies and commissions, both in the executive, the legislature and the judiciary to address the different challenges that undermine integrity in Afghan society.

'The most significant of these has been the establishment of the High Office of Oversight and Anti-corruption by Presidential decree…H.E. President Karzai in July 2008, issued a Decree establishing a High Office for Oversight (HOOAC) for the Implementation of Anti-Corruption Strategy. This law has been enacted in the light of the provisions of Article (7), item (3) of Article (75) and Article (142) of the Afghanistan Constitution and in accordance with the United Nations Convention against Corruption in order to oversee and coordinate the implementation of the Anti- Corruption Strategy.' [105a]

20.09 The US Department of State provided the following information in the Country Report on Human Rights Practices for 2011:

'Leadership of the High Office of Oversight (HOO), established to oversee and to develop the Afghan government's ability to mitigate corruption in line with commitments made at the London and Kabul conferences, changed in January, and most of its programs slowed during the transition. The registration and publication of asset declarations by senior government officials appeared to move forward under heavy international pressure, but it remained to be seen whether the HOO would undertake the required substantive verification of those assets, a key tool to identify possible wrongdoing. Overall, the HOO was ineffective in carrying out its anticorruption mandate.' [58c] (Section 4)

20.10 The same report added:

'The constitution provides citizens the right to access government information, except when access might violate the rights of others; however, access to information from official sources continued to be limited. Lack of government capacity, particularly at the local level, continued to restrict access to information. Civil society and media representatives sought passage of a law on freedom of access to information, and worked with government officials to draft such laws. Journalists and other stakeholders made recommendations to the ministerial working group with the goal of reconciling a unified draft law.' [58c] (Section 4)

JUSTICE SYSTEM

20.11 The US Department of State provided the following information in the Country Report on Human Rights Practices for 2011: 'Prisoners and local NGOs reported that corruption was widespread across the justice system, particularly in relation to the prosecution of criminal cases and "buying" release from prison. There were also reports of money paid to reduce prison sentences, halt an investigation, or have charges dismissed outright.' [58c] (Section 4)

20.12 In the 'Freedom in the World, 2012' report, Freedom House stated that 'Corruption in the judiciary is extensive, and judges and lawyers are often subject to threats from local leaders or armed groups.' [38a]

20.13 The United Nations Office on Drugs and Crime [UNODC] reported the following in an undated item on its website:

'The Criminal Justice or Sub-Programme 3 of the Country Programme for Afghanistan 2012-2014 aims to re-establish the rule of law, building integrity, addressing impunity, and developing a professional judicial culture, which are all essential pre-requisites for peace and stability in Afghanistan. Anti-corruption, prison reform and criminal justice capacity development, as well as juvenile justice and anti-human trafficking measures, are the main priorities agreed with national and international stakeholders where UNODC can make its best contribution for the next three years.

'The sub-programme will promote and support criminal justice reform in order to align Afghanistan's laws to international standards. It focuses on anti-corruption efforts, which includes support towards compliance with the United Nations Convention against Corruption (UNCAC), and increased capacity for evidence-based policy and adjudication. UNODC will continue to support the High Office of Oversight and Anti-Corruption (HOOAC), the Attorney General's Office and the Supreme Court, as well as offer legal advice for required reforms, and practical assistance in the implementation of obligations under the Convention.' [85b]

See also section on Judiciary

KABUL BANK FRAUD

20.14 The US Department of State provided the following information in the Country Report on Human Rights Practices for 2011:

'New information emerged about the scale of malfeasance at Kabul Bank, which had been the country's largest private financial institution prior to its collapse in a huge bank fraud scandal that began unfolding in August 2010. Reportedly, nearly 50 billion afghanis ($1 billion) were misappropriated and a vast number of bribes amounting to several millions of dollars were paid to politicians and ministers. Nearly all of the illicit funds were received by politically well-connected shareholders of the bank. By year's end, only 10 percent or $66 million in bank assets had been recovered and no formal criminal charges had been brought against anyone who took money from the bank. Instead the government sought to place significant blame for Kabul Bank's collapse on foreign entities, regulators, and low-level functionaries and employees of Kabul Bank and the Central Bank, including persons from the Afghan Financial Intelligence Unit (FinTRACA). In June the central bank governor left his post and fled the country, citing death threats, as well as criticism and heavy political pressure from the AGO [Attorney General's Office], along with political interference in his efforts to recover funds.' [41b] (Section 4)

CORRUPT OFFICIALS

20.15 The US Department of State provided the following information in the Country Report on Human Rights Practices for 2011:

'There were reports that the AGO [Attorney General's Office] was unwilling or unable to pursue corrupt officials and that high-level officials who were arrested on corruption-related charges were released subsequent to pressure from President Karzai or his agents. In addition there was anecdotal evidence that accusations of corruption on the part of others were used by corrupt officials to damage their opponents' reputations or to deflect attention from their own misdeeds.

'On March 28, former minister of transportation (2006-2008) Enayatullah Qasimi was detained in Kabul and questioned on charges of misusing public funds involving Ariana Airlines, which allegedly cost the government more than 433 million afghanis ($9 million). He was released two days later. It was unclear whether this was a genuine attempt by the government to crack down on high-level corruption.

'In April Deputy Attorney General Rahmatulla Nazari spoke publicly about the challenges inherent in arresting high-ranking officials. After testifying in parliament, Nazari said that although at least 20 corruption cases on his docket involved senior government officials, it was impossible to arrest them because many were warlords with armed militias.

'Provincial police benefited financially from corruption at police checkpoints and from the narcotics industry. It was generally assumed that ANP officers pay higher-ups or officials in the MOI for their positions and to secure promotions. Corruption cases were rarely if ever pursued by the justice system, especially if they involved police. In Nimroz province, which borders Iran and Pakistan, the media reported that the governor of Delaram District was arrested and accused of drug trafficking. According to the Afghan Criminal Justice Task Force (CJTF), he and his two sons, both ANP officers, used police vehicles in the conduct of their illegal activities. No formal charges were filed by year's end.

'In addition to the impunity enjoyed by many officials, low salaries exacerbated government corruption. The international community worked with the national and provincial governance structures to address the problem of low salaries. Salaries for the police, investigators, and judges increased significantly in 2010; however, the pay for prosecutors remained very low. The process of grade reform for prosecutors had not occurred by year's end. In mid-December, however, the council of ministers approved a substantial increase in pay for prosecutors.

'Credible sources reported that local police in many parts of the country extorted a "tax" and inflicted violence at police checkpoints. Truck drivers along the Kabul-Kandahar-Herat highway told Afghan television that they had to pay bribes to both the ANP and bandits to allow their trucks to pass.

'Police also reportedly extorted bribes from civilians in exchange for release from prison or to avoid arrest. Lack of formal education and low literacy rates among the ANSF and the judiciary hampered the consistent delivery of justice.

'The government made efforts to combat corruption in the security apparatus. Before the September 2010 elections, the MOI [Ministry of the Interior] trained and deployed

provincial inspectors general (IGs) who remained on duty after the elections. Merit-based promotion boards continued, with at least three candidates competing for each job; the process of instituting pay reform and electronic funds transfer for police salaries also continued. The MOI continued to obtain training for its IG office…' [58c] (Section 4)

20.16 The same report continued:

'The government continued to make electronic direct deposits of police and military salaries and expanded a pilot project to pay police via mobile telephone in areas without banks, making pay a more transparent and accountable process and theoretically less subject to corruption. In April 10 soldiers at a base in Mazar-e-Sharif were found guilty of diverting the salaries of deserters into their own accounts, stealing a total of approximately one million afghanis ($22,000). The three ringleaders were sentenced to two to three years' imprisonment and fines equal to twice the amounts they stole. However, the culpable financial officer served only three months in jail and as of year's end, was confined to base at half salary.

'Observers alleged that governors with reported involvement in the drug trade or past records of human rights violations received executive appointments and served with relative impunity. Persons from Logar province demonstrated in Kabul in April, asking for the removal of the Logar governor for corruption and seizure of government land. The governor denied the allegations.' [58c] (Section 4)

20.17 In the 'Freedom in the World, 2012' report, Freedom House stated that 'The Afghan security forces continued to grow in 2011, but the army and especially the police have been plagued by…corruption...' [38a]

20.18 Reuters reported on corruption in an article dated 19 September 2012:

'President Hamid Karzai is considering sacking or moving the governors of a fifth of Afghanistan's 34 provinces as part of a shakeout of corrupt or underperforming officials aimed in part at soothing foreign donors. Karzai is likely to replace seven governors on Thursday whose performance he considers unsatisfactory, including those in the volatile Baghlan, Wardak and Nimroz provinces in the north and southwest, as well as Takhar in the north, several government sources told Reuters…

'Karzai in late July issued a decree ordering all ministries to cut down on nepotism and corruption, and told the Supreme Court to speed up existing probes into graft and suspect property dealings. The 23-page decree, while less radical than Western donors had hoped, suggested a growing realisation within government that corruption must be addressed and senior figures prosecuted, with $16 billion (9.8 billion pounds) of aid being made conditional on a crackdown. While the document was vague on time frames, Karzai's office said improvements could be expected by the end of September.

'Several cabinet ministers are also under a corruption cloud. They include the finance minister, Hazarat Omar Zakhilwal, who has been accused of stashing more than $1 million in overseas banks and properties. Zakhilwal has promised to fight the accusations, which were aired on Afghan television.' [28o]

20.19 However, the Reuters article continued, '…The head of the Afghan High Office of Oversight and Anti-Corruption, Azizullah Lodin, said he did not expect changes in top positions as a result of Karzai's decree. "To stop corruption in Afghanistan, that is not possible as it is in the United States and England and other countries," Lodin told Reuters in an interview ahead of the provincial shake-up expected on Thursday…

'Lodin said his office had handed 131 files to the Attorney-General's office in the last two years, but only a handful had been followed up and no senior figure had yet been jailed for corruption. "We did our job. These files were about very particular (instances of) corruption, high corruption, grand corruption, even some ministers," he said.' [28o]

20.20 The following is an extract from the 'About Corruption' web page of the Afghan High Office of Oversight and Anti-Corruption, and is undated, accessed 1 September 2012:

'Much of the corruption takes the form of petty corruption, with clerks demanding small bribes to stamp forms or police officers at checkpoints requiring truck drivers to pay to enter cities. But some is more audacious, such as municipal authorities selling government land for luxury housing projects or security officials colluding with the drug traffickers they are supposed to be catching. Moreover, lengthy and complicated procedures, unnecessary delays, getting unnecessary signatures in applications, papers or document and recording unnecessary letters are issues that remain in public service delivery. This process has become so difficult, intolerable, time consuming and expensive and it often causes people to give up. All these processes involve and facilitate petty corruption.

'Grant Corruption however, often involves big procurement/projects involving valuable and large bribes often by high ranking officials. In Afghanistan construction projects indicates one example of this type of corruption. Procurement is often deeply corrupted. Competitive bidding, once the norm in 90 percent of procurement contracts, is used in less than half. The other half are declared "emergencies" and are let without competition through an organization. In the words of one official, "Many of these people decide which firms will get the contract and then both manage the project and are responsible for auditing it." Even when procurement is competitive, abuses spread. Contract specifications are tailored to enhance the chances of favored suppliers. Cost overruns are approved in exchange for bribes. This kind of corruption has been largely reported in and by the international organizations projects. Unfortunately, all these processes are done outside the government's oversight and coordination and there has been no accountability.' [105a]

CORRUPTION AND FOREIGN AID

20.21 The following is an extract written by the chairwoman of Transparency International, an anti-corruption organization and published in the New York Times on 6 July 2012: 'The major donors and Afghan government officials meeting in Tokyo on Sunday to discuss future aid to Afghanistan have to face up to a bitter truth: As much as $1 billion of the $8 billion donated in the past eight years has been lost to corruption…

'There is a strategy - known as the National Priority Program on Transparency and Accountability - but it has not been fully endorsed by the government or international representatives. A large part of the critique is that it is not realistic or ambitious enough…There is now a joint Afghan-donor government body on anti-corruption. It combines a highly reputed group of Afghan and international experts, including a former French judge, Eva Joly, who work to monitor anti-corruption progress against clear goals and benchmarks.

'Still greater political will and stronger leadership are needed in order to take action against those accused of state looting. This includes members of the government and their families. One key step forward would be the adoption of an access to information

law, which has yet to pass. Greater levels of transparency and accountability are essential across the board.' [32c]

BRIBERY AND DAILY LIFE

20.22 Radio Free Europe/Radio Liberty reported on the impact of bribery on ordinary Afghans in an article dated 26 July 2012:

'Whether ensuring that they have a steady stream of electricity, acquiring identification, or dealing with judicial authorities, ordinary citizens have reluctantly come to accept bribery as an unavoidable cost of life.Integrity Watch Afghanistan, a local nongovernmental organization, estimates that Afghans, who have consistently identified corruption as among their biggest concerns next to insecurity and unemployment, pay bribes amounting to $1 billion a year, about 5 percent of the country's entire annual gross domestic product (GDP)…' [30m]

20.23 The same article recounted the experiences of an Afghan named Ajmal in his dealings with the Passport Office: 'He insists that if you want to get anything done in Afghanistan, it is going to require paying a bribe. He recalls paying dozens of bribes in the past year, including when he applied for new identification and a passport last month.

'According to the National Passport Office, which issues the country's passports and identification cards, the processing time for getting a passport is two working days and for an ID card it is one day after all relevant paperwork is submitted. But Ajmal says he and three of his friends endured obstructions and delays for a week when they followed official channels. Eventually, he says, he paid a middleman who promptly supplied the three with all of their official documents in just a day.

'While the official price for a one-year passport is 700 afghanis ($15) and 200 afghanis ($4) for an ID card, Ajmal says that his final tally including bribes paid came to more than 4,000 afghanis ($80). "Finally, someone informed us you have to pay a bribe. Three of us gave 500 afghanis each and they gave us our I.D. cards. We then went to the passport office, where hundreds of people were waiting in the queue," Ajmal says. "We tried everything we could for a week. We then gave 3,000 afghanis each and got our passports. People who don't give bribes are left there for weeks, while those who do pay get theirs in one or two days."' [30m]

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21. FREEDOM OF RELIGION

OVERVIEW

21.01 The Freedom House 'Freedom in the World 2012,' covering events in 2011, released in March 2012, stated:

'Religious freedom has improved since the fall of the Taliban government in late 2001, but is still hampered by violence and harassment aimed at religious minorities and reformist Muslims. The constitution establishes Islam as the official religion. Blasphemy and apostasy by Muslims are considered capital crimes. While faiths other than Islam are permitted, non-Muslim proselytizing is strongly discouraged. A 2007 court ruling found the minority Baha'i faith to be a form of blasphemy, jeopardizing the legal status

of that community. Hindus, Sikhs, and Shiite Muslims—particularly those from the Hazara ethnic group—have also faced official obstacles and discrimination by the Sunni Muslim majority. Militant groups have targeted mosques and clerics as part of the larger civil conflict, with two particularly brutal attacks against Shiites in Kabul and Mazar-i-Sharif in December 2011 that left 60 people dead and over 200 wounded.' [38a]

21.02 The United States Commission on International Religious Freedom (USCIRF) Annual Report 2012 (USCIRF report 2012), covering events between 1 April 2011 and 29 February 2012, released May 2012, observed: 'Compared with the brutal rule of the Taliban, which controlled most of Afghanistan from 1996 until 2001 and applied an extremist interpretation of Islamic law, conditions for religious freedom have markedly improved, especially for religious minorities. However, comparisons to the abusive actions of the Taliban provide an incomplete and misleading picture.' [40a] (p 283)

21.03 The same source observed that:

'Conditions for religious freedom are exceedingly poor for dissenting members of the majority faith and for minority religious communities. The Afghan constitution fails explicitly to protect the individual right to freedom of religion or belief and allows other fundamental rights to be superseded by ordinary legislation. It also contains a repugnancy clause stating that no law can be contrary to the tenets of Islam, which the government has interpreted to limit fundamental freedoms. Individuals who dissent from the prevailing orthodoxy regarding Islamic beliefs and practices are subject to legal action that violates international standards, for example prosecutions for religious —crimes such as apostasy and blasphemy. In addition, the Afghan government remains unable, as well as at times unwilling, to protect citizens against violence and intimidation by the Taliban and other illegal armed groups.

'Based on these concerns, USCIRF in 2012 again places Afghanistan on its Watch List. Afghanistan has been on the Commission's Watch List since 2006. In 2000 and 2001, USCIRF had recommended that the Taliban regime, then in control of most of Afghanistan's territory, be designated as a "particularly severe violator of religious freedom." The Secretary of State designated the Taliban as such in 1999 and 2000. 'Despite gains in human rights since U.S. and international forces ousted the Taliban regime in late 2001, conditions for religious freedom remain very poor. The 2004 Afghan constitution effectively has established a restrictive interpretation of Islamic law as the law of the land. Afghan jurists and government officials do not view the guarantees to human rights that come later in the document as taking precedence. Individuals lack protection to dissent from state-imposed orthodoxy, debate the role and content of religion in law and society, advocate for the human rights of women and members of religious minorities, or question interpretations of Islamic precepts.

'In recent years, the small and vulnerable Christian community experienced a spike in arrests, with Christians being detained and some jailed (and later released) for the "crime" of apostasy. While the minority Hazara Shi'a community has experienced greater freedoms to hold public religious festivals without incident, suicide bombers targeted religious events in late 2011. Gains for women's human rights remain tenuous and reversible. Violence and intimidation by the Taliban and other insurgents pose a serious threat to the human rights of all Afghans. Finally, the potential implications for human rights protections in the efforts at national reconciliation with the Taliban and other insurgents are of serious concern' [40a] (p 282)

21.04 The USCIRF report also explained the issue of security and the Taliban in relation to religion: 'The security situation remains serious, exacerbating the religious freedom and human rights problems in many parts of the country…

'In some areas of Afghanistan, the Taliban administer a virtual parallel state where they impose their interpretation of Islamic law and custom. Some Afghans reportedly prefer Taliban courts, which they view as less corrupt than government ones. However, the Taliban and other insurgents still perpetrate political killings, torture, coercion to enforce social and religious conformity, and abuses against women and girls… The substantial disregard of human rights for all presents a persistent danger to the establishment of democracy and the rule of law throughout Afghanistan, and constitutes a serious security threat…' [40a] (p 285)

21.05 The United States Department of State's International Religious Freedom Report for 2011, Afghanistan, covering the period 1 January to 31 December 2011, and published on July 2012 (USSD IRF report 2011), in its introductory section stated:

'The constitution and other laws and policies restrict religious freedom and, in practice, the government generally enforced legal restrictions and was deferential to prevailing societal opinion on religious tolerance or lack thereof. The government did not demonstrate a trend toward either improvement or deterioration in respect for and protection of the right to religious freedom. Although the constitution proclaims, "Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law," it also states Islam is the "religion of the state" and that "no law can be contrary to the beliefs and provisions of the sacred religion of Islam." The lack of government responsiveness to the needs of or protection for minority religious groups and individuals contributed to constraints on religious freedom. No individuals were in detention on religious grounds at the end of the year.

'There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Residual effects of years of civil strife, Taliban rule, and popular suspicion regarding outside influence and the motivations of foreigners led to negative societal opinion of international community efforts and donor projects. These were often incorrectly associated with Christianity and proselytism. Within the majority Muslim population, relations among the different sects continued to be difficult. Although the Shia minority continued to face some societal discrimination, its relationship with the Sunni majority showed slight improvement. Non-Muslim minority groups, particularly Christian, Hindu, and Sikh groups, continued to be targets of persecution and discrimination. Conversion from Islam was interpreted by Shia and Sunni Islamic clergy, as well as many citizens, to contravene the tenets of Islam. Conversion, considered an act of apostasy and a crime against Islam, could be punishable by death if the convert did not recant. Local Hindu and Sikh populations, although allowed to practice publicly, continued to encounter problems obtaining land for cremation. They also continued to face discrimination when seeking government jobs and harassment during major celebrations. Most local Baha'is and Christians did not publicly state their beliefs or gather openly to worship, out of fear of discrimination, persecution, detention, or death.' [58h] (Executive summary)

Religious demography

21.06 The USSD IRF report 2011stated:

'Reliable data on religious demography is not available because an official nationwide census has not been conducted in decades. Observers estimate that 80 percent of the population is Sunni Muslim, 19 percent Shia Muslim, and 1 percent other religious groups. According to self estimates by minority religious communities, there are approximately 2,000 Sikhs, more than 400 Baha'is, and approximately 100 Hindus. There is a small Christian community estimated between 500 and 8,000 persons. In addition, there are small numbers of adherents of other religious groups. There is one known Jewish citizen.

'Different religious groups are concentrated in specific regions. Sunni Pashtuns dominate the south and east. The homeland of the Shia Hazaras is in the Hazarajat, the mountainous central highland provinces around Bamyan province. Ismaili populations are normally clustered in the northeast. Other areas, including Kabul, are more heterogeneous and include Sunni, Shia, Sikh, Hindu, and Baha'i populations. The northern city of Mazar-e Sharif includes a mix of Sunnis (including ethnic Pashtuns, Turkmen, Uzbeks, and Tajiks) and Shia (Hazaras and Qizilbash), including Shia Ismailis. Nuristanis, a small but distinct ethno-linguistic group living in a mountainous eastern region, practiced an ancient polytheistic religion until they converted to Islam in the late 19th century. Some non-Muslim religious practices survive today as folk customs throughout remote areas.

'In the 20th century, small communities of Baha'is, Buddhists, Christians, Hindus, Jews, and Sikhs lived in the country, although most members of these communities emigrated during the civil war and Taliban rule. By 2001, non-Muslim populations had been virtually eliminated except for a small population of native Hindus and Sikhs. Since the fall of the Taliban, some members of religious minorities have returned, but others have since left Kabul due to economic hardship and discrimination. Estimates from Hindu and Sikh religious leaders indicate that their population shrank in the past year as compared to the year before.' [58h] (Religious demography)

Religious education

21.07 The United States Department of State's 'International Religious Freedom' report 2011 explained:

'The educational curriculum, which survived more than 30 years of war, places considerable emphasis on religion. The constitution states, "The state shall devise and implement a unified educational curriculum based on the provisions of the sacred religion of Islam, national culture, and in accordance with academic principles, and develop the curriculum of religious subjects on the basis of the Islamic sects existing in Afghanistan." The public school curriculum includes Islamic content, but no content from other religious groups. The national curriculum and textbooks that emphasize moderate Islamic terms and principles steadily replaced the preaching of jihad in schools. However, late in the year, media reports and independent analysts suggested that departments of education at the district level had made agreements with the Taliban to teach the pre-2001 curriculum in provincial schools in return for halting attacks against students and teachers, including attacks on girls' schools. The Ministry of Education denied those reports. There is no restriction on parental religious teaching, and non-Muslims are not required to study Islam in public schools.' [58h] (Section II. Legal/policy framework)

Politics and religion

21.08 The United States Department of State's 'International Religious Freedom' report 2011 explained: 'The government has not banned any political parties for religious reasons. The constitution allows for political parties provided that "the program and charter of the party are not contrary to the principles of the sacred religion of Islam."' [58h]

LEGISLATION AND REGULATION

21.09 USSD IRF report 2011stated:

'The constitution states that Islam is the "religion of the state" and that "no law can be contrary to the beliefs and provisions of the sacred religion of Islam." The constitution and other laws and policies restrict religious freedom and, in practice, the government enforced these restrictions. In 2004 the constitution accorded both Shia and Sunni Islam equal recognition. The constitution proclaims, "Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law."' [58h]

21.10 The same report noted:

'Full and effective enforcement of the 2004 constitution was a continued challenge due to its potentially contradictory commitments and the lack of a tradition of judicial review.

'The constitution includes a mandate to abide by the Universal Declaration of Human Rights and obliges the state to "create a prosperous and progressive society based on social justice, protection of human dignity, protection of human rights, realization of democracy, and to ensure national unity and equality among all ethnic groups and tribes." Followers of other religions are "free to exercise their faith and perform their religious rites within the limits of the provisions of the law."

'The constitution requires that the president and vice president be Muslim and does not distinguish in this respect between Shia and Sunni. This requirement was not explicitly applied to government ministers or members of Parliament, but each of their oaths includes swearing allegiance and obedience to the principles of Islam.

'The constitution also declares that Islam is the official "religion of the state," that "no law can be contrary to the beliefs and provisions of the sacred religion of Islam," and that "the provisions of adherence to the fundamentals of the sacred religion of Islam and the regime of the Islamic Republic cannot be amended." For situations on which the constitution and penal code are silent, including apostasy and blasphemy, courts relied on their Islamic law interpretations, some of which conflict with the country's international commitments to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights to which the country is a party.

'The constitution states that when there is no provision in the constitution or other laws that guide ruling on an issue, the courts' decisions shall accord with Hanafi jurisprudence in the way that would serve justice in the best possible manner. The constitution also grants that Shia law would be applied in cases dealing with personal matters where all parties are Shia. There was no separate law applying to non-Muslims.' [58h]

21.11 The USCIRF Annual Report 2012 added:

'The United States and the international community have placed great emphasis on the 2004 Afghan constitution, particularly its language guaranteeing women's human rights and incorporating international standards. Foremost, Article 7 declares — [t]he state shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights. Article 2 also provides that —followers of other religions [than Islam] are free to exercise their faith and perform their religious rites within the limits of the provisions of law. However, the constitution does not explicitly protect the right to freedom of religion or belief for every Afghan, and provides that fundamental rights can be superseded by ordinary legislation.

'These shortcomings are compounded by the interpretation and application of a vague repugnancy clause in Article 3 that states that —no law can be contrary to the beliefs and provisions of the sacred religion of Islam, as well as Article 130, which empowers the judicial system to enforce the repugnancy clause and to apply Hanafi Shari'ah (Islamic) jurisprudence where there is no other applicable law. In addition, Article 149 of the constitution prohibits any amendments that would be contrary to the —provisions of adherence to the fundamentals of the sacred religion of Islam.

'In practice, the constitution has been interpreted and applied as establishing a restrictive interpretation of Islamic law as the law of the land and prioritizing that interpretation over human rights guarantees, which has resulted in abuses. During a 2010 visit by USCIRF staff to Kabul, government ministers and government-backed religious leaders repeatedly explained that, in their view, Islamic law trumped the constitution's human rights provisions, as those references come later in the document and do not take precedence.' [40a] (p 283)

21.12 The USCIRF report further commented on the legal implications of a possible peace deal with insurgents:

'Given that the influence of the Taliban will likely increase as negotiations with insurgents move forward, this widely-held interpretation of the constitution becomes increasingly problematic. The United States and President Hamid Karzai have made respecting the constitution a nonnegotiable plank in the peace talks with anti-government elements. While positive on the surface, the constitution's undefined notions of Islamic law superseding human rights guarantees could seriously undermine religious freedom and women's human rights in the country. In other words, any potential peace deal could therefore be meaningless, if the protection of human rights for all could be overridden by interpretations of religious law.

'In the judicial branch, the constitution requires that the chief justice be an expert in Afghan law and Islamic jurisprudence. The Supreme Court also maintains a General Directorate of Fatwas and Accounts. Staffed by Islamic scholars and imams, the body advises the court on issues of state and religion and issues fatwas in response to questions received. The Ministry of Hajj and Islamic Affairs oversees imams paid by the government and is responsible for sending Afghans on the hajj (pilgrimage). The Ministry of Education has attempted to implement curriculum reforms for the country's madrassas, with limited success due to budget constraints. It also oversees how Islam is taught in public schools. The Afghan National Army has the equivalent of Muslim chaplains called Religious and Cultural Affairs officers. For all these reasons, it becomes important that the official interpretation and application of Islamic law be consistent with international religious freedom standards.' [40a] (p 284)

21.13 The USSD IRF report 2011 stated:

'The government continued to update the existing criminal and civil legal codes to bring them in line with the country's international treaty obligations. The 1976 penal code addresses "Crimes against Religions," although it does not address blasphemous remarks. The penal code also says persons who forcibly stop the conduct of religious rituals of any religion and persons who destroy or damage permitted places of worship where religious rituals are conducted or who destroy or damage any sign or symbol of any religion shall be subject to a medium-term prison sentence (defined in the criminal code as confinement in a jail for not less than one, nor more than five years) and/or a cash fine of between 12,000 and 60,000 Afghanis ($240 and $1,200). There is nothing in the penal code related to the spoken or written utterance of insults or profanity against God, religion, sacred symbols, or religious books.' [58h]

The same United States Department of State's International Religious Freedom Report also commented on citizenship issues: 'The government does not designate religion on national identity cards and does not require individuals to declare belief in Islam to receive citizenship; however, the state, including the courts, traditionally considered all citizens to be Muslim. Therefore, some basic citizenship rights of non-Muslims were not explicitly codified.' [58h]

See also Citizenship and nationality and Freedom of speech and media for further information.

Ulema Council

21.14 The United States Department of State's 'International Religious Freedom' report 2011 explained:

'The Ulema Council is a group of influential Sunni and Shia scholars, imams, and Muslim jurists from across the country. Its senior members meet regularly with the president and advise him on Islamic moral, ethical, and legal problems. The Council is nominally independent of the government, but its members receive financial support from the state. Through contacts with the presidential palace, the Parliament, and ministries, the council or its members advise on the formulation of new legislation or the implementation of existing law. Although it is well represented in provincial capitals, the council has much less outreach in villages and rural areas, where decisions are made based on tradition and local interpretations of Islamic law.

'The council urged individuals to avoid conduct that could be perceived as insulting local traditions and religious values on the grounds that "safeguarding our national honors and Islamic values is the obligation of every citizen."' [58h] (Section II. Legal/policy framework)

21.15 The USCIRF report 2012 noted:

'Afghanistan's system of government involves religious leaders in reviewing laws and recommending government action. Foremost is the Kabul-based Ulema Council, a group of influential and mainly Sunni scholars and imams, which advises President Karzai on legal and religious issues. The body is nominally independent, but members receive financial support from the government. In August 2010, the Ulema Council voted to demand that President Karzai implement Shari'ah law nationwide. Council representatives said that Shari'ah does not require corporal punishments, such as stoning, but rather mandates peace and women's rights. However, Shari'ah law punishments, such as stoning, were used by the Taliban during their rule. At the end of

the reporting period, the Council's recommendation had not been acted upon.' [40a] (p 284)

Shia Personal Status Law

21.16 The US Department of State International Religious Freedom Report 2011 stated:

'The first version of the Shia Personal Status Law (SPSL) was passed in April 2009. Some prominent Shias praised the law for officially recognizing Shia jurisprudence, and some groups hailed the law for officially recognizing the Shiite minority. However, it was controversial both domestically and internationally for its failure to protect women's rights, specifically to protect women from marital rape. Additional articles of particular concern in the law included polygamy, limits on inheritance rights, limits on the right of self-determination, restricted freedom of movement, guardianship rights, and forced sexual obligations to one's husband. After reviewing the law, the Ministry of Justice removed some of the controversial articles in the original version; President Karzai signed the amended version in July 2009, which became public law. Many observers within and outside the country continue to object to articles in the law that conflict with women's constitutionally protected rights and international human rights treaties and conventions to which Afghanistan is a signatory.' [58h] (Section II. Legal/policy framework)

See also subsection Shia/Shi'ites minority below, Women - legal and policy framework and Women - implementation of EVAW for discussion of laws affecting women.

Crimes against religions

21.17 The US Department of State International Religious Freedom Report 2011 stated:

'The government continued to update the existing criminal and civil legal codes to bring them in line with the country's international treaty obligations. The 1976 penal code addresses "Crimes against Religions" and states a person who attacks a follower of any religion shall be sentenced to a short-term prison sentence of not less than three months and a cash fine of between 3,000 and 12,000 Afghanis ($62 and $240), although it does not address blasphemous remarks. The penal code also says persons who forcibly stop the conduct of religious rituals of any religion and those who destroy or damage permitted places of worship where religious rituals are conducted or who destroy or damage any sign or symbol of any religion shall be subject to a medium-term prison sentence (defined in the criminal code as confinement in a jail for not less than one, nor more than five years) and/or a fine of between 12,000 and 60,000 Afghanis ($240 and $1,200).' [58h] (Section II. Legal/policy framework)

See also sub-sections on Conversion from Islam (apostasy) and Blasphemy.

Conversion from Islam (apostasy)

21.18 The United States Department of State's 'International Religious Freedom' report 2011, explained:

'Conversion from Islam is considered apostasy and is punishable by death under some interpretations of Islamic law in the country. The criminal code does not define apostasy as a crime, and the constitution forbids punishment for any crime not defined in the criminal code; however, the penal code states that egregious crimes, including apostasy, should be punished in line with Hanafi religious jurisprudence and handled by

the Attorney General's office. Converting from Islam to another religion is considered an egregious crime under Islamic law. Male citizens over age 18 or female citizens over age 16 of sound mind who convert from Islam have three days to recant their conversions or possibly face death by stoning, or deprivation of all property and possessions, and/or the invalidation of their marriage.' [58h] (Section II. Legal/policy framework)

21.19 This report further stated that:

'The right to change one's religion was not respected either in law or in practice. Muslims who converted from Islam risked losing their marriages, rejection from their families and villages, and loss of employment. Legal aid for imprisoned converts from Islam remained difficult due to most Afghan lawyers' personal objection to defending apostates. By the end of the year, according to the Attorney General's office, there were no reported cases of national or local authorities imposing criminal penalties on converts from Islam. All known previously detained converts had been freed by the end of the year.' [58h] (Section II.Government Practices)

The same report added that 'Public opinion continued to be openly hostile toward Afghan converts to Christianity.' [58h] (Section III. Status of societal respect for religious freedom)

See also sub-sections on Crimes against religion and Bahais.

Blasphemy

21.20 The United States Department of State's 'International Religious Freedom' report 2011 stated:

'Although there is no reference in the penal code to spoken or written utterance of insults or profanity against God, religion, sacred symbols, or religious books, blasphemy--which in the Afghan context can include anti-Islamic writings or speech, or the "defamation" of Islam--is a capital crime under some interpretations of Islamic law in the country. The civil law is silent on blasphemy and the courts therefore rely on Islamic law to address this issue, based on Article 3 of the constitution. An Islamic judge may impose a death sentence for blasphemy, if committed by a male over age 18 or a female over age 16 of sound mind. Similar to apostates, those accused of blasphemy are given three days to recant or face death.' [58h] (Section II. Legal/policy framework)

See also subsection on Crimes against religion.

Proselytising

21.21 The United States Department of State's 'International Religious Freedom' report 2011 stated:

'The constitution protects freedom of expression and of the press; however, the Mass Media Law of Afghanistan (media law), passed in 2006 and amended in 2009, includes articles detrimental to the freedoms of religion and expression. The media law prohibits publicizing and promoting religions other than Islam. Many authorities and most of society view proselytizing by adherents of other faiths to practicing Muslims as contrary to the beliefs of Islam…

'Article 45 of the media law prohibits production, reproduction, printing, and publishing of … publicizing and dissemination (promotion) of religions other than Islam…' [58h] (Section II. Legal/policy framework)

21.22 The same report added:

'The government enforced existing legal restrictions on religious freedom selectively and in a discriminatory manner. During the year, there were no incidents involving individuals attempting to proselytize, but some faith-based NGOs reported continued monitoring by government entities… There were unconfirmed reports of harassment of Christians thought to be involved in proselytizing. There were reports of international aid organizations being falsely accused of or affiliated with proselytizing. Some Christians avoided situations where they might be perceived as seeking to spread their religion to the larger community.' [58h] (Section II. Government practices)

For information about the treatment of Christians, see subsection on Christians below.

Interfaith marriages

21.23 The US State Department Country Report on Human Rights Practices for 2010, Afghanistan, published on 8 April 2011, noted that:

'The government's willingness to recognize the right to marry varied according to nationality, gender, and religion. The family court could register a marriage between a Jewish or Christian woman and a Muslim man, but the court required the couple to accept a Muslim ceremony. A non-Muslim woman had to convert to Islam before marrying a Muslim man. The court could not register a marriage between a Muslim woman and a non-Muslim man. These situations rarely occurred, however, as more than 99 percent of the population was Muslim. The courts registered marriages between non-Muslims, however.' [58b] (Section 1f)

RELIGIOUS GROUPS

Shia/Shi'ites minority

21.24 The US IRF 2011 report stated, 'Within the majority Muslim population, relations among the different sects continued to be difficult. Although the Shia minority continued to face some societal discrimination, its relationship with the Sunni majority showed slight improvement…' [58h] (Executive Summary) The same report added, 'The constitution requires that the president and vice president be Muslim and does not distinguish in this respect between Shia and Sunni. This requirement was not explicitly applied to government ministers or members of Parliament, but each of their oaths includes swearing allegiance and obedience to the principles of Islam…' (Section II. Legal/policy framework)

21.25 The same report noted:

'On December 6, worshipers observing the Shia religious holiday Ashura were the victims of simultaneous terrorist attacks in Kabul, Kandahar, and Mazar-e Sharif in which more than 50 people were killed. The Taliban denied responsibility, and media reports suggested it was an outside terrorist group that carried out the attack. Sunni and Shia religious leaders and government political leaders, including the president, unanimously denounced the attack as an attempt to create sectarian violence.' [58h] (Section II. Abuses by Rebel or Foreign Forces or Terrorist Organisations)

The US IRF 2011 report stated, 'There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Because ethnicity and religion are often inextricably linked, especially in the case of the Hazara ethnic group, which is predominantly Shia, it was difficult to categorize many incidents specifically as ethnic or religious intolerance.

'Relations between the different branches of Islam remained somewhat strained, despite improvement over the last few years. Historically, the minority Shia faced discrimination from the majority Sunni population. As Shia representation increased in government, overt discrimination by Sunnis against the Shia community decreased. However, Sunni resentment over growing Shia influence was expressed widely and often linked to claims of Iranian efforts to influence local culture and politics. Most Shia are members of the Hazara ethnic group, which was traditionally segregated from the rest of society for a combination of political, historical, ethnic, and religious factors, some of which resulted in conflicts. Although there were reported incidents of unofficial discrimination, and treatment varied by locality, Shia generally were free to participate fully in public life.' [58h] (Section III. Status of Societal Respect for Religious Freedom)

See also sub-section on Shia Personal Status Law

21.26 The United States Commission on International Religious Freedom Annual Report 2012 further described the position of Shi'a Muslims:

'Despite the situation of Afghanistan's Shi'a Muslim minority having improved markedly since the end of Taliban rule, its members still are threatened by insurgents and their future is uncertain once international forces withdraw. Most Shi'a Afghans are from the Hazara ethnic group and comprise between 10 to 19 percent of the population. Hazaras traditionally have been harshly discriminated against and segregated from the rest of society for a combination of political, ethnic, and religious reasons.

'During the reporting period, Shi'a Muslims generally were able to perform their traditional Ashura public processions and rituals in Kabul without incident or hindrance. USCIRF staff saw large, temporary commemorative gates set up throughout Kabul in December 2010, and Shi'a Muslims with flags flying from their cars or motorcycles were a common sight. However, in December 2011 a suicide bomber attacked the main Shi'a shrine in Kabul as worshipers were entering, killing at least 56 people. Shortly afterward, explosives attached to a bicycle killed four Shi'a pilgrims in the northern city of Mazar-e Sharif. The Afghan Taliban denied involvement, but the Pakistani based terrorist group, Lashkar-i-Jhangvi, claimed responsibility. Lashkar-i-Jhangvi militants have repeatedly targeted Shi'a Muslims and Shi'a religious gatherings in Pakistan.

'Hazara Shi'a Muslims participate fully in public life, including in parliament and in senior positions in the Karzai government. Fifty-nine of 249 parliamentary seats are held by Hazara Shi'a Muslims. In addition, four Ismaili Muslims, followers of a branch of Shi'a Islam, were also elected. The constitution provides that Shi'a Islamic law will be applied in cases in which both parties are Shi'a Muslims. The government's efforts in 2009 to further accommodate Shi'a practices with the adoption of a version of Shi'a family law proved controversial, however, due to provisions that many Afghan and international observers believed to be contrary to constitutional guarantees of equal rights for women, particularly in regard to women's rights in marriage.' [40a] (p 287)

Also see subsections Ethnic groups - Hazaras and Ethnic groups - inter-ethnic relations for further information about the treatment of this group of people.

Sufis

21.27 The BBC reported on Sufism on 23 February 2011:

> 'Sufism or Islamic mysticism was once suppressed by the Taliban, but the sect is recovering its place in the country and its millions of followers are once more emerging from the shadows… Sufism in Afghanistan is considered an integral part of Islam. People in general respect Sufis for their learning and believe they possess "karamat" - a miraculous spiritual power that enables Sufi masters to perform acts of generosity and bestow blessings…
>
> 'The Soviet invasion of Afghanistan in 1979 and the following armed resistance by the mujahideen resulted in the arrival of thousands of Middle Eastern fighters and the introduction of foreign ideologies including Wahabism. Wahabism insists on a literal interpretation of Islam and sees Sufism and its ideas as anathema. This created tension between Sufis and Ulamas (religious scholars) in some parts of the country.
>
> 'But it was during the Taliban's rule (1996-2001) when many Sufis were driven underground. A number were initially part of the Taliban movement but gradually people influenced by the Wahabi ideology became more prominent. Sufis were silenced.
>
> 'Some Sufis, especially members of the Chishtiyya Sufi Order which considers music to be an effective route to reach Allah, were prosecuted. "The Taliban invaded Sufi gatherings, humiliated and beat up many of them and their musical instruments were smashed," said Afghan Culture Minister Sayed Makhdoom Rahin, who has a Sufi background. "Sufis are free to hold their ceremonies once again with the same old exuberance denied to them by the Taliban.' [44e]

Non-Islamic groups

21.28 The United States Department of State's International Religious Freedom Report 2011 stated:

> 'In the 20th century, small communities of Baha'is, Buddhists, Christians, Hindus, Jews, and Sikhs lived in the country, although most members of these communities emigrated during the civil war and Taliban rule. By 2001, non-Muslim populations had been virtually eliminated except for a small population of native Hindus and Sikhs. Since the fall of the Taliban, some members of religious minorities have returned, but others have since left Kabul due to economic hardship and discrimination. Estimates from Hindu and Sikh religious leaders indicate that their population shrank in the past year as compared to the year before.
>
> 'There are three active gurdwaras (Sikh places of worship) in Kabul and 10 in other parts of the country; there were 64 gurdwaras throughout the country before the mujahideen era, when many were seized. There are five remaining Hindu mandirs (temples) in three cities: two in Kabul, one of which shares a wall with a mosque, one in Jalalabad, one in Helmand, and one in Kandahar. Eighteen others were previously destroyed or rendered unusable due to looting during the civil war.
>
> 'There are four synagogues, one in Kabul and three in Herat, which are no longer in use for lack of a Jewish community. There are no public Christian churches. Chapels and churches for the international community of various faiths are located on several military bases, Provincial Reconstruction Teams, and at the Italian embassy in Kabul. Buddhist foreigners are free to worship in Hindu temples. Afghan Christians worship alone or in

small congregations in private homes. Some Afghan citizens who converted to Christianity as refugees in third countries have returned.

'Followers of the Baha'i Faith have practiced in the country for approximately 150 years. The community is predominantly based in Kabul, where reportedly more than 300 Baha'i members live; another 100 live in other parts of the country.' [58h] (Section I. Religious demography)

21.29 The same report continued:

'The government does not designate religion on national identity cards and does not require individuals to declare belief in Islam in order to receive citizenship; however, the state, including the courts, traditionally considers all citizens to be Muslim. Therefore, some basic citizenship rights of non-Muslims are not explicitly codified. As a result, non-Muslims are not exempted from Islamic jurisprudence and can be tried, like any Muslim, under Hanafi law when the constitution does not provide guidance. In practice, courts do not always accord Muslims and non-Muslims the same rights. For example, non-Muslims can be married to each other as long as they do not publicly acknowledge their non-Muslim beliefs. In addition, judges stated that a Muslim man may marry a non-Muslim woman, but the woman must first convert if she is not "of the book," meaning neither Christian nor Jewish. Moreover, a Muslim woman is not allowed to marry a non-Muslim man.' [58h] (Section II. Legal/policy framework)

21.30 The US IRF 2011 report added, 'The licensing and registration of religious groups is not required, although the government registered mullahs (religious leaders)... There are no explicit restrictions on religious minority groups to establish places of worship or to train clergy to serve their communities; however, very few public places of worship exist for minorities due to a strapped government budget and small congregations.' [58h] (Section II. Legal/policy framework)

21.31 The same report stated

'There were no new reports of abuses of religious freedom or new religious prisoners and detainees at the end of the year. However, members of minority religious groups continued to suffer discrimination under the law and the government often did not protect minorities from societal harassment. Two Christian converts mentioned in the previous report were no longer detained.

'The government enforced existing legal restrictions on religious freedom selectively and in a discriminatory manner. During the year, there were no incidents involving individuals attempting to proselytize, but some faith-based NGOs reported continued monitoring by government entities.' [58h] (Section II. Government practices)

For more information about particular faith groups, see the subsections below.

Christians

21.32 The US IRF 2011 report stated, 'Most local Baha'is and Christians did not publicly state their beliefs or gather openly to worship, out of fear of discrimination, persecution, detention, or death.' [58h] (Executive Summary)

21.33 The same report noted that 'There is a small Christian community estimated between 500 and 8,000 persons…

'There are no public Christian churches. Chapels and churches for the international community of various faiths are located on several military bases, Provincial Reconstruction Teams, and at the Italian embassy in Kabul. Buddhist foreigners are free to worship in Hindu temples. Afghan Christians worship alone or in small congregations in private homes. Some Afghan citizens who converted to Christianity as refugees in third countries have returned.' [58h] (Section I. Religious demography)

21.34 The US IRF report 2011 stated that 'There are no Christian schools in the country.' [58h] (Section II. Legal/policy framework) The same report stated, 'There were unconfirmed reports of harassment of Christians thought to be involved in proselytizing. There were reports of international aid organizations being falsely accused of or affiliated with proselytizing. Some Christians avoided situations where they might be perceived as seeking to spread their religion to the larger community.' [58h] (Section II. Government practices)

21.35 The same report added:

'Non-Muslim minorities such as Sikhs, Hindus, and Christians continued to face social discrimination and harassment and in some cases violence. This treatment was not systematic, but the government took no action to improve conditions during the year. Public opinion continued to be openly hostile toward Afghan converts to Christianity and to proselytizing by Christian organizations and individuals, even in cases where groups were falsely accused of proselytizing. Practicing Muslims and charities operated by Afghan Muslims have been wrongly accused of proselytizing about Christianity or conversion to Christianity as a way for their enemies to win personal disputes or vendettas.

'Public protests occurred in several provinces in April, with the largest in Mazar-e Sharif after a Christian pastor burned a Qur'an in a third country in March. The protests turned violent and the crowd killed seven UN staff.

'One Christian-affiliated NGO that had lost its office space when neighbors requested that its landlord evict them in 2010 moved back to its old location during the year.' [58h] (Section III. Status of societal respect for religious freedom)

For information on the law, see subsections on Apostasy and Blasphemy.

Sikhs and Hindus

21.36 The US International Religious Freedom report for 2011 stated, 'Local Hindu and Sikh populations, although allowed to practice publicly, continued to encounter problems obtaining land for cremation. They also continued to face discrimination when seeking government jobs and harassment during major celebrations.' [58h] (Executive Summary) The same report added:

'By 2001, non-Muslim populations had been virtually eliminated except for a small population of native Hindus and Sikhs. Since the fall of the Taliban, some members of religious minorities have returned, but others have since left Kabul due to economic hardship and discrimination. Estimates from Hindu and Sikh religious leaders indicate that their population shrank in the past year as compared to the year before... There are three active gurdwaras (Sikh places of worship) in Kabul and 10 in other parts of the country; there were 64 gurdwaras throughout the country before the mujahideen era, when many were seized. There are five remaining Hindu mandirs (temples) in three cities: two in Kabul, one of which shares a wall with a mosque, one in Jalalabad, one in

Helmand, and one in Kandahar. Eighteen others were previously destroyed or rendered unusable due to looting during the civil war.' [58h] (Section I. Religious demography)#

21.37 The US IRF report for 2011 stated:

'There are schools for Sikh children in Ghazni and Helmand, and one in Kabul that teaches a few classes. The government provides limited funding for Sikh schools, including for teachers for the basic curriculum. For example, the government assigned one teacher to a Sikh gurdwara in Kabul to teach Dari and mathematics to Sikh and Hindu children. However, the Sikh community is responsible for hiring a teacher to address religious subjects. A few Sikh children attend private international schools… Hindus do not have separate schools, but sometimes their children attend Sikh schools. The government took limited steps to protect and integrate Hindu and Sikh children into the classroom environment.' [58h] (Section II. Legal/policy framework)

21.38 The USSD IRF report 2011 stated:

'As in previous years, Hindus and Sikhs complained of not being able to cremate the remains of their dead in accordance with their customs, due to interference by those who lived near the cremation sites. The government did not protect Hindus' and Sikhs' right to carry out cremations. However, a Sikh senator requested the intervention of the Ministry of Interior to provide protection and escort to Hindus and Sikhs in the event of cremations within their communities. Subsequent to the senator's intervention, they were able to cremate the remains. The community continued to petition the government for land on which to carry out cremations. Baha'is also could not attend to their dead in accordance with their customs, but lodged no formal complaints because they sought to avoid government attention. Although community representatives expressed concerns over land disputes, they often chose not to pursue restitution through the courts for fear of retaliation, particularly when powerful local leaders occupied their property. There were no known reports of targeted discrimination against Hindus or Sikhs by the government, as opposed to apostates and Baha'is. An Afghan Sikh man, who was deported from Britain in 2010, was in detention during the year on charges of falsely claiming Afghan citizenship.

'Although a Hindu serves as senior economic advisor to President Hamid Karzai and one member of Sikh community continues to serve as a member of the Upper House of Parliament, the Hindu and Sikh communities lobbied unsuccessfully to have one seat each designated for a Hindu and a Sikh representative in Parliament. They noted that 10 seats are reserved for the ethnic minority Kuchi community and that their communities should also have reserved representation.

'The government provided free electricity to mosques. The Hindu and Sikh communities did not receive free electricity for their mandirs and gurdwaras, and mandirs and gurdwaras were charged as business entities, paying a higher rate. As of the end of the year, the government had not addressed repeated requests from the two communities to receive the same treatment as mosques.

'Although Hindus and Sikhs had recourse to dispute resolution mechanisms such as the Special Land and Property Court, in practice the communities felt unprotected. A Sikh senator tried to obtain improved property rights for both Sikhs and Hindus and access to property lost during the mujahideen era, but there was no reported progress.' [58h] (Section II. Government practices)

For further information on Baha'is, please see the relevant sub-section.

21.39 The United States Commission on International Religious Freedom Annual Report 2012 stated:

'The situation of Afghanistan's small communities of Hindus and Sikhs has improved since the fall of the Taliban, but as with other minority groups, these communities face discrimination and violence. Hindus and Sikhs are allowed to practice their faith and have places of public worship. USCIRF staff visited a Hindu temple in Kabul, located on a major road and next to a mosque. However Hindu leaders have complained about difficulties in finding locations to erect funeral pyres, and Hindus and Sikhs effectively are barred from most government jobs and face societal hostility and harassment. According to the Afghanistan Independent Human Rights Commission, there have been several cases of illegal seizure and occupation of Hindu owned lands in Kabul and Khost province. In these cases, according to the Hindu America Foundation, Hindus have been unable to reclaim their lands and have received little assistance from the government.

'One Sikh is known to be jailed for more than 18 months. Baljit Singh was arrested on July 6, 2010, upon his return to Afghanistan after 18 years outside the country. Reportedly, he was on a flight carrying Afghan returnees and was arrested for falsely claiming Afghan citizenship. Observers state that he was detained after police noticed his distinctive Sikh turban.' [40a] (p 288)

21.40 The United States Department of State's 'International Religious Freedom' report 2011 stated:

'The Hindu population, which is less visibly distinguishable than the Sikh population (whose men wear a distinctive headdress), faced less harassment, although both groups reported being harassed by neighbors in their communities. The Sikh and Hindu communities, although allowed to practice their religion publicly, reportedly continued to face discrimination, including intimidation.

'Many in the Sikh and Hindu communities did not send their children to public school because of reported abuse, harassment, and bullying by other students. In previous years, Hindus and Sikhs sent their children to private Hindu and Sikh schools, but many of those schools closed since the community's deteriorating economic circumstances and shrinking population have made private schooling unaffordable for most families. [58h] (Section III. Status of social respect for religious freedom)

21.41 The Guardian newspaper reported on 3 July 2012 that a Sikh man, who had previously been deported from Britain to Afghanistan, had been returned to Britain: 'A Sikh man who was jailed in Kabul for "falsely claiming" to be an Afghan when he was deported from the UK, and says he was bullied and tricked into making a televised conversion to Islam, has been flown back to Birmingham by the British government.

'The case of 23 year-old Baljit Singh highlights concerns about the justice system and the status of religious minorities in Afghanistan as the withdrawal of western troops gathers pace.

'Singh was deported from the UK nearly two years ago and was spotted by Afghan government officials as soon as he stepped off the chartered aeroplane that carried the failed asylum seekers, marked out by his distinctive Sikh turban.

'He was taken aside for questioning and then was put in prison for 18 months during which he never received a charge sheet, let alone a conviction. Prosecutors told him informally that his crime was falsely claiming to be Afghan… 'But although illegal, his fate was not unusual in Afghanistan, activists say. The country is still struggling to build up its justice system and hundreds of people are jailed without a valid criminal charge…

'As well as the prospect of an indefinite spell in prison, in a country he had left when only five years old and where he no longer had friends or close relatives, Singh said he was being harassed for his religion and pressured to convert.

'He was verbally and physically abused in prison. One inmate threw boiling water over him, Singh said, pulling out a picture of his bandaged face shortly after the assault. He was also ordered to sleep in a corner of an outdoor courtyard, next to the toilet, he said. Men had to step over him on their way to relieve themselves, and as they did so, some kicked the turban that marked him out as a Sikh.

'"Basically they were trying to say 'be like us'," he said of the beatings prior to his conversion, which he described as a superficial change he was tricked and harassed into. "They said 'you should say these words', it was just an accident thing, and they lifted me up and said 'you are a Muslim'." TV cameras were called in to record the moment and despite promises his face would be obscured, it was broadcast along with his name. "They played it on national television. They were very proud that a Sikh converted."

'Singh said the conversion angered the country's already beleaguered Sikh community, which has dwindled from thousands of families to just a few hundred over 30 years of war and persecution.' [59a]

Baha'is

21.42 The US IRF Report 2011 stated, 'Followers of the Baha'i Faith have practiced in the country for approximately 150 years. The community is predominantly based in Kabul, where reportedly more than 300 Baha'i members live; another 100 live in other parts of the country.' [58h] (Section I. Religious demography) The same report stated:

'The General Directorate of Fatwas and Accounts under the Supreme Court ruled in May 2007 that the Baha'i Faith was distinct from Islam and a form of blasphemy. It held that all Muslims who converted to the Baha'i Faith were apostates and all Baha'is were infidels. Baha'is who accepted the Muslim declaration of faith, however, were not expected to be subject to the ruling. The ruling created uncertainties for the country's small Baha'i population, particularly on the question of marriages between Baha'i women and Muslim men. Citizens who converted from Islam to the Baha'i Faith faced risk of persecution, similar to that of Christian converts, in theory up to and including the death penalty. Also unclear is how the government would treat second-generation Baha'is born into Baha'i families. Although technically not converts, second-generation Baha'is could still be viewed by some as having committed blasphemy. The ruling is not expected to affect foreign national Baha'is.' [58h] (Section II. Legal/policy framework)

21.43 The report further noted, 'Baha'is also could not attend to their dead in accordance with their customs, but lodged no formal complaints because they sought to avoid government attention… There have been no cases cited under the 2007 Supreme Court ruling declaring the Baha'i Faith distinct from Islam and a form of blasphemy.' [58h] (Section II. Government practices)

21.44 The US IRF Report stated:

> The United States Commission on International Religious Freedom's Annual Report for 2012 stated that 'Members of Afghanistan's small Baha'i community lead an essentially covert existence, particularly since May 2007 when the General Directorate of Fatwa and Accounts ruled that their faith is a form of blasphemy and that all Muslims who convert to the Baha'i faith are apostates. There were no reports, however, of anti-Baha'i incidents or court cases during the past year.' [40a] (p 289)

See also sub-sections Blasphemy and Conversion from Islam (apostasy).

Judaism

21.45 The United States Department of State's 'International Religious Freedom' report, covering the period July to December 2010 and published in September 2011, stated, 'There are four synagogues, one in Kabul and three in Herat, which are no longer in use for lack of a Jewish community.' [58h (Section I. Religious demography)

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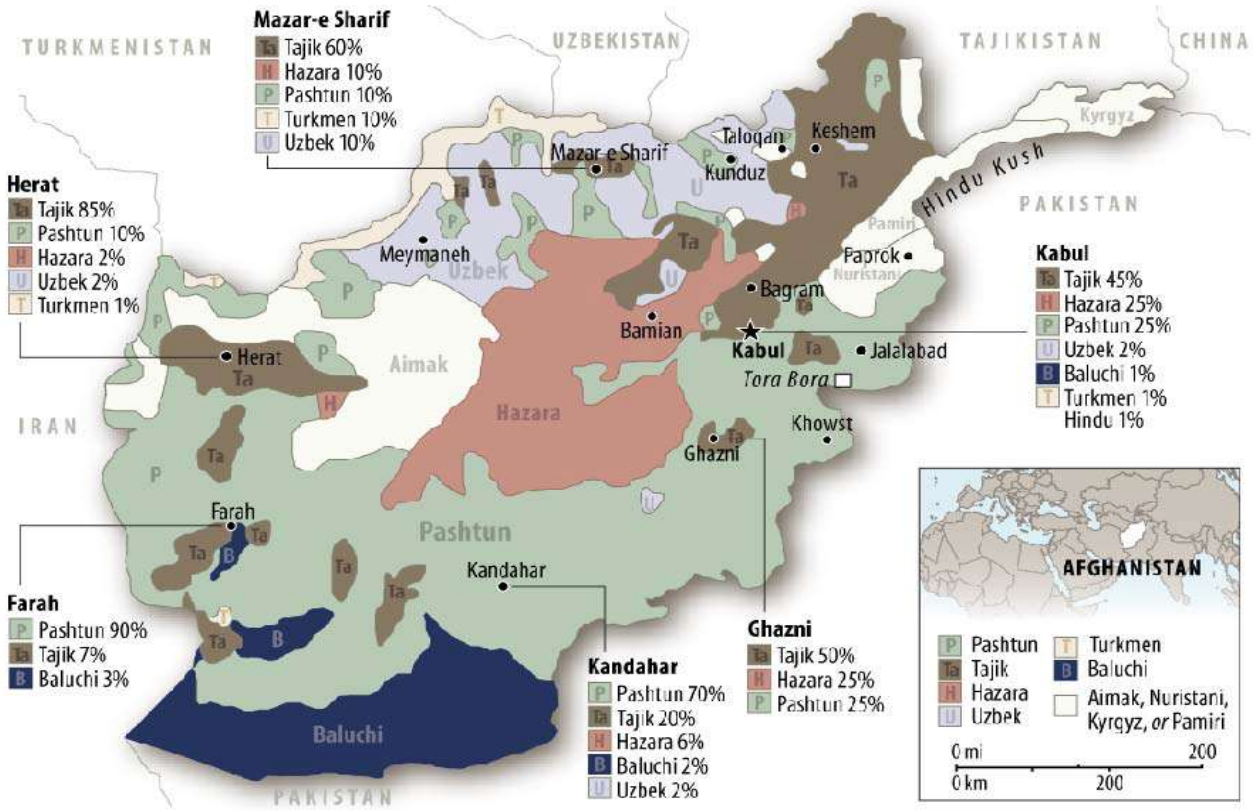
22. ETHNIC GROUPS

ETHNIC DEMOGRAPHY

22.01 The Congressional Research Service (CRS) report, 'Afghanistan: Post-Taliban Governance, Security, and U.S. Policy,' dated 3 May 2012, provided a map which provides useful guidance to where the different ethnic groups are located.



[10b] (p90)

Further maps of ethnic demography, to be considered as guides only, are available on the US Naval Postgraduate School website: http://www.nps.edu/Programs/CCS/Tribal_maps.html

22.02 The United States Central Intelligence Agency World Factbook, updated 20 June 2012, provided the following estimated breakdown of ethnic groups in Afghanistan: 'Pashtun 42%, Tajik 27%, Hazara 9%, Uzbek 9%, Aimak 4%, Turkmen 3%, Baloch 2%, other 4%.' [1a]

22.03 Minority Rights Group International provided a description of the ethnic groups of Afghanistan in its Overview of the country, updated July 2012:

'Afghanistan is still largely a tribal society, divided into many tribes, clans and smaller groups. Considerable variation in the types of terrain and obstacles imposed by high ranking mountains and deserts, account for the country's marked ethnic and cultural differences.

'The country's population reflects its location with the presence of several "national" minorities. The main ethnic groups are dispersed throughout the country as follows: Pashtuns, the majority group, are concentrated mainly in the south and south-east but also live all over [the] state; Tajiks inhabit mainly the north and north-east and Kabul region; Hazaras in the centre (Hazarajat) and in Kabul; Uzbeks in the north, Aimaq in the west; Turkmens in the north; Baluchis in the west and north-west and the Nuristani the east...Considerable intermarriage, particularly between the Pashtuns and other groups has blurred ethnic distinctions among communities. There has also been mixing between Tajiks and later Mongolian and Turkmen migrants, and some between Hazaras and Uzbeks.' [60b]

Useful background information on Afghanistan's ethnic groups dating to 1996 is provided in the Afghanistan profile produced by the Federal Research Division of the Library of Congress as part of the Country Studies/Area Handbook Series sponsored by the U.S. Department of the Army between 1986 and 1998: http://countrystudies.us/afghanistan/38.htm

LEGAL AND POLITICAL RIGHTS

22.04 Minority Rights Group International described the legal position in its Overview of Afghanistan, updated in July 2012:

'The new Constitution of Afghanistan (2004) mention Pashtun, Tajik, Hazara, Uzbek, Turkmen, Baluch, Pahsai, Nuristani, Aimaq, Arab, Kyrghiz, Qizilbash, Gujur, Brahui and others as the ethnic groups who have the right to Afghan citizenship. The languages of the named ethnic groups are also recognized in the new constitution.

'Further according to the Article 7 of the Constitution, the state shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed and the Universal declaration of Human Rights. Afghanistan has ratified the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), accordingly it can be held accountable for any racial or ethnic or gender-based discrimination.

'Although the Constitution grants rights to minority groups, Afghanistan nonetheless remains one of the poorest countries in the world, with a devastated economy after 23 years of conflict, mass unemployment, widespread lack of purchasing power and lack of infrastructure and institutions. In the years ahead, this will perhaps be the most significant factor in the country's re-birth, and how it is managed will have a significant impact on future inter-ethnic relations within the state. Ethnic groups such as the Hazara and the Tajiks fear the rising power of the warlords and pro-Taliban forces outside of Kabul. Some women insist on wearing the Burqua fearing reprisal from fundamentalist forces. Nuristanis remain on the edge of economic instability, facing poverty and violence in the region.' [60b]

22.05 The United States Department of State's Country Report on Human Rights Practices for 2011 commented on political rights among ethnic groups in Afghanistan: 'The Pashtun ethnic group had more seats than any other ethnic group in both houses but did not have more than 50 percent of the seats. The Pashtuns lost seats in the September 2010 lower house elections. There was no evidence that there were societal groups that were specifically excluded...

'There were no laws preventing minorities from participating in political life; however, different ethnic groups complained that they did not have equal access to local government jobs in provinces where they were in the minority…

'The constitution provides for seats for women and minorities in both houses of parliament. The constitution provides for at least 68 female delegates in the lower house of the national assembly, while 10 seats are provided for the Kuchi ethnic minority. According to the constitution, the president should appoint one-third of the members, including two members with physical disabilities and two Kuchis. Fifty percent of the president's appointees to the upper house must be women.' [58c] (Section 3)

See also section on Political affiliation

INTER-ETHNIC RELATIONS

22.06 The Joshua Project, '… a research initiative seeking to highlight the ethnic people groups of the world with the fewest followers of Christ… which obtains information from … international researchers and church-planters, local churches and individuals, denominations and mission agencies', stated the following in its Overview of Afghanistan, updated in July 2012:

'In terms of the relations between the different ethnic groups within the state, it can be stated that the Pashtuns have largely dominated Afghan politics though other ethnic groups, notably the Tajiks, have, at various stages of history also maintained a strong political influence. Many attribute the worsening of ethnic relations and the emerging tensions between the groups to the Afghan-Soviet war which is said to have changed society significantly...

'According to reports, there is continuing social discrimination against minorities in the new Afghanistan. This includes restrictions on religious freedoms and the harassment of missionaries in Afghanistan. Social discrimination against the Hazara Shi'as, who have been discriminated against over a long period has continued. Additionally since the previous penal code remains in force, blasphemy and apostasy are still theoretically punishable by death, creating a further barrier to non-Muslim minorities.' [62b]

22.07 The United States Department of State's Country Report on Human Rights Practices for 2011, Afghanistan, 24 May 2012, stated:

'Ethnic tensions between Pashtun and non-Pashtun groups resulted in conflict and occasional killings. The NGO Minority Rights Group's Peoples under Threat index identified Afghanistan as a country where communities were most at risk of mass killing, especially because of targeting of persons based on ethnicity and religion.

'Societal discrimination against Shia Hazaras continued along class, race, and religious lines in the form of extortion of money through illegal taxation, forced recruitment and forced labor, physical abuse, and detention. Ethnic Hazaras reported occasionally being asked to pay bribes at border crossings where Pashtuns were allowed to pass freely; in Ghazni province in April, nomads reportedly attacked and burned 27 Hazara villages.

'Sikhs and Hindus reportedly continued to face discrimination, including unequal access to government jobs and harassment in their schools, as well as verbal and physical abuse in public places. The UNHCR reported that Hindus, Sikhs, and Shia Muslims--particularly those from the Hazara ethnic group--faced official obstacles and discrimination by the Sunni Muslim majority.

'Ismailis (a minority Shia Muslim group whose members follow the Aga Khan) generally were not targeted or seriously discriminated against, according to NGOs' [58c]

22.08 The United Nations High Commissioner for Refugees (UNHCR) commented as follows in the 'Eligibility Guidelines for assessing the international protection needs of asylum-seekers from Afghanistan,' dated 17 December 2010:

'It is widely documented that ethnic-based tension and violence have arisen at various points in the history of Afghanistan. Since the fall of the Taliban regime in late 2001, however, ethnically-motivated tension and violence have diminished markedly in comparison to earlier periods. Notwithstanding the foregoing and despite constitutional guarantees of "equality among all ethnic groups and tribes", certain concerns remain. These include, inter alia, ethnic discrimination and clashes, particularly in relation to land use/ownership rights.

'Afghanistan is a complex mix of ethnic groups with inter-relationships not easily characterized. For different historical, social, economic and security-related reasons, some members of ethnic groups now reside outside areas where they traditionally represented a majority. This has resulted in acomplex ethnic mosaic in some parts of the country, notably the northern and central regions, and in the major cities in the west, north and centre of Afghanistan. Consequently, an ethnic group cannot be classified as a minority by simply referring to national statistics. A person who belongs to a nationally dominant ethnic group – such as Pashtuns and Tajiks – may still face certain challenges relating, at least in part, to his or her ethnic association, in areas where other ethnic groups predominate. Conversely, a member of an ethnic group constituting a minority at the national level is not likely to be at risk in areas where the ethnic group represents the local majority. The issue of ethnicity may feature more prominently where tensions over access to natural resources (such as grazing land and water) and political/tribal disputes occur, or during periods of armed conflict.

'Land disputes, particularly where ethnic differences arise or claims involve the illegal occupation of land by persons in positions of authority, are sometimes resolved by

resorting to violence or threats. This may be the case where land occupiers are local commanders with strong links to the local or central administration. Where restitution is pursued and in the absence of political, tribal or family protection, the rightful owners may be at risk of ill-treatment, arrest and detention by local militia leaders or security officials. Generally, persons residing in areas where they are an ethnic minority are at heightened risk when attempting to reclaim land and property.' [53a] (p 29)

22.09 The UNHCR eligibility guidelines continued: 'Ethnic-based discrimination in the context of access to services, education and employment is also reported in Afghanistan, and, in extreme cases, could be tantamount to persecution. Such discrimination can be directed against any ethnic group depending on the context of the case.' [53a] (p 29)

22.10 The same source also observed:

'Historically, certain scenarios have also given rise to, or exacerbated, ethnic-based tensions in Afghanistan. These include disputes between ethnic groups or tribes which relate to land, water and grazing rights. In May 2010, for example, ethnic clashes over grazing rights broke out between the Hazaras and the Kuchis, mainly ethnic Pashtun nomads, in Wardak Province resulting in four fatalities, destruction of houses and displacement. In August 2010, a land dispute between Hazaras and Kuchis in Kabul resulted in the displacement of over 250 Kuchi families. Furthermore, the various divisions within an ethnic group may, in some instances, lead to intra-ethnic tension or conflict.

'Although available evidence suggests that some members of (minority) ethnic groups, including Hazaras, may engage in irregular migration for social, economic and historical reasons, this does not exclude that others are forced to move for protection-related reasons.' [53a] (p 32)

PASHTUNS

22.11 The Joshua Project, updated July 2012, described the Pashtun ethnic group in an undated profile: 'Comprising less than half of Afghanistan's population, they currently number beyond 10.5 million there... Pashto is their traditional language, although possibly giving way to Dari (Eastern Farsi), the country's trade language.

'Traditional Pashtun territory lies in the southern and eastern mountains where extended families dwell in tents or mud houses, amid typically unsanitary conditions due to lack of safe water sources. Such circumstances, coupled with lack of health care, contribute to limited life expectancy - about 46 years. Nomads may live in valleys during winter and move to mountain pastures during summer months - a harsh lifestyle either way on war-torn, landmine-pocked landscapes. In one of the world's poorest countries, many depend on raising livestock, limited farming and cultivating the notorious opium poppy for income. Others relocated to Kabul (the capital city) after the 2001 Allied invasion hoping for industry to develop and to supply jobs. Though some urban Pashtun are educated, most adults are illiterate, particularly women…

'Pashtun culture adheres to a rigid, unwritten "code of ethics" - the Pushtunwali (the way of the Pashtun). Behavior expected without question includes hospitality and protection for guests, provision of refuge to a fugitive and acceptance of a sincere offer of peace, bravery, steadfastness, persistence, defense of property and family honor and protection of female relatives - values for which death is not too high a price to pay… Women must observe Purdah (meaning curtain) which requires wearing a full-length

garment known as the burka that features a mesh opening over the eyes for navigation… Living a limited life, women neither inherit property, appear publicly without a male escort nor expect advanced education. Her identity is linked to a male member of her family, that is, as the wife of (her husband) or the mother of (her eldest son)… Presently the Pashtun people are nearly all Muslim.' [62f]

22.12 The United Nations High Commissioner for Refugees' 'Eligibility guidelines for assessing the international protection needs of asylum-seekers from Afghanistan,' dated 17 December 2010, stated that:

'… the Pashtuns… have been uprooted in large numbers by ethnic violence in the north and the west of the country following the collapse of the Taliban regime. Pashtuns throughout northern Afghanistan, where they constitute an ethnic minority, have since been subject to discrimination, arbitrary arrests, violence and reprisal killings by non-Pashtun militias and groups because of their (perceived) association with the former Taliban regime, whose leadership consisted mostly of Pashtuns from southern Afghanistan. Political power in the north reportedly still rests with local powerbrokers associated with the (Tajik-dominated) Northern Alliance, who are reluctant to allow the sustainable reintegration of Pashtun returnees or provide for their protection. As such, formerly displaced Pashtuns may be unable to recover their land and property upon return to their area of origin.' [53a] (p 29)

TAJIKS

22.13 The Joshua Project, updated July 2012, provided the following information about Tajiks in its profile of the Tajiks of Afghanistan: 'Afghanistan boasts the largest Tajik population outside their homeland to the north in Tajikistan. Comprising over one-quarter of the Afghan population, they are the second largest group in the country.

'Tajik society is male dominated, but women have known less public restriction in the workplace and society (except under Taliban rule) than women in other Muslim groups…The Tajiks are almost entirely Muslim. Most of them are Sunni Muslims of the Hanafi Sect, but there are a few Ismaili Shia Muslims living in the remote mountain areas.' [62a]

HAZARAS

Officials are recommended to read this subsection in conjunction with Freedom of religion for further information about the religious dimension to Haraza ethnicity and treatment.

22.14 The Joshua Project described the Hazara people as follows:

'The Hazara are a people of distinctions - set apart from fellow Afghans by religion, mixed ethnicity and an independent nature - and they have suffered for them. Persecution has shaped and defined the Hazara, particularly over the last 200 years. They face discrimination as Shi'ite Muslims, a minority among Afghanistan's dominant Sunni Muslims, as well as for ethnic bias.

'Pre-second century inhabitants, they are likely Afghanistan's oldest. Their traditional homeland lies in central Afghanistan amid rugged mountains - a wildly beautiful, nearly inaccessible region of craggy peaks and rushing rivers called the Hazarajat. Hazara origins are much debated… Their unwritten dialect, Hazaragi, contains regional languages - Arabic, Urdu, Mongol, Turkish and Dari/Farsi, which is now Afghanistan's

primary language. Prior to the 19th century, Haraza were 67% of the total population, the largest Afghan ethnic group. More than half were massacred in 1893 when their autonomy was lost as a result of political action. Later fundamentalist governments, including the Taliban, attempted to dismiss them historically, politically and culturally by labeling them a mere religious entity and continued to attack them until they were driven from power. Now, estimates number the Afghan Hazara at around 2.6 million, about one-fifth of the country's population…

'During the 1978-2001 war years numerous Hazara fled with other Afghans to Pakistan or Iran. While many returning refugees settled in Kabul to work as laborers, market vendors or in service positions, a majority returned to their mountain homelands. Comprised of a half-dozen tribes, the Hazara identify by village location more than by family ties. Marriage is arranged for a price - usually for the groom's economic advantage - and the bride joins her husband's family. Semi-nomadic life is simple and harsh in this arid region which is dependant on October to April snows to water meager grain crops and herds. Sustained drought is not uncommon. Housing varies by location and season. In valleys, shelters are sun-dried bricks plastered with a mud/straw mixture; at higher elevations, homes are stone with timber roofs; in summer tents are used as flocks move to high meadow pastures.

'Food is barely adequate… Health issues are serious, aggravated by geographical isolation, unsanitary conditions and little access to medical care, which is only available at far distances by foot or donkey. Tuberculosis, leprosy, dysentery and eye disease caused by dust storms and smoky living quarters often go untreated…' [62e]

22.15 The Joshua Project also described Hazara women: 'Independent and industrious given opportunity, many pre-Taliban Hazara women were highly educated and entered teaching or medical professions as well as serving in political roles. And, unlike other Afghan women, they fought beside Hazara men in battle…' [62e]

22.16 The Joshua Project continued, 'The Hazara are Muslims (mostly Imami Shi'ite, otherwise known as "Twelvers", who hold a particular reverence for the son-in-law of the prophet Mohammed). A number of Hazara who have strong ties with the Tajik people are Ismaili Shi'ites (also known as "Seveners"). Strong feelings prevail between the two sects, each one often denying they have any ethnic affinity with the other at all… The Hazara are in urgent need of basic health care and clean water. Illiteracy is high. Adequate educational opportunities need to be provided for both boys and girls… Access to the Hazara's homelands is difficult in summer and virtually impossible in the winter.' [62e]

22.17 The National Geographic magazine described the Hazara ethnic group in an undated article entitled 'Hazaras: Afghanistan's Outsiders', accessed on 1 October 2012:

'Accounting for up to one-fifth of Afghanistan's population, Hazaras have long been branded outsiders. They are largely Shiite Muslims in an overwhelmingly Sunni Muslim country. They have a reputation for industriousness yet work the least desirable jobs. Their Asian features—narrow eyes, flat noses, broad cheeks—have set them apart in a de facto lower caste, reminded so often of their inferiority that some accept it as truth…

'Six years after the Taliban fell, scars remain in the highlands of the Hazara homeland, but there is a sense of possibility unthinkable a decade ago. Today the region is one of the safest in Afghanistan, mostly free of the poppy fields that dominate other regions. A new political order reigns in Kabul, seat of President Hamid Karzai's central

government. Hazaras have new access to universities, civil service jobs, and other avenues of advancement long denied them. One of the country's vice presidents is Hazara, as is parliament's leading vote getter, and a Hazara woman is the first and only female governor in the country… throughout Hazarajat, education is a priority. Even if the school is a tent or a building with no doors or windows, even if the teacher has only a few years of schooling, parents want their kids to study, far more so than elsewhere in the country… Scores of schools have been built in Hazarajat in recent years, mainly by aid agencies and the Bamian-based Provincial Reconstruction Team operated by New Zealand. In Daykundi's provincial capital, a group of teenagers said young people are refusing to marry until they finish school. Hazara high schoolers make up more than a third of those who take the university entrance exam, and the number—including the number of girls—is rising. Hazarajat is a deeply conservative place, but it is far from fundamentalist. Women here "go to school, they have their own pursuits, and they have their freedom," says Ryhana Azad, a female district council member in Daykundi.'[61a]

22.18 The same article refers to Hazaras in Kabul, 'where some 40 percent of the population is now Hazara. On neighborhood streets in the western part of the city, you see Hazara children in uniform going to school, Hazara vegetable vendors setting up their carts, and Hazara shop owners and tailors opening stores. Hossein Yasa, the editor of the Daily Outlook newspaper, notes that there are Hazara-owned television stations, Hazara-owned newspapers, and a huge Shiite madrassa and mosque complex under construction. "The middle class of Hazaras is growing very fast," Yasa says.

'Watching from the sidelines, however, is a huge Hazara underclass made up of manual laborers living in west Kabul neighborhoods—Dasht-e Barchi, Kart-e She, and Chindawul—that have neither electricity nor clean water. "You are talking about ghettos," says Niamatullah Ibrahimi, a fellow with the London School of Economics.' [61a]

22.19 The United Nations High Commissioner for Refugee's 'Eligibility guidelines for assessing the international protection needs of asylum-seekers from Afghanistan,' dated 17 December 2010, described the position of Hazaras:

'Marginalized during the Taliban rule, the Hazara community continues to face some degree of discrimination, despite significant efforts by the Government to address historical ethnic tensions. Notwithstanding the comparatively stable security situations in provinces and districts where the Hazara constitute a majority or a substantial minority, such as Jaghatu, Jaghori and Malistan districts in Ghazni province, the security situation in the remainder of the province, including on access routes to and from these districts, has been worsening. Although not able to launch widespread operations in Jaghori, there are some reports of Taliban attacks in the district. Jaghori district is increasingly isolated given that some access routes to and from the district, including large stretches of the strategic Kabul-Kandahar road, are reportedly under Taliban control. There are regular reports of ambushes, robberies, kidnappings and killings by the Taliban and criminal groups along these roads. The Taliban have also intimidated, threatened and killed individuals, including Hazaras, suspected of working for, or being supportive of, the Government and the international military forces. It has also been reported that in the Kajran District of Daykundi province, armed anti-Government groups engage in propaganda against Hazaras and Shia Muslims allegedly on the ground of religious differences.' [53a] (p 29)

UZBEKS

22.20 The Joshua Project provided the following information about the Uzbek ethnic group:

'Speaking Uzbeki, their own Turkish dialect, Uzbeks identify themselves as Hanafi Sunni Muslims, although this is largely a cultural identity now rather than a religious one. As Afghanistan's fourth largest ethnic group (2.5 million) and nearly one-tenth of her total population, Southern Uzbeks still reside primarily in mountainous northern regions, particularly the Fariab Province. They live simply in small villages, often with Tajik neighbors but are averse to the Pushtan who moved into their homelands in numbers sufficient to render them a minority by the 1960s in territory they once controlled.

'These high plains farmers grow grain and vegetable crops but struggle to survive. Affected by recent droughts, but spared large-scale destruction by war with Russia and the Taliban, their lives were less affected than some other groups. Area herdsmen breed the desirable karakul sheep and Turkman horse. Medical care is not readily available and economic opportunity is spare.' [62c]

AIMAK

22.21 The Joshua Project described the history of the Aimaq people in its undated profile of this ethnic group, accessed on 1 September 2012: 'The traditional home of the ethnically mixed Aimaq tribes stretched from northeastern Iran into western and central Afghanistan, where they still reside. A small group also lives in Tajikistan and others are refugees in Iran...

'Once nomadic peoples, they were forced by cycles of severe drought and war into semi-nomadic lives, traveling seasonally to graze decimated herds and/or subsisting as sedentary farmers and carpet weavers in mud-brick villages.

'Aimaq live principally in Badghis, Ghor and Herat Provinces where agriculture and animal husbandry provide an economic base. Nearby, the Aimaq "capital", Chaghcharan, and the ancient city of Herat lend economic, political and spiritual influence. As with the great majority of Afghans, Hanafi Sunni Islam is the belief system among the Aimaq tribes...

'Some characteristics likely apply to most Aimaq. Once there was a generally used, common Aimaq language but now, few seem to speak it anymore. Dialects spoken today resemble Dari (Afghan eastern Farsi) admixed with words of Mongolian and Turkic origin. Researchers are attempting to determine if the Aimaq may be speaking Dari that is influenced by individual manners of speaking within their villages. Dari is spoken in schools.

'Based on clan and extended family, the Aimaq are led by men and trace ancestors through male lines. Even so, Aimaq women exercise unusual privileges compared to other rural Afghan people groups in that they meet with the men and freely voice opinions, even with strangers present...

'Aimaq tribal customs remain stronger than Afghan nationalism, due in part to long-enjoyed independence and geographical distance from the central government in Kabul. Tribal law vested in village leaders usually prevails over government authority and even some Islamic rules.' [62g]

TURKMEN

22.22 The Joshua Project also described the Turkmen ethnic group in an undated entry, accessed 1 September 2012:

'Although the Turkmen are one of Central Asia's major people groups, they are a minority in Afghanistan, which is notable because they have formidable economic impact there. As a slight portion of the country's total population, their herdsmen supply world markets with prized Karakul sheep pelts and magnificent wool carpets from their renowned weavers… Today, a relatively small population of Turkmen is concentrated in a narrow region in north Afghanistan, extending along the border with Turkmenistan. Some continue a semi-nomadic life, while others live in permanent homes or tents, farming, breeding livestock and weaving carpets…

'Turkmen are Sunni Muslims of the Hanafi School, although the designation is largely one of cultural identification. Few know or practice its beliefs, intertwining them with old shamanistic holdovers that include curses, "evil-eye" charms and magic.' **[62d]**

22.23 The Joshua Project continued:

'…historically Turkmen have lacked powerful chieftains or political figures. The seven major tribes maintained a neutral stance during Soviet and Taliban domination, avoided joining the Northern Alliance of Uzbek and Tajik resisters, and formed no fighting force of their own. These choices proved a great disadvantage when a new government was formed after Afghanistan was liberated by Allied forces in 2001 because they had no political leverage as did other ethnic groups. A council was formed from the Turkmen community to emphasize to government officials their eagerness to become fully engaged in re-building Afghanistan. Their official statement called for election of local councils, freedom of the press, women's rights and notably, the availability of education to all in mother tongues. The latter is especially important to Turkmen who have had to study in Dari, the official language of Afghanistan, rather than in Turkmen - a factor they cite as a barrier to full social engagement. A project now underway to provide textbooks written in Turkmen may prepare their youth as more passionate and more informed Turkmen voices in Afghanistan's future.' [62d]

BALOCH

22.24 The Joshua Project provided the following information about the Baloch people of Afghanistan:

'Today Afghan Baloch (designated the Western Baloch) live primarily in four southern provinces - Helmand, Nimruz, Farah and Kandahar, where daily life is routinely disrupted by Taliban presence. They comprise a small portion of the worldwide Baloch population. Their national language is Balochi - a language that remained unwritten until about 150 years ago. A Kurdish-related dialect is spoken in Afghanistan as is Bruhui, Dari and Pashto…

'An honor code (Baluchmayar), passed down in songs and poetry and observed by all the tribes, defines principles of living regarding integrity, hospitality, mercy and honor. Although a majority of Baloch are now Sunni Muslim (a faith adopted slowly to replace their old Zoroastrian religion), Sharia Law is not used to deal with social infractions. Instead the tribal chief encourages a blood feud between the families involved to settle violations. Theft or adultery demands death as punishment…

'Largely overlooked today by government services, educational opportunities are limited; a small percentage of Baloch children (mostly boys) attend school but advancement beyond high school is rare. Since few can read or write, they are more likely to hold low-status jobs.' [62b]

KUCHIS

22.25 The Afghanistan Independent Human Rights Commission (AIHRC) reported on Kuchis in its 'Fifth Report, Situation of Economic and Social Rights in Afghanistan,' dated November/December 2011: 'Kuchis are part of the Afghan population who do not have a permanent residence and move from place to place during different seasons of the year. They subsist through livestock and each family often has tens or hundreds of sheep, goats, and camels.

'The exact number of kuchis is not clear and there has been no census in this regard. However, the Central Statistics Office (CSO) has estimated the population of kuchis to be 1.5 million, constituting 6 percent of total population. In general, kuchis fall into three major categories. First, there are the settled kuchis who have abandoned their kuchi lifestyle and have settled in and reintegrated with people in villages or cities. They are no longer considered kuchi. Second, there are kuchis who have short-term migration within a district or a province in certain seasons of the year for grazing their domestic animals. These kuchis usually have houses and shelters where they settle for some part of the year. They are, in fact, semi-kuchi. Third, there are kuchis who usually move from one place to another in the course of the year and are, therefore, always in migration. They do not have long-term residence in one specific place and they, as a result, have a complete kuchi lifestyle…

'Kuchis face manifold problems in diverse areas of their life. They often live in tents under unfavorable living conditions. Mobile lifestyle and continuous migration expose them to severe deprivations and make them vulnerable to natural mishaps, such as heavy snowfall and cold. They have a very limited access to health facilities, be it clinics or hospitals. Kuchi children have a much lower access to vaccination than rural and urban children and their immunization rate is 13 percent. 17 percent of kuchi women have access to prenatal care. They also are deprived of their right to education. Kuchi children do not have continuous and regular access to schooling as they are not settled and every migration interrupts these children's access to education. Many kuchi children have been deprived of education and those, who have access to education, cannot continue their education beyond elementary and intermediate levels. There has been little improvement in kuchi literacy situation and the literacy rates for girls and boys under the age of 10 are 10 and 20 percent respectively. According to a report by the United Nations Office of the High Commissioner for Refugees (OHCHR), only 6 percent of kuchis aged 15 and above can read and write and this is the worst case in the whole world. The Government has seldom kept its pledges to build mobile schools and clinics for kuchis. The constructed mobile schools have been negatively affected by mounting insecurity, teachers have been threatened, and schools and their paraphernalia have been set afire.

'There are many economic problems among the kuchi community. Poverty rate is 54 percent in kuchis, while it is 29 percent in urban population and 36 percent nationally. Therefore, kuchis are the poorest segment of the Afghan population with livestock being their major source of economic income. However, drought has added to their vulnerability and their pastures have been damaged or otherwise constrained.

'Lack of pastures is an issue that causes conflicts between kuchis and local residents in certain parts of the country, especially in the central region, leading to many skirmishes and damages. Kuchis claim that it is their right through a decree issued by Afghanistan's past rulers to use pastures in Afghanistan's central region, while the local residents maintain that it is the right of the permanent local residents to use the pastures and the decisions of Afghanistan's past rulers have been unjust, unilateral, and illegitimate. In addition, local residents complain that kuchis have burned and pillaged their houses and fields. According to the AIHRC report, in 1386 (2007/08), eleven people from Behsud and Daimirdad were killed, 15 people, including four women, were injured, and 1,900 families were displaced. Kuchis also claimed that one of their people has been killed in this conflict. In 1387 (2008/09), the conflict spread and caused further human and financial losses. In this year, 24 local residents were killed, 11 injured, and more than 6,000 families displaced. Over 84 schools were burned and huge losses were caused due to pillaging of houses, loss of domestic animals, destruction of arable lands, and shut-down of schools and clinics. A number of kuchis were also killed and injured in this conflict.

'In 1388 (2009/10), kuchis did not come to the area due to the holding of the presidential elections and as a result, there were no conflicts. But in 1389 (2010/11), the problem reemerged and as a consequence, six local residents were killed and six others injured. 340 villages were evacuated, of which around 180 villages were destroyed, 153 houses were set ablaze, and 35 schools were pillaged and closed down.

'The problem unfortunately reemerged in 1390 (2011) in Nahor district of Ghazni province, causing such losses as the burn-down of 36 villages, escape of 782 families, and pillaging of their properties. Unfortunately the conflict between kuchis and local residents has become a complicatedly politicized issue subject to political manipulation. Even the number of kuchi population has turned into a political affair and it is used to gain political advantages. Unfortunately the Afghan Government has not taken any effective measures for the resolution of the kuchi-local resident disputes. The decree issued by President Karzai in 1387 (2008/09) on the settlement of kuchis was not implemented. The AIHRC believes that the issue of the kuchis should be resolved pursuant to the Afghan Constitution. Article 14 of the Afghan Constitution obligates the state to devise and implement effective programs for the settlement of kuchis and for the improvement of their living conditions… In addition to this, Taliban and other armed opposition groups use this issue to add fuel to insecurity in different parts of the country.' [31a] (p 113 – 115)

22.26 In May 2010, the AIHRC issued a Press Release which stated:

'The AIHRC expresses its grave concern about the negligence of the government in resolving the problem of Kochies, and reoccurrence of the armed conflict between Kochies and native inhabitants of Behsood district of Maidan Wardak province that has resulted in the killing, injury and displacement of a number of inhabitants of the said district...

'The AIHRC while expressing its deepest regret and concern over the reoccurrence of the conflict that resulted in the casualties, injuries and displacement of inhabitants of Behsood district, calls on the government of Afghanistan to take urgent and effective measures to stop conflict and violence, prevent human tragic events, address the situation of IDPS, verify the losses and insure restitution and seek legal and fair ways for a fundamental and permanent resolution of this problem and insure the rights of native inhabitants and Kocheis [sic] based on the Afghan Constitution.' [31b]

NURISTANIS

22.27 The US Department of State International Religious Freedom Report 2010, covering events between 1 July 2010 and 31 December 2010, published on 13 September 2011, noted: 'Nuristanis, a small but distinct ethnolinguistic group living in a mountainous eastern region, practiced an ancient polytheistic religion until they converted to Islam in the late 19th century. Some non-Muslim religious practices survive today as folk customs.' [58a] (Section I)

22.28 Minority Rights Group International described the position of Nuristanis in Afghanistan in its undated Profile of Nuristanis, accessed 10 September 2012:

'The Afghan Constitution (2004) recognizes Nuristanis as one of the national minorities entitled to Afghan citizenship. However, Nuristan remains isolated and poverty-stricken and due to the lack of regional institutions there is a widespread lawlessness. The 2004 presidential elections and foreign aid have had little impact on the region. The lack of security and central government presence has caused development aid to cease in the region. Afghan Aid was the last operational NGO in Nuristan which ceased work after an armed attack on its offices in 2005. Poverty and health problems are of major concern in Nuristan, with diseases such as tuberculosis rife along with malnutrition, maternal and infant mortality. Every household is reported to have malnourished members - inevitably these are usually the women and children.

'Mass killings, extortion, drug trafficking and forced displacement of the Nuristanis are still widespread. The lack of governance and the rule of law in the region have intensified the power of local militia and conservative religious leaders. The latter have declared TV and radio to be against Islam and have forced some local schools to turn girls away.' [60c]

See also sections on Freedom of religion and Security situation for information about general levels of violence as result of internal conflict between insurgent groups and pro-government forces

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23. SEXUAL ORIENTATION AND GENDER IDENTITY

Officials are recommended to read the sections on Women and Children for background on the position of women and girls in Afghan society generally in order to understand the position of lesbians and bi-sexual women.

LEGAL RIGHTS

23.01 The US Department of State Country Report on Human Rights Practices for 2011, Afghanistan, 24 May 2012 (USSD report 2011) stated: 'The law criminalizes homosexual activity, but authorities only sporadically enforced the prohibition.' [58c]

23.02 The International Lesbian and Gay Association (ILGA) report, State-sponsored Homophobia, A world survey of laws criminalising same-sex sexual acts between consenting adults, May 2012, stated that both same-sex male and same-sex female

sexual relationships are illegal in Afghanistan. It also referred to Afghan law in regard to same sex sexual acts:

'Penal Code, 1976 185

'CHAPTER EIGHT: Adultery, Pederasty, and Violations of Honour

'Article 427:

'"(1) A person who commits adultery or pederasty shall be sentenced to long imprisonment.

'(2) In one of the following cases commitment of the acts, specified above, is considered to be aggravating conditions:

'a. In the case where the person against whom the crime has been committed is not yet eighteen years old.

'b. …"

'In Afghan legal terminology "pederasty" appears to refer to intercourse between males regardless of age. The fact that paedophilia or sexual relations with persons under the age of consent falls under subsection 2(a) of article 427 indicates that this is the case. Terming sexual acts between adult men "pederasty" has previously not been uncommon; this occurred for example in the translations of the Criminal Codes of Albania (1977) and Latvia (1933), and in the old Russian legal tradition a "pederast" usually referred to a male who had anal intercourse with another male, regardless of age.

'Islamic Sharia law, criminalising homosexual acts with a maximum of death penalty, is applied together with the codified Penal law. However, no known cases of death sentences have been handed out for homosexual acts after the end of Taliban rule.' [87a]

23.03 The UNHCR Eligibility Guidelines for assessing the international protection needs of asylum-seekers from Afghanistan, dated 17 December 2010, provided the following information: 'A crime under the Afghan Penal Code punishable by "long imprisonment", "homosexual conduct" also constitutes a Hudood crime punishable by death under Shari'a law. It is reported, however, that the relevant Penal Code provisions are only sporadically enforced, and that no death sentences have been handed out since the fall of the Taliban.' [53a] (p 28-29)

23.04 In application and enforcement of laws prohibiting same-sex sexual activity in general terms and not specifically in regard to Afghanistan, the ILGA report 2012 observed in its section, Refugee Context Considered, written by Jenni Millbank, Professor of Law, University of Technology Sydney and Eddie Bruce-Jones, Lecturer in Law, Birkbeck College School of Law, University of London, that:

'Criminal laws prohibiting gay sex, whether or not regularly enforced, render sexual minorities vulnerable to extortion, exploitation and other forms of abuse at the hand of both state and non-state actors. Such criminal laws systematically contribute to a failure of State protection, by preventing victims of homophobic violence from seeking and being provided assistance. Furthermore, criminal laws of this kind, whether or not enforced, contribute to persecutory environments, by stigmatising [lesbian, gay,

bisexual, trans and intersex] LGBTI people through official means. However the absence of, or repeal of, criminal proscriptions absolutely must not be taken as establishing the reverse proposition. Lack of explicit criminalisation of same-sex sexual activity does not prevent LGBTI people from facing extreme violence. The absence of criminalisation does not demonstrate the absence of risk of persecution and/or sufficiency of state protection. The question of legality of gay sex is only one element, and cannot alone be taken as an answer to the question of risk of persecution based on sexuality.' [87a] (p7)

23.05 COI Service was not able to find information in the sources accessed in this section at the time of writing (October 2012) regarding the law applying to bi-sexual, trans and intersex persons.

TREATMENT BY, AND ATTITUDE OF, STATE AUTHORITIES

23.06 The USSD report 2011stated: 'Organizations devoted to the protection or exercise of freedom of sexual orientation remained underground.There were reports of discrimination or violence based on sexual orientation, including police harassment of transvestites.' [58c]

23.07 The UNHCR Eligibility Guidelines for assessing the international protection needs of asylum-seekers from Afghanistan, dated 17 December 2010, provided the following information about lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals:

'Given the pervading strong social taboos, there is little information available on the treatment of LGBTI individuals in Afghanistan. Although overt homosexual relations are generally not tolerated, some reports indicate that sexual acts between men, sometimes including boys, are not uncommon. Furthermore, NGOs that are actively working on LGBTI issues reportedly remain underground.

'In light of the strong societal taboos, as well as the criminalization of "homosexual conduct", UNHCR considers that LGBTI individuals may be at risk on account of their membership of a particular social group, i.e. their sexual orientation and/or gender identity, since they do not, or are perceived not to conform to prevailing legal, religious and social norms. It should be borne in mind that LGBTI individuals cannot be expected to change or conceal their identity in order to avoid persecution. Furthermore, the existence of significant criminal sanctions for "homosexual conduct" is a bar to State protection, including where persecutory acts are perpetrated by non-State actors such as family or community members.' [53a] (p 28-29)

23.08 COI Service was not able to find information in the sources accessed in this section at the time of writing (October 2012) in regard to the treatment of lesbians and bi-sexual men and women, trans and intersex persons

SOCIETAL TREATMENT AND ATTITUDES

23.09 The US Department of State Country Report on Human Rights Practices for 2011 stated that 'Social taboos [concerning same sex relions and relationships] remained strong.' [58c]

23.10 Foxnews.com reported on a study into same sex relations between men in Afghanistan in January 2010:

'An unclassified study from a military research unit in southern Afghanistan details how homosexual behavior is unusually common among men in the large ethnic group known as Pashtuns -- though they seem to be in complete denial about it. The study, obtained by Fox News, found that Pashtun men commonly have sex with other men, admire other men physically, have sexual relationships with boys and shun women both socially and sexually -- yet they completely reject the label of "homosexual…"

'Apparently, according to the report, Pashtun men interpret the Islamic prohibition on homosexuality to mean they cannot "love" another man -- but that doesn't mean they can't use men for "sexual gratification..."

'The report also detailed a disturbing practice in which older "men of status" keep young boys on hand for sexual relationships. One of the country's favorite sayings, the report said, is "women are for children, boys are for pleasure."

'The report concluded that the widespread homosexual behavior stems from several factors, including the "severe segregation" of women in the society and the "prohibitive" cost of marriage.' [89a]

23.11 The now dated Danish Immigration Service report, The political conditions, the security and human rights situation in Afghanistan Report on fact-finding mission to Kabul, Afghanistan, 20 March – 2 April 2004, released November 2004, but which remains a useful source given the paucity of information on same sex relations, documented interviews with the UNHCR and Co-operation Centre for Afghanistan (CCA):

'According to the UNHCR homosexuality is forbidden pursuant to Islamic law in Afghanistan. The source found that it is difficult to say anything definite about conditions for homosexuals. This is first and foremost because no one is prepared to declare that he is a homosexual or practices his sexuality in such a manner that it becomes publicly known. The source had no knowledge of cases under the new government in which homosexuals had been punished.

'The source pointed to the fact that behaviour between men, which would arouse curiosity in many western countries such as holding hands, kissing or embracing is not considered as explicit sexual behaviour in Afghanistan. The source was of the opinion, that homosexuality was common in Afghanistan in connection with the sexual debut due to the strong degree of separation which is practiced between the sexes. The source knew of commanders who were known of having relationships with young boys. However this does not lead to a general accept[ance] of homosexuality in Afghanistan. The source mentioned that rumours had been circulated, that people from the Panshjiri-dominated security forces had raped young Pashtun men with the aim of demonstrating their power.

'The source was of the opinion that homosexuals do not encounter problems provided they keep their sexual orientation secret and also do not overstep other social norms within their family. The source said that among other things men of homosexual orientation can be forced into marriage by their family. Hence, a possible conflict will only become apparent if the man refuses to marry.

'The CCA explained that homosexuality is forbidden in Afghanistan. Open homosexual behaviour will be severely punished. The organization knows of the existence of homosexuals, but has never heard about homosexuals being punished. They were of the opinion that if anybody was to be punished for being homosexual, the behaviour has

to be proven. The organization had no knowledge of the existence of homosexual relationships among women in Afghanistan.' [124] (p 51-52)

23.12 Although dated April 2002, the following article from the Los Angeles Times, quoted on Globalgayz.com website, reported:

'Though rarely acknowledged, the prevalence of sex between Afghan men is an open secret… It might seem odd to a Westerner that such a sexually repressive society is marked by heightened homosexual activity [same-sex sexual relationships]. But Justin Richardson, a professor of psychiatry at Columbia University, says such thinking is backward–it is precisely the extreme restrictions on sexual relations with women that lead to greater prevalence of the behavior. "In some Muslim societies where the prohibition against premarital heterosexual intercourse is extremely high–higher than that against sex between men–you will find men having sex with other males not because they find them most attractive of all but because they find them most attractive of the limited options available to them," Richardson says.

'In other words, sex between men can be seen as the flip side of the segregation of women. And perhaps because the ethnic Pushtuns who dominate Kandahar are the most religiously conservative of Afghanistan's major ethnic groups, they have, by most accounts, a higher incidence of homosexual relations…Dr. Mohammed Nasem Zafar, a professor at Kandahar Medical College, estimates that about 50% of the city's male residents have sex with men or boys at some point in their lives…

'Richardson, the psychiatry professor, says it would be wrong to call Afghan men homosexual, since their decision to have sex with men is not a reflection of what Westerners call gender identity. Instead, he compares them to prison inmates: They have sex with men primarily because they find themselves in a situation where men are more available as sex partners than are women. "It is something they do," he notes, "not something they are." [88a]

23.13 The Globalgayz website, dated 1June 2009, provided commentary following the Los Angeles Times's article:

'… Despite the apparent homosexual behavior of the men… same-sex attraction is, paradoxically, scorned in the Afghan culture. Truly "gay" men and women deeply hide their secrets and seek no attention. Homosexuality is not understood as anything natural or acceptable and the idea of mutual same-sex pleasure or romance is alien to the vast majority who have never encountered such ideas.

'It's impossible to accurately analyze the motives of the Pashstuns who favor young men. Most of these "daddies" are essentially straight but, lacking status in their meager lives, feel a certain "swagger" of social enhancement for having a trophy boy.

'And there could hardly be a greater fear than being exposed as a homosexual and humiliated in front of one's family, friends or community.' [88a]

23.14 COI Service was not able to find information in the sources accessed in this section at the time of writing (October 2012) specifically in regard to the treatment of lesbians and bi-sexual men and women, trans and intersex persons.

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24. DISABILITY

Officials are recommended to read this section should be read in conjunction with Medical issues – Landmine and ordnance victim assistance and Freedom of movement - mines and unexploded ordnance.

OVERVIEW

24.01 The Afghanistan Independent Human Rights Commission's 'Fifth Report; Situation of Economic and Social Rights in Afghanistan,' dated November/December 2011 (AIHRC report), stated, 'Disability of hundreds of thousands of people is a major consequence of over three decades of war and insecurity in Afghanistan. In addition to people who were disabled during the armed conflict, many people were victims of millions of mines and other unexploded ordnance. …Moreover, war's psychological aftermath spread mental disability among the population.' [31a] (p 93)

LEGAL POSITION

24.02 The US State Department's Country Reports on Human Rights Practices for 2011, Afghanistan, published in May 2012, noted:

'The constitution prohibits any kind of discrimination against citizens and requires the state to assist persons with disabilities and to protect their rights, including the rights to health care and financial protection. The constitution also requires the state to adopt measures to reintegrate and ensure the active participation in society of persons with disabilities. The MoLSAMD [Ministry of Labour,Social Affairs, Martyrs and Disabled] drafted and the cabinet approved a five-year National Action Plan on March 16 [2011], which directs ministries to provide vocational training, establish empowerment centers, distribute food, build handicapped ramps in some government offices, conduct public awareness programs about the disabled, and take other steps to assist Afghans with disabilities.' [58c]

The Afghanistan Independent Human Rights Commission (AIHRC), in its 'Fifth Report; Situation of Economic and Social Rights in Afghanistan,' dated November/December 2011, explained that 'PWDs [persons with disabilities] are a major vulnerable group in the Afghan society that is in need of special protection. The Afghan Government ratified the [UN] Convention on the Rights of Persons with Disabilities and the Law on the Rights and Privileges of Persons with Disabilities in 1389 (2010/11).' [31a] (p 95)

24.03 The AIHRC report stated:

'According to the definition in the Convention on the Rights of Persons with Disabilities adopted by the United Nations in 2006, PWDs include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Afghanistan's Law on the Rights and Privileges of Persons with Disabilities of 1389 (2010/11), in its Paragraph 1, Article 2, defines a person with disability as one who "due to physical, sensory, intellectual, and mental impairment, as determined by the Disability Health Commission, loses his/her integrity and efficiency in a way that reduces his/her capacity in social and economic areas."' [31a] (p 93-94)

24.04 The AIHRC report further stated:

'According to the definition of disability in the [UN] Convention on the Rights of Persons with Disabilities and the Law on the Rights and Privileges of Persons with Disabilities, disability can be physical, sensory, and mental. Afghanistan's PWD protection law has differentiated between intellectual and mental disabilities. Nonetheless, the public perception of disability in Afghanistan is one of physical and bodily disability and less attention has been paid to other forms of disability. This has led to distinction and discrimination in social treatment and protection of different PWD groups.' [31a] (p 94)

24.05 The AIHRC report added:

'The Afghanistan National Development Strategy (ANDS) regards the protection of PWD rights as a strategic objective for the Government and sets out that by the end of 1389 (2010/11), measures will be taken to improve the living conditions of PWDs and meet their special needs by reintegrating them in the society through the creation of education and employment opportunities. Article 3 of the Law on the Rights and Privileges of Persons with Disabilities assigns MoLSA [Ministry of Labour and Social Affairs] and other pertinent organizations with the duty to provide the social protection and rehabilitation of PWDs so that they can actively participate in the social sphere.' [31a] (p 95)

24.06 The AIHRC also commented on discrimination within the Afghan disability law:

'Although the enactment of the Law on the Rights and Privileges of Persons with Disabilities in 1389 (2010/11) was an achievement for the Afghan Government, the Law is defective and sometimes discriminatory. The Law emphasizes non-discrimination in disability and stipulates, "Persons with disabilities have an equal right to participation in social, economic, political, cultural, education and training, and recreational and sports areas without discrimination." At the same time, the Law categorizes and discriminates between PWDs. The Law gives more privilege to war PWDs than to congenital PWDs. The Law is also silent on persons who become disabled due to natural disasters or traffic incidents or ailments. There is no mention of sensory, intellectual, and mental disability in the Law and the legal status of persons suffering from these disabilities is, thus, unclear. Furthermore, Articles 7 and 10 of the Law discriminates between war PWDs from the perspective of conflict phases and their affiliation to certain conflict groups. The Law gives more privilege to mujahidin PWDs than to others, although there is no discrimination in the determination of rights and privileges in the Law.' [31a] (p 97)

24.07 The US State Department's Country Reports on Human Rights Practices for 2011, Afghanistan, published in May 2012, noted: 'In the Meshrano Jirga, two of the presidentially appointed seats were reserved for persons with disabilities.' [58c]

NUMBERS OF PEOPLE WITH DISABILITIES

24.08 The US State Department's Country Reports on Human Rights Practices for 2011, Afghanistan, published in May 2012, noted, 'The government and NGOs estimated that there were up to 900,000 mobility-impaired persons, of whom approximately 40,000 were limb amputees. The MoLSAMD [Ministry of Labour, Social Affairs, Martyrs and Disabled] stated that it provided financial support to 79,202 individuals with disabilities. The MoLSAMD accorded special treatment to families of those killed in war.' [58c]

24.09 The Afghanistan Independent Human Rights Commission's report on the Situation, of Economic and Social Rights in Afghanistan, dated November/December 2011, commented on numbers of persons with disabilities in Afghanistan:

'There are no exact statistics on the number of PWDs in Afghanistan. The National Risk and Vulnerability Assessment (NRVA) of 1386/87 (2007/08/2008/09) sets the number of PWDs at 406,000, accounting for 1.6 percent of the total population. NRVA adds that around 188,000 of PWDs suffer from more than one kind of disability. In spite of this, the Afghan National Disability Survey conducted by Handicap International (HI) in cooperation with the Ministry of Labor and Social Affairs (MoLSA) in 2006 indicates that there are approximately 800,000 PWDs in Afghanistan, constituting about 2.7 percent of the total population, meaning that there is one PWD in every five families. Therefore, the actual number of PWDs is higher inAfghanistan. MoLSA has only registered war PWDs; as a result, around 77,748 war PDWs have been recorded all over Afghanistan until early 1390 (2011). This also includes PDWs affected by war. There are more PWDs in cities than in villages; for instance, 3.6 to 3.9 percent of Kabul City's inhabitants are PWDs.' [31a] (p 94-95)

24.10 The AIHRC report further noted:

'Disability is more prevalent among men than women. Based on an HI survey, around 59 percent of PWDs are men and around 41 percent women. There are approximately 196,000 children with disabilities in Afghanistan; 109,800 are boys and 86,200 are girls. Further, according to NRVA, about 82 percent of those disabled in war, mine explosion, or detonation of unexploded ordnance are men. Sickness- and ageing-related disability is more prevalent among women than men. In the AIHRC Human Rights Field Monitoring (HRFM), around 3.2 percent of interviewees stated that they lived in families headed by PWDs.' [31a] (p 95)

CONDITIONS FOR PEOPLE WITH DISABILITIES

24.11 The Afghanistan Independent Human Rights Commission's 'Fifth Report; Situation of Economic and Social Rights in Afghanistan,' dated November/December 2011, commented that the Government had not taken 'serious and successful measures' to fulfil their goals for persons with disabilities, stating:

'The Law on the Rights and Privileges of Persons with Disabilities stipulates that PWDs should comprise three percent of all Government employees, but they currently form less than one percent of Government employees and if they are Government employees, they serve in less-income-generating positions. Two-thirds of families headed by PWDs have very limited access to adequate food and one member in one in ten such families has access to adequate food. PWDs have a lower chance than others to use private resources such as land. They are sometimes forced to rent their land to others for cultivation purposes or enter into such partnerships; as a result, they lose control over their benefits arising from agriculture.' [31a] (p 95-96)

24.12 The AIHRC report added:

'According to the Law on the Rights and Privileges of Persons with Disabilities, PWD Rehabilitation Centers should be established in provincial centers and PWDs should constitute around ten percent of beneficiaries of skills development and training programs. The Law also stipulates special protection for PWDs in education and land allocation areas. The Government has not taken effective measures to meet the needs and expectations of the country's PWD community. Around 80 percent of skills development and vocational training projects and education and training programs are implemented by non-governmental organizations (NGOs) and the Government implements only 20 percent of such projects and programs. These projects and

programs have had an output rate of 30 percent due to lack of coordination, poor quality, and incompatibility with marketplace. Rural and outlying areas are more deprived than urban areas from protection and rehabilitation programs.' [31a] (p 96)

24.13 The AIHRC did, however, acknowledge some positive changes, stating, 'In the past two years, PWD education and training programs have increased and efforts have been made to:

'Enroll more children with disabilities in the school system;

'Provide special training for PWDs, especially those with visual and auditory impairment; and

'Hold literacy courses for illiterate PWDs.

'Nonetheless, these programs have not been able to adequately address PWD problems and needs and they have responded to less than 50 percent of PWD needs.' [31a] (p 96)

24.14 However, the Afghanistan Independent Human Rights Commission also noted financial and other difficulties for those living with disabilities:

'According to MoLSA [Ministry of Labour and Social Affairs], approximately 84,000 PWDs are financially assisted by the Government. This means a monthly stipend of Afs600 to Afs 2,250 for each one of these PWDs. On the whole, this financial assistance can never suffice the needs of PWDs and their families.

'PWDs are also subject to discrimination, especially in their efforts to gain employment. This is mainly because of lack of trust in PWD capabilities as well as lack of capacity in PWDs, and lack of PWD access to job openings. Disability sometimes leads to PWD humiliation and stigmatization in the society's traditionalist culture, even resulting in social ostracism and further limiting their enjoyment of social services and opportunities; for instance, a child with disabilities has 50 percent chance less than a child without disabilities for schooling. Men with disabilities have 50 percent less chance than men without disabilities to find employment and women with disabilities have 75 percent less chance than women without disabilities to find employment.' [31a] (p 96-97)

24.15 The AIHRC also noted other forms of discrimination:

'There is sometimes discrimination among PWDs themselves. War PWDs, especially PWDs belonging to jihad period and diverse mujahidin groups, discriminate against other categories of PWDs belonging to other conflict phases or persons that became disabled as a result of natural disasters or persons with sensory or mental disabilities. This discriminatory treatment is rooted in the Afghan social fabric and customs and traditions. In specific terms, persons with intellectual or mental disabilities are severely discriminated against and humiliated; their human dignity and worth is not respected.' [31a] (p 97)

See also Section 26: Children - overview, and Children - conflict-related violence

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LANDMINE AND ORDNANCE VICTIM ASSISTANCE

This Subsection should be read in conjunction with Medical issues and Freedom of movement - mines and unexploded ordnance.

24.16 The Landmine and Cluster Munition Monitor provided the following information about assistance for victims of landmines, which was updated in October 2011:

'Challenges in resources and security continued and there were few overall improvements in victim assistant services in Afghanistan in 2010. Little improvement in the overall accessibility of services was reported. This was mostly due to the deterioration of the security situation, which was detrimental to progress in victim assistance in general. Large geographic areas remained off limits for national and international NGOs and other organizations. Progress was reported in providing physical accessibility to schools through the construction of ramps.

'Activities to assist survivors were mostly provided by NGOs and international organizations under the coordination of relevant ministries. MoLSAMD [Ministry of Labour,Social Affairs, Martyrs and Disabled] noted that the funding for NGOs was low in 2010 and falling in 2011 and that without those its program would be greatly impacted...

'A lack of psychosocial support, particularly peer support, remained one of the largest gaps in the government-coordinated victim assistance and disability programs, though some national and international NGOs provided these services… The Mental Health Department of the MoPH approved a four-year strategy for mental health that includes psychological support…

'The constitution prohibits any kind of discrimination against citizens and requires the state to assist persons who have disabilities and to protect their rights, including healthcare and financial protection. The constitution also requires the state to adopt measures to reintegrate and to ensure the active participation in society of persons with disabilities.

'Differences in treatment in Afghanistan were often not based solely on needs, but were influenced by the economic and social situation of survivors as well as their gender and cause of disability. Women and elderly persons with disabilities received fewer services for these reasons. The MACCA did not note discrimination within ministry work or policies.' [73c]

24.17 Reliefweb reported on limb-fitting and physical rehabilitation services for victims of landmines in an article dated 14 July 2011:

'In Afghanistan, the ICRC [International Committee of the Red Cross] runs seven prosthetic/orthotic centres which provide rehabilitation services for amputees and others with disabilities. The centres support the social reintegration of disabled people, ranging from landmine victims to those with spinal cord injuries. They also run a home-care service offering medical, economic and social support for patients with spinal cord impairments. The ICRC has been providing these services in Afghanistan for over 20 years.

'During May and June, the seven ICRC centres:

'registered nearly 1,400 new patients, including 227 amputees;
'assisted 13,645 patients;
'fitted over 2,660 prostheses and orthotic devices;
'held almost 37,250 physiotherapy sessions;

'granted micro-credit loans to approximately 160 patients to help them start small business ventures;
'provided vocational training for 213 patients, 42 of whom completed their training during this period;
'conducted 1,180 home visits to patients with spinal cord injuries.' [49g]

24.18 An article published by the International Committee of the Red Cross and dated 19 June 2012 referred to the seven ICRC centres mentioned above and explained that they are situated 'in Kabul, Mazar-i-Sharif, Herat, Gulbahar, Faizabad, Jalalabad and Lashkar Gah.' [101a]

24.19 Global Security published an article dated 29 October 2010 which indicated a lack of facilities to treat the victims of landmines: '"It's almost impossible for people in Marjah District [in Helmand Province] to bring their patients to Kabul," Cairo [Alberto Cairo, who has led ICRC's orthopaedic programme in Afghanistan for 20 years], who speaks fluent Dari, said. "I think 6-7 more centres are needed."' [70b]

24.20 The article continued:

'Over the past two decades almost 100,000 people have been assisted at ICRC's orthopedic centres. Of these, over 24,667 were landmine victims and the rest were paraplegics or people disabled by war, polio or spinal injuries. The ICRC [International Committee of the Red Cross] spends about US$18 million on its orthopedic centres every year...

'"We are receiving more double amputees [people losing both legs] which points to the severity of their casualties [caused by improvised explosive devices – IEDs]," said Cairo, adding that most victims (85 percent) were adult male.' [70b]

24.21 The UK Department for International Development published an article dated 1 November 2011 which described UK aid for landmine victims:

'The UK is to help provide 3,800 new artificial limbs and 10,000 crutches for Afghan children and adults disabled during 30 years of conflict and extreme povety... The effort is part of a 40% increase in the UK's aid programme in Afghanistan, which includes extra help for children and families who have been blighted by decades of war. UK aid is specifically to support the International Committee of the Red Cross (ICRC) to run a network of seven orthopaedic centres across Afghanistan to assist those affected by the resulting mobility disabilities, including hundreds of mine victims… In addition to providing people with prosthetics and helping with mobility, the centres help people get back to normal life by providing them with access to education, the chance to learn a skill or a loan to start a small business. So far, some 104,000 patients have been registered across all seven centres, with over 15,000 artificial legs and arms manufactured every year.' [79b]

25. WOMEN

OVERVIEW

25.01 The US Department of Defense report, Report on Progress Towards Security and Stability in Afghanistan, October 2011, stated:

'The condition of Afghan women continues to be one of the worst in the world. In general, traditional gender biases, lack of security, weakness of government institutions, and women's subordinate positions in Afghan society continue to impede women's exercise of rights and freedoms. Women in Afghanistan still face widespread threats, including baad, forced marriages, child marriages, honor killings, and self-immolation at alarmingly high rates. Women still do not have equal access to justice mechanisms or feel comfortable reporting offenses to Afghan authorities, nor are the laws protecting women's rights regularly upheld by Afghan courts.

'The condition of women in prisons is of particular concern. An estimated 50 percent of imprisoned women are there on charges of adultery, which is broadly defined in the Afghan context as an absence from home for over 48 hours. Women's security is often threatened inside the prison, and the overall living conditions are inadequate. Additionally, many mothers are forced to bring their children to prison with them.' [14a] (p 107)

25.02 The US State Department Country reports on Human Rights Practices for 2011, Afghanistan, 24 May 2012, (USSD report 2011) stated

'The constitution prohibits discrimination between citizens and provides for the equal rights of men and women; however, local customs and practices that discriminated against women prevailed in much of the country… There were reports of discrimination based on… gender… Although the situation of women marginally improved during the year, international gender experts considered Afghanistan a very dangerous country for women. Gains in women's rights and advances in terms of socio-economic indicators remained tenuous at best.' [58c] (Section 6)

25.03 The Human Rights Watch World Report 2012, covering events of 2011, dated 22 January 2012, stated: 'Attacks and threats against women continue, frequently focusing on women in public life, school girls, and the staff of girls' schools. The incarceration of women and girls for "moral crimes" such as running away from home—even when doing so is not prohibited by statutory law—also continues to be a major concern, with an estimated half of the approximately 700 women and girls in jail and prison facing such charges.' [15a] (p 292)

25.04 Freedom House's Freedom in the World 2012, Afghanistan, report, which covered events in 2011, released in March 2012, observed:

'Women's formal rights to education and employment have been restored, and in some areas women are once again participating in public life. They accounted for about 16 percent of the candidates in the 2010 parliamentary elections, and roughly 41 percent of registered voters were women; 69 female parliamentarians were elected. There were two women among the 41 candidates for the 2009 presidential election, but on the whole female participation was limited by threats, harassment, and social restrictions on traveling alone and appearing in public. Another major setback to women's rights came with the passage in 2009 of legislation that derogated many constitutional rights for women belonging to the Shiite Muslim minority, leaving questions of inheritance, marriage, and personal freedoms to be determined by conservative Shiite religious authorities.

'Social discrimination and domestic violence against women remain pervasive, with the latter often going unreported because of social acceptance of the practice. In 2010, the AIHRC recorded 2,765 cases of violence against women, a 22 percent increase

compared with 2009. President Karzai's controversial pardon in December 2011 of a rape victim provisional on her marrying her attacker further confirmed the precarious situation for Afghan women. The case first came to light in an EU documentary on women's moral crimes in Afghanistan which the organization chose to withdraw in fear of security reprisals despite criticism from human rights workers who wanted to bring to light the inadequacies of the Afghan government in terms of women's rights and protections. Women's choices regarding marriage and divorce remain circumscribed by custom and discriminatory laws, and the forced marriage of young girls to older men or widows to their husbands' male relations is a problem. Nearly 60 percent of Afghan girls are married before the legal age of 16, according to UNICEF, and in 2009 UNICEF ranked Afghanistan as the world's worst country in which to be born. Though men, women, and male children have been used to perpetrate suicide bombings in Afghanistan, a June 2011 attack in Uruzgan Province was committed by a young girl and one of the youngest child bombers in the decade-long conflict.' [38a]

25.05 Amnesty International's 'Women's Rights in Afghanistan,' undated and accessed on 22 February 2012, provides the following information: 'Millions of Afghan women and girls have seen progress in their lives since 2001: two and a half million girls are enrolled in school, women can work outside their homes, while the constitution grants women and men equal rights.

'Yet Afghanistan remains one of the most difficult and dangerous places in the world to be a woman. Women's rights in Afghanistan are rarely enforced in practice, and access to basic services like education and healthcare remains extremely limited. As well as living in an international conflict zone, women are likely to face risk of domestic abuse. Women who are active in public life are especially subject to intimidation and the daily threat of violence.

'Ten years ago, the international community promised it would bring freedom to Afghan women and men. As the Afghan government and the international community begin to plan their country's future, however, many Afghan women fear that they will be abandoned and their hard earned rights sacrificed in the search for a political deal.' [25a]

25.06 Trustlaw, part of Reuters, provided this information in an article dated 15 June 2011:

'Violence, dismal healthcare and brutal poverty make Afghanistan the world's most dangerous country for women… a Thomson Reuters Foundation expert poll said on Wednesday…."Ongoing conflict, NATO airstrikes and cultural practices combined make Afghanistan a very dangerous place for women," said Clementina Cantoni, a Pakistan-based aid worker with ECHO, the European Commission's humanitarian aid department. "In addition, women who do attempt to speak out or take on public roles that challenge ingrained gender stereotypes of what's acceptable for women to do or not, such as working as policewomen or news broadcasters, are often intimidated or killed."…

'Afghanistan emerged as the most dangerous country for women overall and worst in three of the six risk categories: health, non-sexual violence and lack of access to economic resources. Respondents cited sky-high maternal mortality rates, limited access to doctors and a near total lack of economic rights. Afghan women have a one in 11 chance of dying in childbirth, according to UNICEF.' [26a]

25.07 Reuters provided the following information in its article, 'Aghan men: crucial advocates for women's rights,' dated 23 December 2011: 'Forced marriage is still rife, rape victims have been jailed for "forced adultery," and a woman is more likely to die in childbirth in Afghanistan than anywhere else on earth… Afghanistan is still recovering from the strict social conservatism of the Taliban, whose hardline laws during their 1996-2001 rule marginalized women, stripping them of the right to work, study or move freely.

'Many independent agencies say women are still subject to widespread discrimination and oppression… Activists admit that despite their work, change will be hard. Conservative values can be so strict that women who fail to conform are persecuted by their own families.

'And campaigners struggle against a widely held assumption that those agitating for women's rights are pushing an anti-Islamic, or anti-Afghan, agenda.' [28b]

25.08 Radio Free Europe/Radio Liberty provides the following summary in an article entitled,'Don't let the world forget its promises to Afghan women,' dated 8 March 2011:

'Despite Western propaganda and the Afghan government's self-praise, only marginal progress has been made on women's education, health care, employment prospects, and access to justice. According to UNIFEM, only 12 percent of women aged 15 and older are literate; an estimated 60 to 80 percent of women face forced marriages; and 57 percent of girls who are married do so before the legal age of 16. Reliefweb, a global humanitarian watchdog website, further reports that only 5 percent of Afghan girls attend secondary school and one in nine women dies during childbirth.' [30c]

25.09 The Afghanistan Research and Evaluation Unit Synthesis Paper, 'Equal Rights, Unequal Opportunities, Women's Participation in Afghanistan's Parliamentary and Provincial Council Elections', March 2012, observed:

'Contemporary Afghanistan represents perhaps one of the most extreme cases of gender inequality in the world. In 2011, the country was ranked 139 out of 145 in the United Nations Development Programme's Gender Inequality Index. While growing, women's access to education remains limited: in 2010, Afghanistan was again among the worst performing countries in terms of the ratio of women to men with at least a secondary level of education. And although women play a significant role in the economic life of the country's predominantly rural economy, this is rarely recognised in the form of remuneration that might allow them to accumulate independent resources; according to the 2007- 08 Afghanistan National Risk and Vulnerability Assessment (NRVA), they accounted for only 8 percent of the country's entire wage labour force.

'In discussing the roots of this inequality, Kabeer et al. draw attention to Afghanistan's generally acknowledged status as a "classic patriarchy." According to Kandiyoti's characterisation, women subject to this system of social control are married, often early, into households headed by their husband's fathers; are subordinate to all men and the more senior women of the household; have no claim on paternal inheritance rights or other assets; have their labour and progeny appropriated by male members of the household; and are sometimes subject to institutionalised seclusion, severe restrictions on movement and strict division of gender roles assigning the public sphere to men and the private sphere to women. It is, however, important to recognise that, at least in theory, this system of control is framed as a mutual set of rights and obligations, whereby Afghan men are expected to provide for the entire family and treat women in

an appropriate fashion, and there is scope for women to wield a degree of influence within the domestic sphere.

'Islamic tenets continue to be widely cited by both participants and outside observers as the ideological justification for this system. However, other interpretations have argued that many of the practices outlined above have little basis in the Qur'an or Sharia law and are essentially customary. One important additional element to note in this respect, especially in understanding historical state attempts to further women's rights, is the concept of namus (honour). … According to Dupree:

"The insistence on patriarchal control arose in part from the fact that in Afghanistan women symbolize honor—of the nation and of the family. Any deviation on the part of women from honorable behaviour as it is defined by any given family or group is seen to besmirch the honor of those in authority and cannot therefore be tolerated. It is this attitude which has perpetuated overly protective institutions and customs such as the veil and seclusion."

'… Within this generalised picture of Afghanistan's patriarchal structure, there also exist significant variations governed by, among other things, region, rural/urban location, ethnicity, age, status, education and specific community or household practice. Pashtun communities, for example, are generally (although not always) associated with a greater degree of conservatism than those belonging to other ethnic groups, while women in rural communities may be subject to fewer restrictions on movement than their urban counterparts. As Zand notes, there may also be a gap between how gender relations are presented as an ideological ideal within a given community, and how they work out in practice.

'Critically, gender relations in Afghanistan are not static—as documented below, reforms, development, social change and wars have resulted in significant changes in the status of Afghan women over the past hundred years. According to Kandiyoti, the country's prolonged exposure to conflict in recent decades has significantly compounded the burden placed on women by traditional forms of patriarchal control, eroding men's willingness or ability to fulfil their traditionally determined obligations and opening up "novel forms of abuse." …

'In the face of these extremes, women have nonetheless experienced significant gains in the decade since the 2001 international intervention. While still heavily disadvantaged compared to men, women have experienced a marked improvement in access to services such as education and healthcare compared to before 2001. Widespread and long-term migration to countries like Iran and Pakistan during the country's conflicts have exposed significant numbers of people to alternative, less restrictive sets of gender norms, contributing at least in some areas to a slow but notable change in existing perspectives and practices, particularly among the young. The current internationally backed regime has instituted a number of constitutionally and legally constituted safeguards protecting women's equal rights as citizens and as participants in the country's democratic system, while the 2008 National Action Plan for the Women of Afghanistan (NAPWA) sets out an operational framework for furthering women's empowerment and gender equality under the government's overarching Afghanistan National Development Strategy (ANDS).

'However, recent years have also witnessed a degree of backlash against women's empowerment. Many of the rights promised to women in the 2004 constitution and elsewhere have yet to be implemented across the country, and recent legislation—such

as the infamous Shia Personal Status Law or the 2010 changes to the Election Law…—has even reversed some of these gains. With the country now in the grip of a widespread and Taliban-dominated insurgency, an increasing (although possibly pragmatic) conservative strain in its politics, and an apparent lack of will on the part of both the government and weary international donors to pursue or consolidate a women's rights agenda, there is a sense that the space for women's participation in the public sphere is shrinking. This was vividly illustrated on 2 March 2012, when the country's Ulema council—a body of leading religious scholars—issued a statement asserting that women should not mix with unfamiliar men in education or the workplace, and should only go outside when accompanied by a mahram (close male relative). Strongly echoing previous Taliban decrees, the statement would, if applied logically, bar all women from political office. Perhaps most shockingly, it was later endorsed by president Karzai, possibly in a bid to align himself as more sympathetic to Taliban goals in the context of proposed peace negotiations.' [8d] (p 2-4)

25.10 Reuters provided the following information in its article 'Women's rights in Afghanistan since the fall of the Taliban,' dated 13 June 2011: 'In rural areas, women often have little or no access to education and justice is more often administered by tribal elders or Taliban "courts" than traditional courts.

'Rights groups view the rule of law and economic dependence on men as the key issues for women's rights today…

'Women's rights face setbacks from the Taliban, poor security, a strengthening conservative faction and even the present government itself…

'Female politicians and local officials in Afghanistan have accused Karzai of repressing women's rights to win political support in the more conservative sections of society.

'In March, Karzai sacked the deputy governor of southern Helmand province after two women performed without headscarves at a high-profile concert…

'The United States and NATO have repeatedly said reconciliation talks with the Taliban must contain guarantees that women's rights are protected.

'However there is growing concern from analysts and Afghan women that their rights will be overlooked. Karzai has spoken little on the issue, cementing those fears.' [28a

25.11 The Organisation for Economic Co-operation and Development's Social Institutions and Gender Index (OECD SIGI profile 2011), '… is based on qualitative and quantitative data on discriminatory social institutions for over 100 countries and economies. A detailed profile for each country and economy compiles information on laws, social norms and practices related to the SIGI sub-indices…' and contains '… information… collected over a two year period ending November 2011. The information in the country profiles is up to date to November 2011, based on information that was publicly available until this time…' profiled Afghanistan, released in May 2012. The introduction to the profile noted that:

'Afghanistan is ranked 69th out of 86 in the 2012 Social Institutions and Gender Index. The country was ranked 101st out of 102 in the 2009 Social Institutions and Gender Index. The [UN Development Programme (UNDP)] 2011 Human Development Index (HDI) score for the country is 0.398, placing it in 172nd place (out of 187 countries). The UNDP Gender Inequality Index [GII] score is 0.707 [ranked 141 out of 146 countries.

The GII is based on three dimensions: reproductive health; empowerment; and activity in the labour market. 0 is equal; 1 inequal].' [34b]

25.12 Afghanistan ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) on 5th March 2003. (Afghanistan Independent Human Rights Commission, International Documents, undated, accessed on 1 October 2012) [31f]

Statistical overview

25.13 Socio-economic data 'describing' the lives of women in Afghanistan are available from the following the links:

UN Development Programme, Human Develoment Index:
http://hdrstats.undp.org/en/countries/profiles/AFG.html

UN Development Programme, Gender inequality index and related indicators:
http://hdr.undp.org/en/media/HDR_2011_EN_Table4.pdf

UNICEF, The state of the world's children 2012, Children in an urban world (see p 116, Table 8: Women)
http://www.unicef.org/sowc/index_61804.html

UN Data, Afghanistan
http://data.un.org/Search.aspx?q=afghanistan

UN Development Programme, Human Development Indicators
http://hdr.undp.org/en/statistics/

LEGAL AND POLICY FRAMEWORK

25.14 The joint United Nations Assistance Mission in Afghanistan (UNAMA) and Office of the United Nations High Commissioner for Human Rights (OHCHR) report, 'A long way to go: Implementation of the Elimination of Violence Against Women law in Afghanistan,' which was dated September 2011 and based on research carried out between March 2010 and September 2011, commented as follows: 'The progressive Afghan Constitution of 2004 gives equal rights to women and further stipulates that special attention must be paid by the state to girls' education and women's health care, values that stand in direct opposition to the vision articulated by the Taliban and other armed opposition groups.' [30c]

25.15 The USSD report 2011 stated:

'Although the situation of women marginally improved during the year, international gender experts considered Afghanistan a very dangerous country for women. Gains in women's rights and advances in terms of socio-economic indicators remained tenuous at best. Pursuant to the constitution, the 2009 Shia Personal Status Law governs family and marital issues for the 20 percent of the population who are Shia. Although the law officially recognizes the Shia minority, the law adversely affects gender equality and was controversial both domestically and internationally due to its failure to promote gender equality. Articles in the law of particular concern include those on minimum age of marriage, polygyny, right of inheritance, right of self-determination, freedom of movement, sexual obligations, and guardianship.' [58c] (Section 6)

25.16 UNAMA's report, 'Harmful traditional practices and implementation of the law on elimination of violence against women in Afghanistan,' dated 9 December 2010, stated, 'The Constitution of the Islamic Republic of Afghanistan (2004) sets out the legal framework for protection and advancement of human rights, including women's rights, and recognizes the need to eliminate traditions that are contrary to Islam. The Constitution gives a central position to Islam; many harmful traditional practices described in this report are inconsistent with Sharia law.' [29f] (p 2)

25.17 The same report quoted articles of the Afghan Constitution directly applicable to women:

'Article 7

'The state shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights.

'Article 3

'In Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam

'Article 22

'Any kind of discrimination and privilege between the citizens of Afghanistan are prohibited. The citizens of Afghanistan – whether man or woman – have equal rights and duties before the law.

'Article 54

'The state adopts necessary measures to ensure physical and psychological well being of family, especially of child and mother, upbringing of children and the elimination of traditions contrary to the principles of sacred religion of Islam.

'Article 130

'When there is no provision in the Constitution or other laws regarding ruling on an issue, the courts' decisions shall be within the limits of this Constitution in accord with the Hanafi jurisprudence and in a way to serve justice in the best possible manner.' [29f] (p 2)

25.18 UNIFEM (UN Development Fund for Women) provided undated information, accessed 2 May 2012, which stated that the Afghan Ministry of Women's Affairs (MOWA) had developed the ten-year National Action Plan for the Women of Afghanistan (NAPWA), which is an integral part of the Afghanistan National Development Strategy (ANDS) Gender Equity Cross Cutting Strategy (AGE-CCS). 'These are the two main instruments utilized by MOWA in developing gender policies. MOWA is currently working to incorporate the NAPWA into the Afghanistan Compact and the Afghanistan National Development Strategy (ANDS).' [125a]

25.19 However, Action Aid stated the following in a report entitled, 'A Just Peace? The legacy of war for the women of Afghanistan,' dated September 2011:

'In 2008 the Afghan government launched the National Action Plan for the Women of Afghanistan (NAPWA) – a 10-year plan to implement commitments to women. At the

time it was hailed as a success for women by donors, but critics say it has since lain dormant without support from the international community, including the UK. And other successes also need careful examination, as, just 30 years ago, Kabul society, admittedly unlike much of the rest of the country, was relatively progressive compared to its neighbours. In 1964 a new constitution gave women the right to vote and enter politics.' [126a]

Implementation of Elimination of Violence Against Women (EVAW) law

25.20 The joint United Nations Assistance Mission in Afghanistan (UNAMA) and Office of the United Nations High Commissioner for Human Rights (OHCHR) report, 'A long way to go: Implementation of the Elimination of Violence Against Women law in Afghanistan,' which was dated September 2011 and based on research carried out between March 2010 and September 2011, commented as follows:

'The Government of Afghanistan took a big step forward in support of women's equality and protection of women's rights when it enacted the Law on the Elimination of Violence against Women (EVAW law) in August 2009. The landmark legislation criminalizes for the first time in Afghanistan child marriage, forced marriage, forced self-immolation and 19 other acts of violence against women including rape, and specifies punishments for perpetrators…

'UNAMA/OHCHR's research for this report suggests that judicial officials in many parts of the country have begun to use the law – but that its use represents a very small percentage of how the Government addresses cases of violence against women. UNAMA/OHCHR found there is a long way to go to fully protect women from violence through the EVAW law.' [29a] (p1)

25.21 The same source noted that:

'While UNAMA/OHCHR sees growing implementation of the EVAW law as encouraging, the low numbers of complaints and cases prosecuted make it clear that the Government has not yet applied the law to the vast majority of cases of violence against women… UNAMA/OHCHR also found that some murder cases and other serious crimes criminalized under the EVAW law were prosecuted under the Penal Code instead of the EVAW law. This sometimes resulted in acquittal of perpetrators, reduction of charges to less serious crimes, convictions with lighter sentences and women victims themselves being accused of "moral crimes."

'In many regions, police and prosecutors continued to refer cases of violence against women to mediation and traditional dispute resolution mechanisms that often did not enforce the EVAW law or the Penal Code and failed to adequately protect the rights of women. The report found that a majority of cases of violence against women reported to police and prosecution offices were processed outside the formal justice system—through mediation, pressure for withdrawal of complaints, and by elders in traditional dispute resolution mechanisms. UNAMA/OHCHR documented extensive use of mediation for domestic violence complaints—by institutions ranging from the Police Family Response Unit to the Department of Women's Affairs and the Afghanistan Independent Human Rights Commission.

'Reliance on mediation reflects in part the expressed preference of many women who file complaints, especially against their husbands, but authorities often appeared to inappropriately suggest and pressure women to withdraw complaints and opt for

mediation. The extensive use of mediation even for serious crimes of violence against women is inconsistent with international best practice and the spirit and the letter of the EVAW law which calls for prosecuting perpetrators of violence against women, protecting victims of violence and preventing further violence. (p 2)

'Since the law's enactment, 28 provinces have established branches of the Commission for the Prevention of Violence against Women to support implementation, as mandated by the EVAW law. UNAMA/OHCHR found that 16 commissions are currently functioning and meeting regularly, and that many of them assist victims and raise awareness about the law. Almost all commissions, however, are still struggling to fulfil their mandate and require more support from Provincial Governors, the Ministry of Women's Affairs and other Government bodies.

'Although the EVAW law is beginning to be implemented…, women and girls' lack of knowledge of its protective provisions, uneven enforcement, and the prevalence of harmful practices mean that women continue to flee violence and forced marriage…

'The ongoing challenge to implement the EVAW law is a key element of the 2008-18 National Action Plan for the Women of Afghanistan (NAPWA), which calls for the revision of Afghanistan's legislative framework and judicial system to guarantee the equality and non-discrimination of women enshrined in the Constitution and international human rights conventions. The Government reaffirmed its commitments to implement gender quality at the 2010 Kabul Conference through several national priority programs including the "Capacity Development to Accelerate NAPWA Implementation Progra" which aims to develop the capacities of relevant Government entities to mainstream implementation of the NAPWA in their policy-making, planning, programming, budgeting, monitoring, reporting and evaluation process… Afghanistan's "Law and Justice for All Program", another national priority program which has yet to be endorsed by the Joint Coordination Management Board, calls for increasing compliance and enforcement of the EVAW law by the Attorney General's Office, the Supreme Court, and the Ministry of Justice, with funding from international donors…(p 3)

'Toward these aims, UNAMA/OHCHR calls on the Government to make much greater efforts to raise awareness about the law among women and men, in rural and urban areas, and among the Government at all levels. The Supreme Court, the Ministry of Interior and the Attorney General's Office should instruct promptly their officials at all levels to apply the EVAW law consistently, rapidly and efficiently. Police, prosecutors and judges in many regions also require more training on how to apply the law…(p 4)

'The EVAW law defines 22 different forms of violence against women: rape; forced prostitution; publicizing the identity of a victim in a damaging way; burning or use of chemical substances; forcing a woman to commit self-immolation; causing injury or disability; beating; selling and buying women for the purpose of or under pretext of marriage; baad (giving away a woman or girl to settle a dispute); forced marriage; prohibiting the choice of a husband; marriage before the legal age; abuse, humiliation or intimidation; harassment or persecution; forced isolation; forced drug addiction; denial of inheritance rights; denial of the right to property; denial of the right to education, work and access to health services and other rights provided by law; forced labor; marrying more than one wife without observing Article 86 of the Civil Code; and denial of relationship.' [29a] (p 6)

25.22 The same report included the following quotation from an interview with the head of Khost Provincial Court on 18 April 2011: '"I have not recorded a single case of violence

against women. Security concerns, strong or deep rooted traditional customs and the psychological obstacles of shame and fear prevent women from bringing their cases to court.”’ [29a] (p10)

25.23 The USSD report 2011stated, ‘Authorities imprisoned some women for reporting crimes perpetrated against them and some as proxies serving as substitutes for their husbands or male relatives convicted of crimes.’ [58c] (Section 1.d)

25.24 A Reuters article, Women’s rights in Afghanistan since the fall of the Taliban, dated 13 June 2011, observed:

‘“A family law passed by Karzai in 2009 sparked outcry from Western nations.

‘Designed to legalize minority Shi'ite family law, which is different from that of the majority Sunni population, it was drawn up in part by a conservative cleric and contains clauses saying a wife can be denied food by her husband if she does not satisfy him sexually, and that she must wear make-up if he desires.

‘It also contained some restrictions on women's freedom of movement, reminiscent of Taliban-era edicts.’ [28a]

Traditional justice system

25.25 The Human Rights Watch report, ‘”I had to run away”, The Imprisonment of Women and Girls for “Moral Crimes” in Afghanistan’, March 2012, (HRW ‘I had to run away report’ 2012) observed that:

‘Afghanistan’s state justice system functions alongside a parallel traditional justice system, through which community elders convene in meetings known as jirgas or shuras to consider issues including disputes within their community. These traditional justice mechanisms are often involved in resolving problems within families, including cases of “running away” and zina, as well as divorce and child custody issues. A number of women and girls interviewed for this report discussed ways in which their situation had led them to deal with community elders and the traditional justice system as well as the state justice system. While some of the women and girls described good experiences with traditional justice mechanisms, others had negative experiences. A general concern about the traditional justice system is that it discriminates against women and at times uses abusive practices, such as baad and even execution by stoning.’ [15r] (footnote 21, p 29)

For more information about the traditional system, see Judiciary - traditional justice.

CULTURAL ATTITUDES TO WOMEN

25.26 Radio Free Europe/Radio Liberty commented as follows in an article entitled, ‘Don’t let the world forget its promises to Afghan women,’ dated 8 March 2011: ‘It has been a challenge, to say the least, to sell the idea of women’s rights as per the 2004 Afghan Constitution to the conservative Afghan tribal chieftains and religious leaders. They have always viewed women's rights as a Western phenomenon that would erode the fabric of traditional Afghan society.’ [30c]

25.27 IRIN provided this information in an article entitled, ‘Afghanistan: women remain prisoners,’ dated 2 December 2010:

‘”While gender-based violence is prevalent, women have very limited freedom to escape the norms and traditions that dictate a subservient status for females, according to rights groups.

‘“Women are denied their most fundamental human rights and risk further violence in the course of seeking justice for crimes perpetrated against them,” the human rights unit of the UN Assistance Mission in Afghanistan (UNAMA) reported in 2009.

‘Over 80 percent of Afghan women, particularly in rural areas, are illiterate and have very little or no awareness about their human rights, including the right to a fair trial, according to aid agencies.

‘For a woman to refer a case to the police or a prosecutor is widely believed to be pointless, as allegations are not usually taken seriously, properly recorded or acted upon. “Ultimately, authorities are not willing, or are not in a position, to provide women at risk with any form of protection to ensure their safety,” said the UNAMA report.

‘”Women face discrimination at courts,” said Wazhma Frogh, from the Afghan Women’s Network (AWN), a consortium of NGOs and individuals working on gender issues.

‘However, judicial officials reject the criticisms. “These allegations have no real foundation. Women are treated fairly and [as] equally as men in courts,” Bahawddin Baha, head of the Supreme Court’s penal division, told IRIN, adding that the courts operated according to Islamic jurisprudence.

‘Access to formal justice institutions in Afghanistan is limited, especially in rural areas, and up to 80 percent of the population relies on traditional dispute-resolution mechanisms, especially as the formal justice system is viewed as ineffective and corrupt, according to an Afghanistan national human development report in 2007… There is no clear guidance in Afghanistan’s penal code on how to deal with women and girls who run away from their homes, officials said, though the police arrest and prosecutors prosecute them.

’”Our legal system is based on the Islamic Sharia [law] in which elopement is a sinful act for which, depending on the characteristics of a person, there could be different but minor penalties such as a 2-3 month sentence,” said the Supreme Court’s Baha. Human rights activists condemn this, and say women and girls who flee from domestic violence must not be treated as offenders.

‘”There are varying and sometimes opposing interpretations of the Sharia rules on elopement,” said AWN’s Frogh. ”Treating elopement as a crime is related more to a predominant patriarchal culture in this country than to Islam,” she said, adding that in most cases running away from home was a last resort for women to save their lives.’ [27c]

25.28 The HRW ‘”I had to run away” report 2012 stated:

‘Segregation of the sexes is extreme. The concept of men and women working in an office together is sufficiently controversial that many families prevent women from working for this reason. In some communities and families, women are simply not permitted to leave the home. In addition, the Taliban now controls large parts of the country, particularly in the south and southeast, bringing with them the same attitudes and policies towards women that characterized their years in power from 1996 to 2001.

'Discussions of women's rights in Afghanistan often entail assertions that restrictions on movement, access to education, political participation, and privacy, including choosing whether to wear a burqa, are cultural or reflect Afghan tribal codes or religious traditions. But while cultural codes can be a powerful force in Afghanistan, such codes are not comprehensive, unchanging, or monolithic. Afghanistan's many diverse cultures have varying attitudes and different histories of treatment of women and girls. More importantly, when laws criminalize women and girls fleeing abuse, when soldiers and police abduct and rape women and girls with impunity, and when the government does not address restrictions resulting in discriminatory denial of education, health care, employment, and political participation, women and girls are not experiencing "culture"—they are experiencing human rights violations.' [15r] (p 29)

25.29 The OECD SIGI profile 2011 observed that: 'Unlike the Taliban, the current government imposes no legal restrictions on women's freedom of dress. Nevertheless, following deeply rooted traditions of purdah (the segregation of women from men) most Afghani women still cover themselves from head to toe, wearing the typical burkha. Women who choose to go unveiled in public run the risk of being verbally or physically harassed.' [34a]

The United States Department of State's 'International Religious Freedom' report, covering the period July to December 2010 and published in September 2011, stated that 'Local religious officials continued to confront women over their attire and behavior. In rural areas, many women wore a burqa (religious dress that covers the full body and face, including the eyes) in public. Since the fall of the Taliban, many women in urban areas no longer wore the burqa, but almost all wore some form of head covering either by personal choice or due to community pressure.' [58a]

POLITICAL RIGHTS

25.30 The Afghanistan Independent Human Rights Commission (AIHRC) produced a Fifth Report, 'Situation of economic and social rights in Afghanistan,' dated November/December 2011(AIHRC report 2011), which stated:

'Women face many limitations with regard to political participation and participation in development. They do not take part in socio-political decision-making in most parts of the country and encounter with manifold cultural and traditional constraints and challenges. Women have less participation than men in the recent elections in many parts of the country, especially in insecure areas. Women constitute only 27.7 percent of parliamentarians, which include 69 out of all 249 parliamentarians. As previously mentioned, there has been a sharp decrease in the number of Government's female employees, falling from 31 percent in 2005 to 20 percent in 2010. Women have very limited presence and role in the reconciliation process, constituting only 9 out of 70 members of the High Peace Council. Additionally, the reconciliation process has given rise to many concerns for women. According to a report by Action Aid, 86 percent of Afghan women have expressed their concern about the return of the Taliban.' [31a] (p 90)

25.31 However, the USSD report 2011 noted, in regard to the number of government employees who were women: 'The Independent Administrative Reform & Civil Service Commission Gender Directorate worked on an action plan for increasing the percentage of women in the civil service to 30 percent (up from an estimated 26 percent) by 2013.' [58c] (Section 3)

25.32 The New York Times reported the following concerning the 2009 election in an article titled, 'Intimidation and fraud observed in Afghan election,' dated 22 August 2009:

'A particular concern was the notably low turnout of women, who election observer organizations said were disproportionately affected by the violence and intimidation…

'But women voters seemed to have faced disproportionate obstacles, election observer groups said. Hundreds of polling stations for women (stations throughout the country were segregated to keep men and women from publicly mingling) did not even open in some areas where Taliban influence is high, but women also suffered discrimination and intimidation in some places in central and northern Afghanistan. Female candidates received threats and were largely ignored in news coverage of the elections, the observers said.

'"The disproportionate effects of poor security conditions, widespread cultural opposition to women in public life and a number of attacks clearly aimed at deterring women's activities all created significant obstacles," the European Union observer mission said in its preliminary statement on Saturday.

'Women are already restricted by the conservative culture in many parts of rural Afghanistan, but the growing instability has further consolidated the opinions of many families and communities that it is not appropriate for women to be active outside the home, the statement said.

'At least 650 women's polling centers planned did not open on the day, according to Free and Fair Elections in Afghanistan, known as FEFA, the largest Afghan observer organization. In the southern province of Oruzgan, of the 36 centers for women that were planned, only 6 opened, said Nader Nadery, director of FEFA. In certain polling centers in the south and southeast of the country almost no women voted, according to the National Democratic Institute, an American-financed group that promotes democracy abroad.

'The insecurity also led to greater proxy voting, in which male family members vote for the women, further robbing women of their rights, observers said.

'Afghan women have been granted equal rights under the new Constitution, and can run for office — and there is a quota system that provides a minimum 25 percent representation of women in provincial councils. Two women entered the presidential race this year and 333 the provincial council elections, roughly 10 percent of the total field of council candidates. There was a slight increase nationwide of women's participation as candidates, but in nearly half the provinces, women's participation decreased, the European Union observation mission reported.

'Female candidates complained that the insecurity made it impossible in some places to campaign. Assassinations of women working in government positions in provinces like Kandahar have undoubtedly deterred others from coming forward. Only three women entered the contest for four reserved female seats on Kandahar's provincial council, and none of the three candidates were living in Kandahar during most of the campaign.

'Women received almost no coverage in news reporting, and topics concerning women's rights were virtually never featured in news coverage of the electoral campaign, the European Union mission said.

'A lack of female staff members forced the election commission to use men, which deterred women from voting in areas, the National Democratic Institute said. A lack of women in the Election Complaints Commission, and the location and attitude of some of its staff members, also made it difficult for some people, particularly women, to make use of the complaints process.' [32a]

25.33 The 2010 election was described as follows by Free and Fair Election Foundation of Afghanistan (FEFA) in an undated report, 'Women and Afghanistan's 2010 Parliamentary Elections', accessed on 1 October 2012:

'New electoral regulations became disproportionate barriers for women seeking office during the 2010 parliamentary elections, in comparison to men. Women faced greater obstacles registering to vote, lodging official complaints against candidates and in obtaining protection from law enforcement during campaign season. Escalating armed conflict, too, encroached on women's political participation. The campaigns of women candidates in 2010 were constrained by insecurity to a greater extent than the campaigns of male candidates, and women threatened by insurgents and local powerbrokers received only grudging support from law enforcement. The results of the violence-wracked and disputed elections were mixed for Afghan women: the second parliament includes more women parliamentarians than its predecessor, but fewer sitting women parliamentarians won their seats without the gender quota this time.' [33a] (Introduction)

25.34 Reuters provided the following information in its article, 'Women's rights in Afghanistan since the fall of the Taliban,' dated 13 June 2011:

'… With the fall of the Taliban, women regained many of the basic rights that had been denied them. There have been significant improvements over the past decade, including a quota for women in the Afghan parliament that has reserved a quarter of its 249 seats for them. President Hamid Karzai's interim cabinet after 2001 included a female vice-president and there are three female ministers after his 2009 re-election. Still, some warn that having female politicians is more about symbolism than actual change.' [28a]

25.35 The USSD report 2011 stated:

'There were reports that the female members of the High Peace Council established in September 2010 were marginalized by their male counterparts and that they were not permitted to take part in initial contacts with representatives from the Taliban or other insurgent groups…The constitution provides for seats for women and minorities in both houses of parliament. The constitution provides for at least 68 female delegates in the lower house of the national assembly… Fifty percent of the president's appointees to the upper house must be women.' [58c] (Section 3)

See subsection Violence against women in the public sphere below.

25.36 The OECD SIGI profile 2011 stated that:

'With respect to women's participation in public life, the US Department of State reports on several protests held by women's groups in support of women's rights. However, women's full and equal participation in public life is severely restricted by threats to safety. An example from 2009 is rocks being thrown at female protesters. As required by law, in 2009, there were 68 women (30 percent) in the 249-seat 'Wolesi Jirga'. One woman served in the cabinet. No women served on the Supreme Court Council and

there were 203 female judges. The US Department of State reports that many female members of parliament and provincial council members reported death threats.' [34b] (Restricted civil liberties)

See also subsection on Violence against women and History – Parliamentary elections - 18 September 2010

SOCIAL AND ECONOMIC RIGHTS

25.37 The USSD report 2011 noted:

'Societal discrimination against women continued. Cultural prohibitions on free travel and leaving the home unaccompanied prevented many women from working outside the home and reduced their access to education, health care, police protection, and other social services. Women faced discrimination in access to and terms of employment and occupation. Some educated urban women found substantive work, but many were relegated to menial tasks. There were approximately 1,100 female police officers in a police force of more than 130,000. The government planned to increase the total number to 2,800; however, there was little evidence of efforts to recruit additional female police officers.' [58c] (Section 6)

Employment

25.38 The OECD SIGI profile 2011 noted 'Afghanistan does not appear to have legislation in place to guarantee women's equal treatment in employment, including paid maternity leave.' [34b] (Restricted civil liberties) The AIHRC report 2011 observed that

'Despite women's extensive participation in the social sphere, paid work is still a men's province and importance is not attached to women's work and women's work is inadequately paid. As a result, women's presence in work is inconsiderable.

'But Article 11 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) [which Afghanistan has ratified] has recognized the rights to work, choice of work, equal conditions in choice of work, pay equal to that of men, use of work benefits, and equal evaluation for equal work, insurance in times of illness, unemployment, and age, maternity leave while maintaining one's job and other privileges for women and has stipulated, —States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights‖ and that women should not be forced to engage in any work that is harmful to their health and that women's protection laws should be enacted.

'There are no exact and new statistical information on the number of women who are qualified for work. But NRVA findings show that less than half of women (47 percent) are qualified for work market, while 86 percent of men are qualified for work market. It means that women's presence in work market is 39 percent less than that of men. Women's participation in agriculture and livestock in rural areas is higher at 60 to 70 percent. But women's participation in the workforce is less in urban areas at around 21 percent. In general, women are less active in work market and those women who work are employed in jobs that are less paid, less secure, fewer working hours, and more vulnerable.

'At the same time, 14.1 percent of the AIHRC HRFM interviewees in 1388 (2009/10) stated that their families are headed by women. In these families, women are the breadwinners.' [31a] (p 33)

25.39 The AIHRC report 2011 also stated:

'According to the ANDS [Afghanistan National Development Strategy] assessment, women constitute at least 30 percent of agricultural workers. They are mainly employed in livestock, small businesses, and handicrafts, but they have limited access to capital, information, technology, and marketplace. Women earn considerably less than men do. Tailoring, cooking, housekeeping, carpet-weaving, embroidery, teaching, art and industry, handicrafts, hairdressing, livestock, and governmental and non-governmental employment are the areas in which women are employed. The current definition of economically active population excludes women who are employed —unpaid in family economic affairs. As a result, women's economic contribution is not considered and this leads to loss of women's self-confidence and family status….

'Currently (1390 (2011)), women constitute around 20 percent of government employees, 88 percent of them are employed as official staff members, and 12 percent of them work as service personnel or staff members. Women constituted 22.3 percent of civil servants in 2006 and 31.2 percent of government employees in 2005. At the same time, 30 percent increase in women's participation in elected and non-elected institutions at all governance levels by 2020 is an important objective in the ANDS. But this statistics reveals the decrease in women's presence in the Government: women's presence in the Government has decreased by 11.2 percent since 2005…' [31a] (p 33-35)

25.40 The same source also stated that, 'Despite enjoying legal equality with men and strong legal guarantees, women still experience inequalities and manifold problems in the marketplace and do not have access to a healthy, safe working environment. Therefore, there is increased need to plan a cultural restructuring of Government institutions.' [31a] (p 35)

25.41 The same Afghanistan Independent Human Rights Commission (AIHRC) report, 'Fifth Report, Situation of economic and social rights in Afghanistan,' dated November/December 2011, stated:

'Women's maternity leave is an issue that is included in the right to social security. Article 10 of ICESCR [International Covenant on Economic, Social and Cultural Rights] states that women are entitled to special protection for a reasonable amount of time before and after childbirth, during which employed women must enjoy paid leave and other related benefits. Article 54 of the Islamic Republic of Afghanistan's Labor Law too has recognized this right for mothers. According to the Law, employed women are entitled to a paid maternity leave of 90 days, one-thirds before childbirth and two-thirds after. In case of unnatural childbirth or birth of twins or more, the employed mother is entitled to 15 more days in her maternity leave.

'…A research by the AIHRC in 1388 (2009/10) found that 4.5 percent of employed women cannot use their maternity leave properly and fully… Maternity leave also depends on the level of awareness among employees and employers. The AIHRC research on employed women indicates that these women do not have adequate awareness about the Labor Law and the rights and privileges, to which they are entitled,

in outlying provinces and that employers sometimes violate the Labor Law and do not permit maternity leave for the duration specified in the Law.' [31a] (p 46-47)

25.42 The United Nations Assistance Mission in Afghanistan (UNAMA) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) produced a joint report, 'A long way to go: Implementation of the Elimination of Violence Against Women law in Afghanistan,' which was dated November 2011 and based on research carried out between March 2010 and September 2011. This report noted:

'The Ministry of Interior's strategy calls for a corps of 5,000 women police officers by 2014, but there remain a number of challenges to reaching this goal. Obstacles to recruiting and retaining women police, according to Brigadier General Shafiqa, head of the ANP's Human Rights and Gender Unit, include traditions and customs that do not support entry of women in the police force; low literacy, a heritage of the Taliban's prohibition of girls' school attendance; lack of security, lack of childcare, threats and fear of retaliation by anti-Government elements.' [29a] (p 21)

25.43 A Reuters article, 'Women's rights in Afghanistan since the fall of the Taliban,' dated 13 June 2011, stated:

'Karzai has said he wants women to play a bigger role in the army and police force, where they are crucial for security checks and to guard against domestic violence in a society where the sexes are often separated.

'But jobs and personal lives are still constricted by custom and law. A lot depends on where women live. Rights groups and Western officials have warned of a rural-urban divide and say corruption and poverty fuel lawlessness outside of cities, where people also tend to be more conservative.' [28a]

Property and inheritance

25.44 The OECD Social Institutions and Gender Index (SIGI) provided the following information in an undated factsheet which was accessed on 29 February 2012:

'Legislation in Afghanistan provides only weak support for the financial independence of women. Many women work in the agriculture sector, but their access to land is very limited and very few own land of their own. While Islamic law protects a woman's access to property other than land, customary law traditionally deprives women of economic assets, leaving them dependant on their husbands, fathers or brothers (if unmarried) throughout their lives…' [34a]

25.45 The OECD SIGI profile 2011 noted that:

'The 2004 Constitution provides that women cannot be precluded from owning or acquiring property. However, as noted in the Family Code section, discriminatory inheritance practices under customary and Sharia law severely limits women's access to land. A World Bank report cites a 2004 study of land relations in the Faryab province which shows that women's land ownership varies depending on ethnic group. For instance, while women from Tajik, Arab, Pashtun and Uzbek groups were unlikely to own land, Leghman female landowners were common. However, for the most part, women are very unlikely to own land. Women who do own land, either through inheritance as a widow or from the death of a father, tend to surrender the land to a brother or son. Even if a womanowns land on paper, the man usually exercises the actual control of the land.

'Women's access to property other than land is similarly restricted through discriminatory inheritance practices. In agricultural settings, although men and women spend equal time on agricultural activities, men control expenditure. A 2003 study cited by the World Bank found that livestock was likely to being own either by the household (i.e. owned jointly between men and women) or by men. Only chickens were specifically reported as being owned exclusively and de facto by women.

'There is no information available on the law regarding access to credit in Afghanistan. Afghani women have only limited access to bank loans, although this is not necessarily a sign of discrimination as most Afghans, men and women cite limited access to credit as the biggest obstacle to entrepreneurship. Foreign aid has helped to establish several micro-finance institutions in the country, which are available to both women and men. A 2002 study of 87 businesswomen in Kabul found that nearly half of the women indicated that they control their income and 40 percent of women would be able to take a loan without permission from a male relative. The women cited reliance on male relatives to manage the non-production aspects of their businesses as a constraint.' [34b] (Restricted resources and entitlements)

25.46 The same source noted in regard to inheritance:

'Women's right to inheritance in Afghanistan may vary, depending on whether they are determined by Islamic and customary law. Under Sharia law, women may inherit from their parents, husbands or children, and, under certain conditions, from other family members. According to Sharia Law, a daughter inherits half of a son's share and a wife is entitled to only 1/8 of her husband's estate.[15] Under customary law, a wife generally does not inherit.[16] The United Nations Mission in Afghanistan reports that widows are particularly poorly treated with respect to inheritance rights, and commonly forced to marry another male in the family to keep her inheritance in the family. Often, if a widow does not remarry into the same family she risks losing her children.' [34b] (Discriminatory family code)

Marriage (including polygyny) and child custody

For information about human rights violations associated with marriage, including forced and underage marriage, see Violence against women below. Also see subsection Women - single, unaccompanied and widows for information about widows who remarry.

25.47 The AIHRC report 2011 noted:

'The existing laws governing the right to marry and found a family are comparatively vague and are, in some cases, incompatible with the Afghan Constitution and relevant international legal standards. On the other hand, the Afghan Civil Code (ACC) contains inadequate provisions regarding the right to marry and found a family and the dissolution of the family unit and it, therefore, cannot meet family's legal needs. This legal lacuna has continued in the new Shia Personal Status Law. Therefore, it is necessary to expansively and comprehensively regulate family matters, especially the right to marry and found a family, through legislation.

'One inadequacy in existing laws (ACC and Shia Personal Status Law) is the difference in marriageable age for boys and girls, which is 18 years for boys and 16 years for girls. This age difference of two years is regarded as gender-based discrimination between boys and girls… Besides the aforementioned emphasis, religious texts and Islamic laws

have contained desirable rights for men and women. Nonetheless, equal rights for women and men have not been accurately enshrined in some of national laws and legislations. Existence of discriminatory laws in the Afghan legal system has affected the protection of women's rights. For example, in matters related to divorce, a man can easily divorce his wife without due process of law. But women face very difficult circumstances to get a divorce. Based on Articles 176, 183, 191, and 194 of ACC, women can demand separation under four circumstances: (1) separation due to defect, (2) separation due to harm, (3) separation due to lack of alimony/maintenance, and (4) separation due to unjustifiable absence. The Shia Personal Status Law contains similar provisions in this respect. Hence, women who are forced to demand separation as a result of continued family violence and other problems face serious obstacles to prove the said conditions. Vagueness in legal provisions and limitations facing women in providing the necessary legal evidence deprive them of their legal rights.' [31a] (p 49)

25.48 The same source reported that 'Despite these legal guarantees [protecting women against abuse], violence against women is common in Afghanistan in such manifestations as force marriage, early marriage, bad marriage, violation of the right to marriage and choice of one's spouse, rape, murder, beating, insulting, humiliating, harassment, forced labor, education deprivation, and etc. and these have been recorded by the relevant institutions.' [31a] (p 49)

25.49 The OECD SIGI profile 2011 stated:

'The Civil Code in Afghanistan has stipulated the minimum age as 16 for girls and 18 for boys. The Afghan Civil Code also allows the father of a girl or a competent court to "consent" to the marriage of a girl who is 15 years. The Constitution provides for the recognition of Sharia law. Under Sharia law, there is no minimum age for marriage, however it is generally recognised as the age of a child who has reached puberty.

'According to data from the 2010 Demographic Health Survey, 17.3 percent of girls aged 15-19 were married divorced or widowed in Afghanistan. This represents a significant decline from 1979 where 54 percent of 15-19 year old girls were married, divorced or widowed.

'In terms of community attitudes towards early marriage, UNAMA conducted a number of focus groups with the general population which reveals that child marriage is generally viewed as a "harmful traditional practice" although viewed as somewhat inevitable and deeply ingrained as a tradition. The research found that in the northern region, most families aim to marry female children by the age of 14. While some members of the community justified the practice on the basis of tradition, others justified the practice pragmatically to protect daughters from possible kidnapping, rape and forced marriage to local commanders and members of illegal armed groups. Some held the view that men prefer to marry young girls because it is easier for a husband and in-laws to establish and maintain control over them. The study also found that due to widespread poverty, child marriage alsoleads to "selling" of girls, particularly to much older men, who can pay impoverishedfamilies for a young girl's marriage. As older men often take young girls as additionalwives, the practice of polygamy can promote child marriage, thus highlighting the interconnectedness of discriminatory social institutions.

'Forced marriage is also a serious obstacle to women's equality in the family in Afghanistan. Forced marriage in Afghanistan encompasses baad (the exchange of girls for dispute resolution), baadal (exchange marriages), child marriage and coercion of widows to marry a relative of a deceased husband. According to a 2008 report by

UNIFEM, 70 to 80 percent of Afghan marriages are forced. Forced marriage is prohibited by the Elimination of Violence Against Women law with penalties ranging from short-term imprisonment to 10 years' imprisonment. Sharia law also provides that marriages should be entered into with mutual consent, although the father of a woman has the right to approve her choice.

'Article 86 of the Civil Code of Afghanistan states that "Polygamy can take place after the following conditions are fulfilled: When there is no fear of injustice between the wives; When the person has financial sufficiency to sustain the wives. That is, when he can provide food, clothes, suitable house, and medical treatment; and When there is legal expediency, that is when the first wife is childless or when she suffers from diseases which are hard to be treated." Sharia law in Afghanistan provides that men can take up to four wives. A survey of 1400 people conducted by the Women and Children Legal Research Foundation found that the large majority of respondents (87 percent) disagreed that having more than one wife was a "must" for Afghan society. Only 13 percent agreed on polygamy as a "must". In terms of factors contributing to polygamy, men cited the reasons of tribal competition, insecurity, custom and tradition, sickness of wife, wealth and not having a son as the main reasons for entering into polygamous marriages. In terms of views on equality in polygamous marriages, 75 percent of interviewees said it is not possible at all to apply justice and equality in the context of polygamy.

'With respect to parental authority, according to the Afghan Civil Code, once children have reached a certain age (nine for girls, seven for boys) guardianship is with the father, or in case of death or divorce, with the family of the father. The right of divorce rests with a husband rather than a wife. While a woman has to show grounds for a divorce in court, a husband can divorce his wife through repudiation (talaq). The grounds for women seeking divorce are limited to the husband suffering an incurable disease, his failure or inability to maintain his wife, his absence from his wife without reason for more than three years or his imprisonment for ten years or more. The World Bank reports that divorce is not common in Afghanistan, and it is considered shameful for a woman to seek divorce. In the event of divorce, women lose custody over older children. The law on adultery or 'zina' also discriminate against women, with the law subjecting women to disproportionate prosecution for adultery compared to men.' [34b] (Discriminatory family code)

25.50 The UN Committee on the Rights of the Child stated the following in its Consideration of reports submitted by Afghanistan under Article 44 of the Convention on the Rights of the Child, Concluding Observations, dated 8 April 2011:

'The Committee takes note of the State party's report that a Family Code is being adopted which will emphasize shared family responsibilities between women and men. It is however concerned that, in accordance with article 256 of the Civil Code, maintenance of children falls under the exclusive responsibility of the father who has the obligation to maintain a son until he is capable of making his own livelihood, and a daughter until she is married, which greatly contributes to early marriage for girls. The Committee is also concerned that in case of divorce, guardianship of girls over 9 years, and of boys over 7 years will be given to the father. The Committee is further concerned that children who have lost their father are often considered as orphans and may be separated from their mother, especially if she does not accept to marry a male member of her deceased husband's family.' [52a] (p 9)

'Son bias' and reproductive rights

25.51 Radio Free Europe/Radio Liberty provided the following information in an article dated 24 February 2012: 'In Afghanistan, tradition among many families dictates a strong preference for boys, and blame is often placed on the mother if she gives birth to a girl.

'This is for a variety of reasons: sons are seen as future breadwinners; the continuation of a family's lineage; the inheritors of the estate…Earlier this month, the issue made headlines when a man in Konduz Province allegedly strangled his wife after she gave birth to the couple's third girl, rather than his much-desired boy.

'Women's rights activists in Afghanistan say that such extreme cases are highly unusual, but bullying and ostracizing women over the gender of their babies is not uncommon… Imrani says that while no reliable statistics are available, the phenomenon is more widespread among less-educated families… As the heads of their families, men not only look after their elderly parents but they are also expected to take care of their younger siblings if called upon. Therefore, Afghan parents see their sons as a kind of insurance policy for old age.' [30a]

25.52 The OECD SIGI profile 2011 observed that:

'There is a famous proverb in Afghanistan which states: "a family without a son is like a home without any light". The preferential treatment of sons in Afghanistan is reported to be a significant issue. The Women and Children's Research Foundation reports that this discrimination pervades all aspects of life ranging from birthday parties, naming ceremonies, access to health and education and decision-making with respect to marriage. Son preference is reflected in the data on access to education, with girls being substantially less likely to be enrolled in or attending primary school, compared to boys. UNICEF reports that only 46 percent of girls are enrolled in primary school, compared to 74 percent of boys. Further, data from the 2003 Multiple Indicator Cluster Survey finds that 12 percent of girls aged 5 to 14 are engaged in 28 hours of domestic chores per week compared to 6 percent of boys, providing an indication of son preference in the allocation of household tasks.

'The Central Intelligence Agency reports that the male/female sex ratio for the total population in 2012 is 1.03. The incidence of missing women is particularly severe in Afghanistan. Klassen and Wink in 2003 estimated that around 1 million Afghani women were missing. As such, Afghanistan is a country of concern in relation to missing women.' [34b] (Son bias)

25.53 The USSD report 2011 observed that, 'Women generally exercised little decision-making authority regarding marriage, timing of pregnancies, birthing practices, and child education.

'Couples were free from government discrimination, coercion, and violence to decide the number, spacing, and timing of their children, but family and community pressures to reproduce, the high prevalence of child and early marriages, and lack of accurate biological knowledge limited their ability to do so. Women could expect to bear on average 5.1 children in their lifetimes. Oral contraceptives, intrauterine devices, injectables, and condoms were available commercially and were provided at no cost in public and private health facilities and by community health workers. There was a 20 percent usage rate of most modern forms of contraception. Men and women were diagnosed and treated equally for sexually transmitted infections, including HIV, when health care was available.' [58c] (Section 6).

25.54 The OECD SIGI profile 2011 stated:

'Women's physical integrity in Afghanistan is also affected by limited reproductive rights. The Afghanistan Criminal Code of 1976 stipulates that the performance of an abortion is a criminal offence except to save the life of the mother. UNIFEM reports that contraceptive prevalence among women was estimated at 23 percent in 2008, up from only 5 percent in 2003. Maternal mortality is exceptionally high in Afghanistan where one woman dies every 29 minutes in childbirth - 1,600 deaths per 100,000 live births. Only 19 percent of births are attended by a skilled birth attendant.' [34b] (Restricted physical integrity)

Single and 'unaccompanied' women, and widows

25.55 The USSD report 2011 noted:

'Because "unaccompanied" women were not accepted in society, women who could not be reunified with their family had nowhere to go. The difficulty of finding durable solutions for women compelled to stay in shelters was compounded by societal attitudes toward shelters, linked to the belief that "running away from home" was a serious violation of social mores. Government officials argued that control of the shelters would facilitate long-term solutions and allow for eventual reintegration of women into society. To that end, there were reports that the MOWA and other government entities helped arrange at least six marriages for women who could not return to their families.' [58c] (Section 6)

25.56 The Afghan Research and Evaluation Unit (AREU) report, 'Decisions, Desires and Diversity,' dated February 2009, explained that a woman (or man) being single is not considered a choice in Afghanistan:

'First, options are limited on an unconscious level, with certain things not even being thought of as a choice. For example, for most Afghan families the question of whether to get their daughters or sons married at all would not be seen as a decision to be made, as not marrying a child is not seen as an option. Second, even where different options beyond the norm may be imaginable, the consequences for individuals and families of non-compliance with prevailing social norms may be too detrimental to be perceived as a real choice… (p 16) As marriage is a central aspect of Afghan social life, whether to be married or not is simply not a choice that is available for most people.' [8b] (p 37)

25.57 The same report explained the position of widows within a family: 'The degree of influence that a woman has changes throughout her own and the wider family's life course. A woman who may have found it difficult to influence decisions at an earlier stage in her life usually gains more authority as she becomes older, particularly if she is widowed and perhaps also the oldest person in the family…' [8b] (p 17)

25.58 The report also explored the issue of widows being obliged to marry a brother-in-law:

'One of the most common reasons found for men to have more than one wife was because they had been obliged to marry the widow of a male family member. In almost all of these examples, the women had lost their husbands as a result of war — either directly or indirectly. There was a particularly high number of war widows in Bamyan Province. Similarly to the case of taking another wife for reasons of infertility, marrying a widowed woman in the family is seen as an unavoidable necessity for both the man and woman involved, as the case study below illustrates. The quotations … make clear that it is considered shameful across the four provinces studied for a widow to marry outside

her husband's family, and for many widows there is little choice in this as they are likely to lose custody of their children if they do not marry again within their in-laws' family…(p 54-55) a small but significant number of widows interviewed during the course of the research were able to avoid marrying another member of their husband's family; for example, Latifa, from urban Bamyan, after being widowed twice while extremely poor and still quite young, has managed to build a home next to her parents' house and live there with three of her children, while another three children live at a nearby orphanage... (p 57) the marriage of a widow within the family is seen as the means by which children from the husband who has died should be supported. Widows are compelled to enter into these marriages or risk losing custody of their children to their husband's family.' [8b] (p 67)

25.59 Radio Free Europe/Radion Liberty commented as follows on the position of women following the ousting of the Taliban in 2001 in an article entitled, 'Don't let the world forget its promises to Afghan women,' dated 8 March 2011:

'Unfortunately, the sight of women begging for money to feed their starving families also became commonplace on the streets of the Afghan capital. Years of confinement at home, interrupted educations, dead or maimed husbands and fathers, and no prospects for gainful employment had left tens of thousands of Afghan women at their wits' end with no recourse but the indignity of soliciting the charity of strangers.

'According to the United Nations Development Fund for Women (UNIFEM), there are an estimated 30,000 to 50,000 war widows in Kabul alone, most of them in their 30s and 94 percent of them unable to read or write.' [30c]

See subsection on Women - harmful traditional practices for more information about 'moral crimes', including 'running away from home.'

Freedom of movement

25.60 The USSD report 2011 stated that:

'The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government sometimes limited citizens' movement for security reasons…The greatest restriction to movement in some parts of the country was the lack of security. In many areas insurgent violence, banditry, land mines, and IEDs [improvided explosive devices] made travel extremely dangerous, especially at night… Social custom limited women's freedom of movement without male consent or a male chaperone.' [58c] (Section 2c)

25.61 The same source reported that, 'Women who walked outside alone or went to work often experienced abuse or "eve-teasing," including groping, or were followed on the streets in urban areas.' [58c] (Section 6)

25.62 The OECD SIGI profile 2011 stated that:

'Prior to the fall of the Taliban in 2001, women's access to public space was severely restricted by the Taliban's policies of not allowing women to leave the home without a male chaperone and not allowing women to work outside the home. Women who did not abide by these discriminatory practices were subjected to public beatings, threats and imprisonment. There were no reported legal restrictions on women's access to public space at the time of drafting. However, as noted in the physical integrity section, although the restrictive practices of the Taliban regime have been lifted, women's

freedom of movement continues to be hindered by threats of violence. Human Rights Watch reports that women who are students, teachers or associated with the government continue to be threatened, particularly through the delivery of “night letters”, which are threatening letters left at the door by insurgent groups. Further, social custom continues to limit many women's freedom of movement without male consent or chaperone.’ [34b] (Restricted civil liberties)

25.63 The UNAMA report based on a country-wide survey based on 150 individual and group interviews undertaken during 2010, Harmful Traditional Practices and Implementation of the Law on Elimination of Violence against, dated 9 December 2010, noted:

‘UNAMA HR found from discussions with Afghan men and women that women’s participation in public life is constrained due to restrictions on freedom of movement. This restriction is the result of both arbitrary and misinterpreted references to religion, as well as to widespread insecurity in areas throughout Afghanistan. It represents a major barrier to realizing the full range of women’s rights; denial of women’s freedom of movement prevents women from engaging in work, and accessing many other rights, such as education and adequate health care.

‘In some Afghan communities, women who transgress accepted norms bring dishonour on the entire family or even the community. The link between women’s behaviour and the honour of the community (especially its male members) leads to treating women as possessions. They are prevented from engaging in most social interaction outside the home to protect the men’s honour. Some such traditional customs have been legalized, although they contradict the Constitution and the EVAW law. For example, under the Shia Personal Status Law, (Article 123), there are some restrictions placed on women’s right to freedom of movement‘Under the EVAW law those who forcibly isolate a woman or prohibit her from accessing education, work and health care are committing a criminal act. Further, in Islam it is well known that the Prophet’s wives were actively engaged in public life as business women, scholars and educated literate women. The Holy Koran also requires men and women to strive to learn.’ [29f] (p 30-31)

See also section on Freedom of movement

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Access to education

25.64 The USSD report 2011 stated:

‘The status of girls and women in education remained a matter of grave concern. Key obstacles to girls' education included poverty, early and forced marriage, insecurity, lack of family support, lack of female teachers, and the long distance to school, according to a report released in February by a consortium of NGOs based on interviews conducted in 17 provinces in 2010. Only 30 percent of teachers were female, and most of those taught in urban areas, compounding the plight of schoolgirls in conservative rural areas where men did not teach girls. Poor quality of education, the absence of schools that only served girls, harassment, and lack of community support for girls' access to education were also cited in the study. Violent attacks against schoolchildren, particularly girls, also hindered access to education.’ [58c] (Section 6)

Further detail on access to education for girls is provided in the section on Children - education)

25.65 Human Rights reported this in an aritcle entitled, 'The Taliban war on women continues,' dated 14 July 2010:

'There are very limited educational opportunities for girls in most parts of the country, particularly in rural and insecure areas. They encounter with many cultural and traditional constraints in accessing their right to education. In addition, girls have more economic and security vulnerabilities than boys. In poor families, girls have fewer opportunities for schooling and education than boys. Therefore, the first priority is given to boys. Security threats by the armed opposition and fundamentalist groups further constrain girls' educational opportunities. During the rule of the Taliban, girls could not go to school and their schooling is still obstructed in areas under the control of the Taliban. In recent years, in different parts of the country, including in Kabul city, there have been suspicious attacks on girls' schools. These problems further limit girls' educational opportunities.

25.66 The AIHRC report 2011 stated: 'Despite the considerable increase in the number of girl students in recent years, the ratio of boy students to girl students is still two boys to one girl in primary school and the disparity increases as the level of education goes up. Girls constitute about two-thirds of all children who do not go to school. There are no girl students in secondary schools in around 200 districts. Numerous cultural, social, economic, and security challenges cause a large number of girls students not to complete their education and drop out of school at different educational levels. On this basis, the number of girls who can complete their school is much less than that of boys. Of all 61,375 university students in 1388 (2009/10), only 20 percent are girls and the remaining 80 percent are boys. This ratio was around 18 percent of girl university students to 78 percent of boy university students in 1387 (2008/09)…

'Additionally, the number of women teachers is very low and women teachers face manifold security problems in insecure parts of the country. There is not even one women teacher in 250 districts. There is a higher illiteracy rate among women than men. In the age group over 15, women's literary rate is about 14.1 percent, while it is around 43.2 percent for men.' [31a] (p 88-89)

25.67 Reuters provided the following information in an article entitled 'Women's rights in Afghanistan since the fall of the Taliban,' dated 13 June 2011: 'Aid groups warn girls' education is in danger because of poor security, lack of funds and inadequate teacher-training.Attacks on their schools and teachers, such as last month's killing of the headmaster of a girls' school near Kabul by Taliban gunmen, highlight persistent opposition, as do Taliban threats against working women across many professions.' [28a]

25.68 Radio Free Europe/Radio Liberty stated the following in an article entitled, 'Don't let the world forget its promises to Afghan women,' dated 8 March 2011:

'While post-Taliban Afghanistan may have brought a measure of improvement to the lot of women, these changes have not taken root in Afghan society. In fact, beyond the Afghan capital, there is little indication that any significant changes have radiated into the countryside.

'While there may indeed be 8,000 schools in Afghanistan now, including several hundred just for girls, the bulk of these girls' schools are in Kabul. In the provinces, it is a different story. For example, central Uruzgan Province officially has 220 schools but

only 21 of them are functioning. Of that, only one is a girls' school -- in the provincial capital.' [30c]

25.69 The following is an extract from Amnesty International's Afghanistan briefing, 'Don't trade away women's human rights,' dated October 2011:

'"There are destructive elements who don't want girls to continue their education." Spokesperson for the Afghan Ministry of Education

'Since 2006 the Taleban and other insurgent groups have increasingly attacked schools with missiles, bombs and explosives. A clear common motive behind these attacks is the intention to undermine the authority of the central government and make local people afraid to use governmental services. A common effect is that civilians are killed and injured and an already fragile education system is seriously undermined.

'Girls' education has been particularly hard hit by the Taleban and other armed groups. They have attacked teachers and students, and targeted girls' schools.

'Data obtained by Amnesty International shows that 74 schools were destroyed or closed down from March to December 2010 as a result of violence, including rocket attacks, bombings, poisoning of students, arson and threats. Of these attacks, 26 targeted girls' schools, 13 targeted boys' school and 35 targeted schools that were mixed or not identified as serving either boys or girls.' [25b] (p 5)

25.70 Radio Free Europe/Radio Liberty commented as follows in an article entitled, 'Afghanistan 10 years on: women see progress, but look for brighter future,' dated 7 October 2011:

'Nafisa believes the prospects for Afghan women today contrasts sharply to that of the Taliban era, and lists access to education as one of the biggest accomplishments of the last decade.

'"With education, women now have hope that we will no longer be second-class citizens and can make a contribution to rebuilding our country," she says.

'But she and other Afghan women say there is still a long way to go… According to UNICEF, 2.4 million girls are currently in schools and universities across the country. But the literacy rate for women at 16 percent still pales next to the 31 percent for men. Boys are twice as likely as girls to complete primary school, and there are no girls' schools in three out of every 10 educational districts.' [30d]

25.71 Human Rights Watch commented as follows in an article entitled, 'Afghanistan: who benefits from Taliban revisionism?,' dated 21 January 2011:

'The education ministry's own statistics show that 20 schools were bombed or burned down between March and October 2010. At least 126 students and teachers were killed in the same period - an increase from the previous year. It's hard to know how many of these attacks were carried out by the Taliban, but the evidence in many cases points in their direction…

'Today, just as when the Taliban were in power pre-9/11, some rural communities are able to negotiate with them to stop attacks on education. Afghan parents want their children educated, including their daughters, and fight for it, even when it puts them at risk. But the Taliban usually draws the line at educating girls over about age 10, when

puberty and demands to segregate the sexes take precedence. And not all attacks are about gender. Many schools and teachers are attacked as visible agents of the government in small rural communities or as symbols of western influence and teaching.' [15e]

See also section on Children - violence against children and Children - education, where levels of, and access to, education for boys and girls are covered in greater detail)

Sexual orientation and gender identity

25.72 See Sexual orientation and gender identity section for information; COI Service has found only limited information on this subject generally and specifically on women.

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Imprisonment of women

See also Women - violence against women below and section on Prison conditions.

25.73 Radio Free Europe/Radio Liberty reported as follows in an article entitled, 'Afghan women's prisons seek to make life behind bars less horrific,' which was dated 31 May 2011:

'Lida and more than 160 other women -- and in some cases their young children -- are housed in the modern, three-story prison located in the Afghan capital's Tahya Maskan region. They are allowed to wear colorful traditional clothes, can freely move about the prison, and are guarded by an all-female staff. Each cell is equipped with a television, and literacy, computer, dressmaking, and embroidery classes are available, among others.

'That's a far cry from where Lida, who declined to give her full name, served the first years of her 16-year murder sentence. At Kabul's notorious Pul-e Charkhi prison she was incarcerated under appalling conditions along with some 5,000 male inmates. Female inmates had separate cells, but were watched over by male guards.

'After reports and complaints emerged that female inmates had become subject to sexual exploitation in prisons and detention facilities in Badghis, Ghor, and Logar provinces, the fortunes of women inmates began to change for the better.

'In the past three years, the first Afghan women's prisons, including Badam Bagh, were built with the help of Western donors in Kabul and several other cities, including Herat in the country's west, and in the northern town of Khost.

'Prison is prison, but in Badam Bagh, inmates say they live in "bearable conditions inside a clean building," and, most importantly, no longer live in fear.

'Activists, including Afghanistan's Independent Human Rights Commission (IHRC), have welcomed the efforts to finally build separate prisons. "However," IHRC adviser Ghulam Nabi Hakak notes, "with the exception of a few big cities and provinces, there are no separate prison buildings for female inmates in other places."

‘He adds that in the provinces of Panjshir, Kapisa, Logar, Maidan-Wardak, and others, “female inmates there are kept in cells inside men's jails. It is not easy or safe for them even to go to the bathroom there.”

‘Hakak explains that because of the lack of special prison and detention centers for women in many provinces, female suspects are usually handed over to so-called guarantors or protectors for temporary custody until their court cases can be concluded.

‘Such guarantors -- appointed by the courts -- are usually a man, often a powerful, high-ranking official. Hakak says the practice is “completely unacceptable, as it leaves the woman vulnerable to all kinds of abuse and exploitation, and there is no one to defend her…”

‘Hakak says opening separate jails for women in modern facilities only solves some of the problems facing female prisoners in Afghanistan.

‘A major outstanding issue, he says, is the violation of women prisoners' legal rights.

‘Among Afghanistan's 500 or so female inmates, dozens were convicted of murder or theft. But many others were imprisoned for crimes of morality that aren't actually listed as a criminal offense in the country's Penal Code.

‘There are numerous cases when women were sent to jail for escaping from their abusive husbands and in-laws, or for merely chatting with men who were not their relatives. “Leaving your home is not a punishable crime by the law, so such cases are referred to Shari'a laws, and women get sentenced for immoral behavior,” Hakak says.

‘Abandoned by relatives, and with nowhere else to turn, many female suspects find themselves unable to pay for a lawyer to defend them. Many simply don't know their rights or have no idea how to seek legal advice.

‘”There are so many women who succumb to court rules because they don't know how to defend themselves,” Hakak says. “They pay a heavy price for something they might not have done.”

‘If prison is their fate, steps are now being taken to make sure some good can come out of it.

‘Deputy Justice Minister Mohammad Qasim Hashimzai, for example, says that several nongovernmental organizations are engaged in “helping women prisoners in learning new skills so they can more easily reintegrate into society after they're released from jail.”

‘But many imprisoned women are skeptical about whether they will ever be able rebuild their lives or be accepted back into Afghanistan's deeply conservative society. Even close relatives distance themselves from a woman who has “dishonoured” the family by being sentenced to prison.’ [30b]

25.74 IRIN noted the following in an article entitled, ‘Afghanistan: women remain prisoners,’ dated 2 December 2010:

‘Women’s rights activists and government officials confirmed that in many cases female prisoners could not be released due to the absence of a male relative.

‘”This is illegal but it happens quite often in Afghanistan,” said Suraya Subhrang, a women’s rights commissioner at the Afghanistan Independent Human Rights Commission (AIHRC) in Kabul...

‘Shame is part of the ordeal faced by imprisoned females, often regardless of whether she was the victim or perpetrator of a crime.

‘”People would prefer their females to die than go to prison,” said Haji Mir Lalai, a tribal elder in Kandahar.

‘”Families usually do not accept women and girls after their release from prison,” said Zubaida Payenda, director of the Kandahar Women’s Affairs Department (KWAD), adding that the social, economic and psychological scars of imprisonment affect women long after they are released.’ [27c]

25.75 The USSD report 2011 stated:

‘Authorities placed some women in protective custody to prevent violent retaliation by family members. Authorities also placed women who were victims of domestic violence in protective custody (including in a detention center), if there was no shelter facility available, to protect them from further abuse. Under the 2009 decree on the Elimination of Violence Against Women Act (EVAW), the police have the obligation to arrest those who abuse women. However, implementation and awareness of the EVAW law was very limited.’ [58c] (Section 1.d)

See also Violence against women, Implementation of EVAW law, and Shelters

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VIOLENCE AGAINST WOMEN

This subsection provides an overview of the various forms of violence and harassment faced by women then divides this information into further sub-categroies. However, the nature and causes of violence overlap; for example, domestic violence will include forms of sexual violence. Therefore, to gain a full appreciation of violence faced by women, the section should be read as a whole. For a wider context and understanding about the nature of violence against women in Afghan society, officials are advised also to refer to the above sections on legal and policy framework, political rights and social and economic rights.

Officials should also note that women (and children) are directly and indirectly affected by the ongoing civil conflict, the intensity and nature of which varies across the country. For more information about conflict they are advised to read the Security situation section. In addition, parts of Afghanistan remain outside central government control and are controlled by different groups, including the Taliban. Officials are therefore advised to read the Non-Government armed forces section for further information on human rights violations committed by the various non-government groups.

25.76 The HRW report, ‘”I had to run away”, The Imprisonment of Women and Girls for “Moral Crimes” in Afghanistan’, March 2012, stated the following in regard to the law protecting women from violence:

'A constitution adopted in 2004, though stating that all laws should be compatible with Islamic law, guarantees women equal rights... The government acceded to the Convention on the Elimination of All Forms of Discrimination against Women. The country's new president, Hamid Karzai, assured Afghanistan's women that he believed in equal rights, and a future where they would emerge from their houses and help rebuild the country… The adoption of the Law on the Elimination of Violence against Women by presidential decree in 2009 was also a major landmark in advancing women's rights. While there are important gaps, the law created and strengthened protections for women against a broad range of abuses, including rape, underage marriage, forced marriage, domestic violence, and denial of education.

'However, Afghan women and girls continue to face numerous obstacles to realizing their basic rights. The urgency of removing those obstacles is only heightened by the impending withdrawal of international military forces and the likely corresponding decrease in international attention and pressure on women's rights.' [15r] (p 26-27)

For information about legal safeguards, officials should read the subsection on legal and policy framework above

25.77 The USSD report 2011 noted that:

'According to the AIHRC, between March and November [2011] there were 3,147 cases of violence against women reported, of which 1075 were cases of physical violence, and 269 sexual abuse cases. Most women did not seek legal assistance for domestic or sexual abuse because they did not know their rights or because they feared prosecution themselves or return to their family or the perpetrator. Women sometimes turned to shelters for assistance and sometimes practiced self-immolation. Provincial authorities in Herat, one of the few provinces with a burn unit, reported 84 incidents of self-immolation during the year. The AIHRC reported 63 female suicides and 70 cases of self-immolation, some of which may have been honor killings disguised as suicides, through November.' [58c] (Section 6)

25.78 The same source stated:

'The penal code criminalizes assault, and courts entered judgments against domestic abusers under this provision. According to NGO reports, hundreds of thousands of women continued to suffer abuse at the hands of their husbands, fathers, brothers, armed individuals, parallel legal systems, and institutions of state such as police and justice systems. A UN women's commission report released in January found that 87 percent of women were victims of domestic violence. Killing, assault, and sexual violence against women commonly involved family members as suspects.' [58c] (Section 6)

25.79 The AIHRC report 2011 stated:

'Domestic violence mainly occurs in such forms as beating, forced betrothal and marriage, early marriage, bad, lack of provision of alimony/maintenance, expulsion from home, deprivation of education and higher education, deprivation of employment and access to health services, forced labor, rape, forced prostitution, forbidding visits to relatives, murder, and other manifestations of violence. The Law on the Prohibition of Violence against Women is an important achievement for Afghanistan's legal system. Most of the aforesaid forms of violence against women have been enshrined in Article 5 of this Law… In many cases of bad, forced marriage, early marriage, and the like, the

criminal cases have not been addressed due to lack of action by victims. This is a major cause for the perpetuation of violence against women, criminality, and the culture of impunity. In many cases of violence recorded by the AIHRC, the alleged victims have faced constraints, have, therefore, been unable to complain to competent authorities, and have been forced to withdraw their complaints under duress (in some cases, the alleged victims of violence were children).

'Data gathered by the AIHRC and women's rights organizations indicates that violence against women has been widespread and severe in 1388 (2009/10) and 1389 (2010/11). Most violence and abuse have been so grave that have led to women's suicide, self-immolation, and escape from home. The AIHRC data on violence against women in 1389 (2010/11) shows that around 2,260 cases of violence against women were recorded by the AIHRC. The forms of violence in 1388 (2009/10) include beating (909 cases), murder (62 cases), lack of provision of alimony/maintenance (137 cases), expulsion from home (31 cases), rape (51 cases), self-immolation (119 cases), and abortions (291 cases). Self-immolation and abortion have co-occurred with other forms of violence. In 1389 (2010/11), 2,765 cases of violence against women were registered. They include 172 cases of abortion, 538 cases of beating, 10 cases of deprivation of medical treatment, 46 cases of forbidding visits to relatives, 276 cases of lack of provision of alimony/maintenance, 39 cases of rape, and 144 cases of self-immolation.

'MoWA has gathered considerable statistics in this regard. Information collected by MoWA in 1388 (2009/10) include 6,692 cases of violence against women in Afghanistan, consisting of 641 cases of physical violence, 65 cases of rape, 103 cases of self-immolation, and 120 cases of lack of provision of alimony/maintenance. According to the Ministry, 6,765 cases of violence against women were recorded in 1389 (2010/11). These include 319 cases of physical violence against women, 107 cases of lack of provision of alimony/maintenance, 12 cases of rape, 24 cases of murder, and 17 cases of self-immolation.

'This statistical information shows that violence against women is on the rise in Afghanistan. This is while a large number of cases of violence against women are not reported, given the deteriorating security situation and the predominance of traditional practices and cultural sensitivities in the family unit and the broader society. Therefore, women are not willing to state their experiences and memories about violence against them in the family and in the society. For instance, the husband can easily threaten his wife with divorce, separate her from her children, and even stop providing her economic and psychological needs. In the same way, husbands can easily beat their wives under the pretext of disciplinary measures.' [31a] (p 56-58)

25.80 The United Nations Assistance Mission in Afghanistan (UNAMA) and Office of the United Nations High Commissioner for Human Rights (OHCHR) produced a joint report entitled, 'A long way to go: Implementation of the Elimination of Violence of Women law in Afghanistan,' which was based on research carried out from March 2010 to September 2011 and was dated November 2011. This report stated, 'Millions of Afghan women and girls experience violence that is often deeply rooted in traditional practices and attitudes that deny women's equality with men. Tradition has led to concealment of abuses within the family, and police and justice officials routinely ignore domestic violence and arrest and prosecute women who attempt to flee forced marriage and family abuse.' [29a] (p 6)

25.81 The same report stated, 'In a meeting with UNAMA/OHCHR, the Chief Justice acknowledged that violence against women is widespread in Afghanistan and that the EVAW law is not well known or understood.' [29a] (p 16)

25.82 The OECD Social Institutions and Gender Index (SIGI) country profile, May 2012, stated: 'There does not appear to be a law prohibiting female genital mutilation (FGM) in Afghanistan and FGM is reportedly not practiced in Afghanistan.' [34a]

25.83 The USSD report 2011 stated that: 'The wide range of violence against women also included trafficking and abduction.' [58c] (Section 6)

See Trafficking section for more information on this subject.

Conflict-related violence

25.84 The UNAMA Mid-Year Report 2012, Protection of civilians in armed conflict, July 2012, observed that:

'Women and children continued to suffer the effects of armed conflict in Afghanistan. In the first six months of 2012, UNAMA documented a total of 925 women and children killed or wounded, of which 578 were children (231 deaths and 347 injuries) and 347 were women (118 deaths and 229 injuries). This represented 30 percent of the total number of civilian casualties for the first six months of 2012.128 Improvised explosive devices remained a leading cause of conflict-related casualties of women and children along with ground engagements. 58 women and 144 children were casualties of IEDs; representing 22 percent of the total number of women and children casualties. A further 150 women and 166 children were killed or injured due to ground engagement, representing 34 percent of the total of women and children casualties.

'In the first half of 2012, of the 129 civilian casualties caused by aerial attacks, 81 were women and children representing nearly two-thirds of the total number of civilian casualties caused by aerial attacks129 and 10 percent of the total number of women and children killed or wounded.' [29g] (p 49)

Harmful traditional practices

25.85 The UNAMA report, Harmful Traditional Practices and Implementation of the Law on Elimination of Violence against Women in Afghanistan, 9 December 2010 (UNAMA report 2010) defined harmful practices as:

'… grounded in tradition and sometimes attributed to religion, lead to pain, suffering, humiliation and the marginalization of millions of Afghan women and girls; violating the most basic human rights of half the population. Practices that include forced and child marriage, exchange of girls to settle disputes, exchange marriages, and killing in the name of "honour," constitute harmful traditional practices. Such practices originate in entrenched discriminatory views and beliefs about the role and position of women and girls in society. In Afghanistan, harmful traditional practices have been further reinforced by widespread poverty and insecurity that Afghans have experienced for more than 30 years.' [29f] (p 1)

25.86 The USSD report 2011 observed:

'The EVAW law criminalizes forced or underage marriage and baadh (the giving of a female relative to another family to settle a debt or dispute). An estimated 70 percent of

marriages were forced, and despite laws banning the practice, a majority of brides were younger than the legal marriage age of 16 (or 15 with a guardian's and a court's approval). In December a 15-year-old woman in Baghlan province was rescued by police after being locked in a basement bathroom, having her finger nails pulled out, and being forced into prostitution by her 30-year-old husband and in-laws. The husband escaped arrest, but her mother-in-law and sister-in-law were in jail at year's end. A survey of married women ages 20 to 24 found that 39 percent had been married before the age of 18. Very few marriages were registered, leaving forced marriages outside legal control. There were reports that women who sought assistance under the EVAW in a case of forced marriage or rape were subjected to virginity tests.

'Of the 3,147 cases of violence against women reported between March and November by the AIHRC, 545 cases were classified as traditional and cultural violence, or those customary practices that violated women's rights, such as child and forced marriages, the practice of exchanging women to settle disputes, forced isolation, and honor killings.

'Local officials occasionally imprisoned women at the request of family members for opposing the family's choice of a marriage partner or being charged with adultery or bigamy. Local officials imprisoned women in place of a family member who had committed a crime but could not be located. Some women remained in detention facilities because they had run away from home to escape domestic violence or the prospect of forced marriage.

'The AIHRC documented 27 "honor killings" through September; however, the unreported number was believed to be much higher and thought to include reported cases of suicide and self-immolation that actually covered honor killings. Under the penal code, a man convicted of honor killing after finding his wife committing adultery cannot be sentenced to more than two years' imprisonment. In November a spurned suitor and group of armed men doused three sisters with acid. The investigation was still pending and no one was arrested by year's end.' [58c] (Section 6)

25.87 The AIHRC report 2011 noted:

'All in all, the right to freedom in marriage and family formation was repeatedly violated in 1388 (2009/10) and 1389 (2010/11) in Afghanistan. Traditional practices governing family, societal customs, poverty, destitution, and many other factors are responsible for violations of this right. Bad and badal marriages, forced marriages, abductions, honor killings, self-immolations, suicides, rapes, and escapes from home are egregious cases of violence against women that have occurred during the two years covered in the present report. These are egregious cases of violence against women and they perpetuate through traditional and customary practices. Likewise, inattention of responsible authorities, women's weak economic and financial status, limited or lack of access of women and girls to education, and lack of capacity-building cause more and more women to be denied their right to marry and found a family. Lack of alternatives for violence and other abusive behavior to which women are subjected in the domestic sphere causes these women to face increasing hardships and difficulties and even commit suicides or run away. That is why cases of escape from home, suicide, self-immolation, and similar cases are caused by hardships and difficulties in the family unit.

'Similarly, the AIHRC findings reveal that lack of women's access to justice has given rise to women's complaints and disillusionment. When women victims approach the justice system for claiming their rights related to marriage or issues related to domestic violence, the justice system often does not act based on justice. Hesitation and

negligence in following up cases of violations of the right to marry and found a family has increasingly hurt women's access to justice and women will, therefore, continue to remain victims.' [31a] (p 58-59)

Forced and underage marriage

Further detail is available in Children - underage and forced marriage.

25.88 The UNAMA report 2010 observed that:

'A forced marriage is one in which the free and full consent of one or both of the intending spouses is missing. Forced marriage in Afghanistan encompasses baad (the exchange of girls for dispute resolution), baadal (exchange marriages), child marriage (by its very nature forced) and coercion of widows to marry a relative of a deceased husband. According to a 2008 report by UNIFEM, 70 to 80 per cent of Afghan marriages are forced.20 Through country-wide discussions and analysis of cases reported, UNAMA HR found that often a woman's free and informed consent was not given in many marriages.

'Forced marriage conflicts with the right to freely and fully consent to a marriage – as enshrined in international law, as well as the requirement of consent of both parties for any marriage contract under Sharia law. The EVAW law criminalizes marriage without consent.

'UNAMA HR recognizes that drawing a sharp line between "forced," "arranged" and "free" marriage oversimplifies the range of factors that determine how a marriage is decided in Afghanistan. Arranged marriages often are not coerced. Even when an element of compulsion is involved in a marriage, if the marriage turns out to be a relatively happy one, most people will not view it as a "forced" marriage per se.

'Forced marriage also harms men and boys by denying them their right to freely enter into a marriage but to a lesser degree as parents do not exchange or "sell" boys into marriage and a boy is more likely to be able to object to his father's choice of a partner. If a man is unhappy in marriage, he may be able to take a second wife; men are also less likely to suffer violence in marital relationships.' [29f] (p6)

25.89 The HRW 'I had to run away' report 2012 noted, 'According to the UN, as of 2008, 70 to 80 percent of marriages in Afghanistan were forced, taking place without full and free consent or under duress. Another study found that 59 percent of women had experienced forced marriage. Not surprisingly, the overwhelming majority of married women and girls interviewed for this report say that they did not marry by choice.'

25.90 The same source, in footnote 28, commented:

'A paper by the Afghanistan Research and Evaluation Unit makes the point that it is not entirely accurate to view marriages in Afghanistan through a dichotomy of forced versus not forced and that a more realistic perspective is to see marriages as falling at different points along a continuum from choice to force. This point was reflected in many of the accounts Human Rights Watch obtained while preparing this report, as many of the married women and girls interviewed exercised little or no choice in the arrangement of their marriage.' [15r] (p30)

Baad and badal marriage

25.91 The Afghan Research and Evaluation Unit (AREU) explained in their report entitled 'Decsions, Desires and Diversity: Marriage Practices in Afghanistan,' dated February 2009, that 'bad' or 'baad' marriage is 'a practice in which a girl is given in marriage to an opposing family in order to resolve a dispute or as a form of compensation,' whereas 'badal' is 'a marriage conducted by exchanging two girls for each other.' [8b]

25.92 The UNAMA report 2010 stated:

'The practice of baad or giving away of girls to settle disputes, forms one of the most egregious types of violence against women in Afghanistan. Baad allows communities or families to settle crimes such as murder, in theory to restore peace and order between the conflicting parties, by transferring punishment for the crime to a woman or girl. The "honour" of the aggrieved family is "restored" through punishing the woman for a crime she did not commit.

'Baad is used to end conflicts over serious crimes such as killings, but also for "moral" crimes and acts such as adultery, rape and where women have run away (for example, from a forced marriage). The merit of this practice in resolving disputes is highly dubious; often conflict and enmity between families or groups continue… (p11)

'Exchange marriages [badal] are mutual arrangements between families to exchange daughters. The families avoid monetary negotiations and the cost and risks of incurring debt. Persons interviewed by UNAMA HR described exchange marriages, baadal, as occurring throughout Afghanistan, but reported that they are most common among poorer rural families. Not all communities practice baadal; the majority ethnic Uzbek population of Jawzjan province, for example, has no such tradition…' [29f] (p 16)

25.93 Human Rights Watch provided this information in an article entitled 'Afghanistan: stop women being given as compensation,' dated 8 March 2011:

'The Afghan government should hold accountable those who seek to impose brutal customary punishments such as baad, where women and girls are given as compensation for crimes... In order to eradicate such abusive practices, the government should strengthen implementation of the Elimination of Violence Against Women law, sending clear signals that such practices will no longer be tolerated by the state.

'"There's a law against giving Afghan women away to pay for the crimes of their families but it still happens," said Aruna Kashyap, women's rights researcher at Human Rights Watch. "The government should punish those who treat women like family property."

'Baad is one of the most abusive customary practices in Afghanistan, where girls or women are given to an aggrieved family to "compensate" for a crime, a punishment usually decided by a local jirga (council). Jirga members interviewed by Human Rights Watch presented baad as a more "restorative" form of justice than revenge killings or confiscation of property. One Herat-based jirga member said, "Instead of killing the brother [in revenge] it was much better to give this girl as baad. She was also killed in a way but if they killed the brother then the enmity between the two tribes would continue for centuries."

'Similarly, another Kapisa-based jirga member said, "If they didn't give her away [as baad], the man [from the other family] would take away the house. And the 13 people who lived in that house would come on the streets. In every family one has to make a sacrifice."

'The extent of the practice of baad throughout Afghanistan has not been documented. Human Rights Watch conducted preliminary research between December 2009 and June 2010, in order to document a number of cases in Kabul and surrounding provinces. According to women's rights activists interviewed by Human Rights Watch, cases of baad regularly occur, involving babies, girls, adolescents, and adult women.

'Baad is a criminal offence under article 517 of the 1976 Afghan Penal Code, but the article only applies to widows and women above age 18, and the sentence for perpetrators of baad cannot exceed two years. Despite having been partially criminalized for more than 30 years, many women and jirga members interviewed by Human Rights Watch were not aware of the law or the prohibition of the practice.

'The penal code provisions against baad were supplemented by the Elimination of Violence Against Women law, passed by President Hamid Karzai through a presidential decree in 2009, while the Afghan parliament was in recess. The 2009 law criminalizes baad, increasing potential sentences for baad up to 10 years, extending its application to girls under age 18, and widening the scope of those who could be considered complicit in the crime.

'But several barriers to the enforcement of the law exist, most importantly the lack of political will to implement it, even though article 79 of the constitution categorically states that a presidential decree has the force of law, until or unless it is rejected by parliament, which has not occurred. Human Rights Watch has been told that some senior government officials, judges, and police do not consider the 2009 law as being in force, and police routinely refuse to register complaints under the law. The authorities need to take urgent measures to spread awareness about the law and train all law enforcement officials about its provisions…

'Human Rights Watch also documented cases where girls given in baad became victims of domestic violence with no real mechanism for escaping from violence apart from risking their lives by running away.

'Bibi Aisha told Human Rights Watch about her harrowing experience of being given away in baad to make amends for an attempted murder by her uncle. Bibi Aisha recalls her misery when she was sent away to her husband's house:

'"One night when I was 16 years old, my father gave my hand to my father in law's hand... I didn't know anything about baad. I was shocked at what was happening to me. I asked my dad where I am going and he said, 'You're married now.' My husband wasn't there. He was in Karachi. I went to Kandahar province to stay in my in-law's house. I stayed there for almost three years. My in-laws were beating me terribly. They were always telling me, 'Your uncle tried to kill us.'"

'Aisha tried to escape but the police released her to her father-in-law. After her release, she was brutally attacked and her nose and ears were cut off. She survived and found refuge in a women's shelter.

'Bibi Aisha's case received much public attention after her photograph was published on the cover of Time magazine. With the support from women's rights groups, she was flown to the US to have reconstructive surgery.' [15d]

25.94 The AIHRC report 2011 stated:

'High levels of illiteracy, people's excessive adherence to customs and traditions, and long-standing nature of customs and traditions in people's social relationships have provided an environment appropriate for enduring unacceptable customs and traditions. That is why violations of dominant values and norms are considered as breaking taboos that have governed collective relationships for years… Bad and badal marriages have a very long precedent in Afghanistan. In some parts of the country, bad and badal marriages are usually entered into to resolve family and ethnic disputes, especially murders affecting tribes and ethnicities. Such traditional practices lack a legal basis and they, therefore, constitute violence against women.' [31a] (p 58)

'Zina' (sex outside marriage)

25.95 The Human Rights Watch report, 'I Had to Run Away,' dated 29 March 2012, described zina as 'The criminal offense of zina concerns sexual intercourse by two individuals who are not married to each other.' It further explains:

'The word zina itself is Arabic and appears in the Quran as a prohibited act. Zina is widely outlawed in Islamic jurisprudence… Afghan law making zina a crime lacks any definition or explanation of the elements of the offense, or even what zina is. This vagueness makes it easy for a husband or father angered by a woman or girl fleeing from home to allege, if she has spent any time in the company of a man after having fled, that zina has occurred. While both men and women face arrest and prosecution for zina, women who seek to escape forced marriage or domestic abuse are likely to be accused of zina as a result. This does not happen to men. The crime of zina violates international law by criminalizing consensual sexual relations between adults.' [15g] (p 36-37)

25.96 IRIN provided the following information in an article dated 26 April 2011:

'The penalties that Afghan women suffer whenever allegations of pre-marital sex and loss of virginity emerge, including death, are extreme, discriminatory and not in the penal code, activists said.

'Extra-judiciary penalties, [Suraya Subhrang, a women's rights commissioner at the Afghanistan Independent Human Rights Commission (AIHRC)] added, were prevalent and deep-rooted in the country… But among Afghan communities, failing the [virginity] test can result in so-called honour killings, an under-reported crime usually carried out by the families and relatives who believe a young girl or woman has brought shame on them.

'"Honour killings recognize a man's right to kill a woman with impunity because of the damage that her immoral actions have caused to family honour," the UN Assistance Mission in Afghanistan (UNAMA) reported in December 2010. Such murders, it added, were simply based on deep-rooted cultural beliefs and not on religion.

'"Men usually go unpunished for 'honour killings'," Subhrang told IRIN. "But could a woman kill her husband for illegitimate sexual relations?"… While virginity is not mentioned in the country's penal system and other laws, say activists and lawyers, hundreds of women like Raela unfairly face serious formal and informal penalties for the alleged illicit loss of this cultural requirement.

'Sexual intercourse outside marriage is a sin under Islamic jurisprudence and the Afghan laws largely derived from it…an unmarried person caught having sex outside

marriage, male or female, could be sentenced to three to five years in prison while married adulterers received heavier penalties.

'Women's rights activists say the adultery law has too many problems and is mostly used only against women. In some cases, the women are victims of rape.

'"The law does not clearly distinguish [between] rape and consensual sexual intercourse and treats rape victims as criminals and adulterers," said Subhrang from the AIHRC.

'Although concealed and under-reported, rape is a crime that occurs across the country every day, UNAMA said in a separate report in July 2009. "It is the girl or woman – the rape victim – and not the perpetrator who carries the shame of the crime," the report said.' [27b]

25.97 A joint report by the United Nations Assistance Mission in Afghanistan (UNAMA) and Office of the United Nations High Commissioner for Human Rights (OHCHR), which was entitled 'A long way to go: Implementation of the Elimination of Violence Against Women law in Afghanistan,' was published in November 2011 and was based on research carried out between March 2010 and September 2011. This report stated:

'In August 2010, the High Council of the Supreme Court, in "approval number 572" instructed prosecutors on how to handle "run away" cases. According to the instruction, courts should assess whether a runaway is single or married, the cause and motive for running away, and the place to which the woman has run (a relative's or stranger's house). If a woman runs to escape harassment and disturbance by family members, and goes to a relative's house, to the house of a legitimate mahram, or to a justice institution, then the incident shall not be regarded as a crime from the Sharia perspective. However,if the woman goes to a stranger's house, although the reason for running away may be to escape abusive treatment, the instruction states that she exposes herself to crimes such as "adultery (zina) and other associated offences" that, according to the High Council, are illegitimate under Sharia and thus prohibited and punishable.' [29a] (p 16)

See subsections on Rape and Honour killings and moral crimes

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'Honour' killings and 'moral' crimes

25.98 The following is an extract from Human Rights Watch's summary of its report entitled 'I Had to Run Away,' dated 29 March 2012:

'While accurate statistics do not appear to be publicly available, Human Rights Watch estimates based on prior studies and our work in three prisons in late 2011, that in January 2012 there were approximately 400 women and girls imprisoned in Afghanistan for "moral crimes." These consist of about half of all women (non-juveniles) in Afghanistan's prisons and virtually all teenage girls in its juvenile detention facilities.

'Abuses against women and girls accused of "moral crimes" affect not only the hundreds of women and girls arrested each year, but also every woman and girl in Afghanistan who faces forced or underage marriage, domestic violence, or other abuse. Imprisoning women and girls for trying to escape abuse sends a clear message to

others: do not flee a dangerous home life or look for help outside the home, because when you seek protection or justice you may well face punishment instead.

'Afghan women, especially those living outside major urban centers, are obliged to live according to strict unwritten rules of conduct. When travelling outside the home or between villages or cities, they need to be escorted by a male relative or husband or risk being labeled as "immoral."… When women and girls decide to leave because of abusive relationships or unhappiness, enraged parents, brothers, fiancés, and husbands frequently track them down and accuse them of running away or of zina. Male family members, comfortable in the knowledge that their own criminal behavior will not be subject to scrutiny, can easily use such accusations as a weapon. Aided by authorities too willing to accept their allegations at face value, they can accuse a woman of zina, knowing that she is likely to be arrested. When this happens, women often suffer an invasive medical examination and severe damage to their credibility and reputation, even if charges are never proven. Even the threat of an accusation can be used to control women and cover up or justify crimes, including forced and underage marriage, rape, assault, and forced prostitution… Moreover, bias is rife against women and girls at every stage of the justice system, with many officials enforcing unwritten social norms, rather than protecting women from abuse. All too often, police comply with fathers or husbands, like Homa's, who contact police to have fleeing wives or daughters arrested, assuming that if a man complains about a woman or she is outside the home without permission, she is 'bad' and guilty of immorality. In some alleged "moral crimes" cases, police have arrested women or girls while they took refuge in shelters…

'The Supreme Court of Afghanistan has formally endorsed this discrimination by publicly instructing the country's judges to treat "running away" as a crime, despite the absence of this offense in Afghan statutory law. The court states that rather than running away if they have problems at home, women and girls should seek government help. As this report shows, this is an unsafe and unfeasible option for most women and girls: they have no reason to be confident that police, judicial institutions, and government agencies will come to their assistance if they seek help. On the contrary, many women and girls we interviewed were further victimized after seeking help from these institutions… For some women whom Human Rights Watch interviewed, prison time is not even the worst consequence of their being charged with "moral crimes." Many women and girls who left their homes said they fear their husbands or family members will kill them for having "shamed" their families when they eventually are released from prison, a fear justified by the frequency with which "honor killings" occur in Afghanistan.' [15g]

25.99 The Institute for War and Peace Reporting (IWPR) provided the following information in an article dated 28 June 2011:

'The Herat branch of the Afghanistan Independent Human Rights Commission, AIHRC, recorded 14 "honour killings" – murders of women and girls committed by family members – in the 12 months ending this March, a substantial increase on the four known cases the previous year.

'However, most agree that the real figure is likely to be much higher, because of the culture of shame surrounding such cases.

'"Families conceal such cases for reasons of honour and prestige," Suraya Daqiqi, head of the AIHRC's women's affairs section in Herat, said. "We obtained these figures through security agencies, the Herat provincial hospital and the media."

'Karima Husseini, head of publications at the women's affairs department for Herat province, said the numbers were going up, although her office only became aware of cases when they happened in urban areas rather than in the countryside.

'In another recent case, Zahra, a young woman preparing to sit her university exam was shot dead by her father in a suburb of Herat. The facts of the case have not been established, but some reports suggest the man suspected his daughter of having an illicit relationship.

'Daqiqi said murders of this kind were often the result of men resorting to murder on the merest suspicions about female relatives, without even trying to establish whether their fears had any basis.

'Abdul Wajed Frotan, a religious scholar in Herat, said Islamic law in no way sanctioned arbitrary killings. It was considered especially sinful to commit such an act on the basis of doubt or suspicion, he added.

'Yet while Afghans may condemn the killings, many men are nervous about social changes that have allowed women more freedoms. Some analysts believe 'honour killings' have increased because general social attitudes have not caught up with these freedoms.

'Frotan, the cleric, argued that if women wore Islamic dress and maintained a proper distance from men in the workplace and in public, there would be fewer grounds for suspicion.

'Sayid Moyidulhaq Mowahidi, an expert on social affairs, said, "Afghans are very serious about honour and family issues, while women have suddenly acquired freedoms that did not exist previously, changing their behaviour in some instances…. This causes men to doubt them; they see such things as a shaming them, as showing that they are somehow less than pious. The result for women is suffering, torture and murder."

'Daqiqi said a particular source of this kind of "shame" was that women were increasingly prepared to seek legal redress in the courts.

'"In the past, it was rare for women to go to court to defend their rights, but now that they understand their rights, they go to court more often," she said. "This is something new for men, and they don't like it at all."

'Mowahidi said the culture of impunity surrounding those who committed "honour crimes" meant there was no deterrent to stop others following their example.

'"If the perpetrators of such murders were really punished, such crimes would undoubtedly be prevented, but since the criminal or murderer walks free afterwards, others are encouraged to commit crimes" he said.' [39a]

25.100 The USSD report 2011 noted that:

'The AIHRC documented 27 "honor killings" through September; however, the unreported number was believed to be much higher and thought to include reported cases of suicide and self-immolation that actually covered honor killings. Under the penal code, a man convicted of honor killing after finding his wife committing adultery cannot be sentenced to more than two years' imprisonment. In November a spurned

suitor and group of armed men doused three sisters with acid. The investigation was still pending and no one was arrested by year's end.' [58c] (Section 6)

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Rape

25.101 The USSD report 2011 noted:

'The EVAW law, which also came into force in 2009, criminalizes violence against women, including rape, battery, or beating; humiliation; intimidation; and the refusal of food. The law specifically punishes rape with life imprisonment, and if the act results in the death of the victim, the law provides for the death sentence for the perpetrator. The law punishes the "violation of chastity of a woman ... that does not result in adultery (such as touching)" with imprisonment of up to seven years. Under the law rape does not include spousal rape. However, there was limited political will to implement the law, and it was neither widely understood nor successfully enforced. There were reports that women who sought assistance under the EVAW in a case of rape were subjected to virginity tests. Sharia also impeded successful prosecution of rape cases.' [58c] (Section 6)

25.102 The Human Rights Watch report, 'I Had to Run Away,' dated March 2012, provided this information:

'A longstanding and deeply disturbing practice in Afghanistan has been the criminal prosecution of women for zina after they have been raped. Rape is a crime under Afghanistan's 2009 EVAW Law and is punishable by a minimum of five years in prison and a maximum sentence of death in cases where the victim dies from the rape. Although the EVAW Law is the first Afghan law to use the term "rape," a crime of a "violation of honor" that includes certain elements of rape, does exist under the 1976 Penal Code… It is not clear if the explicit crime of rape under the 2009 EVAW law has yet been prosecuted. Government data from October 2011 on the number of people in prison for different charges showed that of 20,901 male and female prisoners, 993 were in prison for zina, and 414 for pederast. Rape was not even recorded as a category, nor was "violation of honor." It is likely that to the extent that rape ever has been prosecuted, it was prosecuted under the penal code provisions regarding zina, not under the section of the new EVAW Law that specifically criminalizes rape. Rape of women, girls, and boys is almost certainly chronically underreported in Afghanistan. Rape victims are often stigmatized and persecuted... In Afghanistan women who report a rape to the police are more likely to be prosecuted themselves, than to obtain justice. In Afghanistan, as in many other countries, documenting sexual violence is a challenge in part because of women's subordinate status, family concern with "honor" and "dishonor," cultural taboos about discussing sex, and the understandable reluctance of women and girls to share or relive details of a traumatic assault. Afghan women often symbolize their families' and societies' honor, particularly within Pashtun communities.

'Historically, some communities have sanctioned "honor" killings in which a woman could be killed by her own relatives for bringing "dishonour" upon the family by conduct perceived as breaching community norms of sexual behavior—including being a victim of sexual violence. At a minimum, a girl or woman who has been raped may be considered unmarriageable or may be cast out by her husband. Boys who are raped can also face discrimination, but the social penalties are not nearly as harsh. In many areas, social penalties are meted out even for the perception that a marriageable girl or

woman is at risk, both on the woman or girl and on her family, who may be perceived as having failed to protect her adequately… The stories of the women and girls interviewed … illustrate how frequently women and girls who have survived the trauma of a sexual assault are prejudged by a justice system that seems to view women as themselves culpable in any situation where their "honor" has been "stained" by sexual assault.' [15g] (p 64-66)

See also subsection on 'Zina'

Self-harm

25.103 The joint report by the United Nations Assistance Mission in Afghanistan (UNAMA) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), 'A long way to go: Implementation of the Elimination of Violence Against Women law in Afghanistan,' which was dated November 2011 and based on research carried out between March 2010 and September 2011, stated: 'UNAMA/OHCHR recorded recent increases in the number of cases of self-immolation of girls and women in the southern and south-eastern regions of Afghanistan. Most of these incidents were not investigated by police despite Article 21 of the EVAW law which criminalizes forced self-immolation.' [29a] (p 2)

25.104 Radio Free Europe/Radion Liberty commented as follows in an article entitled, 'Don't let the world forget its promises to Afghan women,' dated 8 March 2011: 'An estimated 2,300 women and girls attempt suicide every year, according to government data. Their motives include domestic violence (1 in 3 Afghan women has been subjected to violence), high levels of forced marriage, and poverty.' [30c]

25.105 The UNAMA report 2010 observed that:

'The Government has reported that depression is the main cause for women to set themselves on fire and estimates that some 2,400 women commit self-immolation each year. For most, such action is a cry for help to escape an abusive, violent family life. Although not all women and girls who take this action intend to kill themselves, most die of their burns. Child and forced marriages, the handing over of girls to settle disputes, and sexual and domestic violence are the main causes of self-immolation.' [29f] (p36)

25.106 The USSD report 2011 noted: 'Provincial authorities in Herat, one of the few provinces with a burn unit, reported 84 incidents of self-immolation during the year. The AIHRC reported 63 female suicides and 70 cases of self-immolation, some of which may have been honor killings disguised as suicides, through November.' [58c] (Section 6)

Violence against women in the public sphere

25.107 Amnesty International's Afghanistan briefing, 'Don't trade away women's human rights,' dated October 2011, gave this information:

'Women active in politics, including parliamentarians and provincial councillors, face attacks and threats from the Taleban and other armed groups. Not only does this endanger politically active women, it also impedes their ability to defend the rights of all Afghan women and girls. In April 2010 Nida Khyani, a female Provincial Council member, was left in critical condition after being attacked in a drive-by shooting in Pul-e-Khumri, the provincial capital of Baghlan in northern Afghanistan.

‘”You can’t be an active woman in Afghanistan and not feel threatened,” member of parliament Shinkai Karokhail told Amnesty International. “It is part of my daily life. In the last five years, many high profile Afghan women have been killed for trying to raise the profile of women or defend their human rights.”

’In the run-up to the September 2010 parliamentary elections, candidates, campaigners and voters told Amnesty International that they faced increasing attacks and threats from the Taleban and other insurgent groups.

‘Candidates said that despite repeated requests for protection, police forces had failed to respond to, or even investigate, reports of election-related violence. Women candidates also faced constant verbal abuse and threats from their male counterparts. Unless human rights are made central to the reconciliation process, the pressure on women seeking to enter public life may increase.’ [25b] (p 6)

25.108 The USSD report 2011 stated: ‘Women active in public life continued to face disproportionate levels of threats and violence and were the targets of attacks by the Taliban and other insurgent groups. Most female MPs reportedly experienced some kind of threat or intimidation; many believed that the state could not or would not protect them.’ [58c] (Section 3)

25.109 The same source reported that:

‘There is no law specifically prohibiting sexual harassment. Women who walked outside alone or went to work often experienced abuse or "eve-teasing," including groping, or were followed on the streets in urban areas. Women who took on public roles that challenged gender stereotypes (such as female lawmakers, NGO leaders, and news broadcasters) received "night letters" most often sent by conservative elements, political powerbrokers, or insurgents to intimidate them and their families. NGOs reported increasing violence against women working in the public and nonprofit sectors, including killings.’ [58c] (Section 6)

25.110 Human Rights reported this in an aritcle entitled, ‘The Taliban war on women continues,’ dated 14 July 2010:

‘”We as Taliban warn you to stop working . . . otherwise we will take your life away. We will kill you in such a harsh way that no woman has so far been killed in that manner. This would become a good lesson for women like you who are working.” When Fatima K. received this letter she was terrified and left her job. Such messages-called night letters, since they are delivered after dark-are a common means of intimidation used by the Taliban.

‘When 22-year-old Hossai received similar threats by phone from a man saying he was with the Taliban in Kandahar, she refused to be bullied. She loved her job at the American development company DAI, and her salary supported her family. But one day in April Hossai was shot by an unknown gunman as she left her office. She died from her wounds.

‘A few days later another woman in Kandahar received a night letter. It demanded that she give up her job, or else she “will be considered an enemy of Islam and will be killed. In the same way that yesterday we have killed Hossai, whose name was on our list.” This woman has since stayed home.

'These stories are seldom heard, but it's not because they are rare. The victims are often too terrified to report such attacks to the authorities, or have little hope that anything will be done if they do. They can expect little or no protection from their government, which seems more willing to provide patronage to senior insurgents who switch sides than assist women at grave risk. When high-profile women are assassinated, their cases are not given the priority they deserve and their killers are rarely brought to justice. While men who run afoul of the Taliban are also attacked-particularly in Kandahar, where the murder rate in recent months has reached unprecedented heights-the situation for women is worse.' [15f]

25.111 Amnesty International's Afghanistan briefing, 'Don't trade away women's rights,' dated October 2011, provided the following information:

'A woman working in one of the women-run NGOs in Helmand province told Amnesty International:

'"I have received many death threats from the Taleban. Once someone called my phone and said that if I continued to work on issues related to women he would kill me and hang my body in Lashkargah city. I was scared and had to flee for a while to Kabul with my family. Now my children are in Kabul but I am back in Helmand working… We keep a low profile, we don't dare put any signboard outside our office and we operate in a private house. If the Taleban knew the whereabouts of our office they would blow it up with explosives. Also women working with us prefer to work undercover and not to make themselves visible."

'A woman who heads an NGO in Helmand province said:

'"We have to keep hidden and work from home, we don't put any sign boards outside our office. We are under threat by the Taleban every day. If they knew that we were working for women and they found us, they would kill us."

'No surprise, then, that there are fewer than 20 NGOs working on women's rights in southern Afghanistan. There are no women's organisations in Zabul province and very few in the provinces of Kandahar and Helmand. Women human rights defenders trying to provide access to education and health for women and girls in areas controlled or influenced by Taleban insurgents are particularly at risk. The danger is not only to the work and lives of the service providers and teachers, but also to the lives of the female students.**'** [25b] (p 5)

25.112 A Human Rights Watch article entitled, 'Afghanistan: stop women being given as compensation,' dated 8 March 2011 noted: 'Human Rights Watch has documented the security challenges facing women in public life, especially in insecure areas, including those under Taliban control. Female teachers, government officers, and health workers have been targeted for harassment and even assassination.' [15d]

See also Non-Government armed forces, Political affiliation - opposition groups, Civil society and human rights instituations, organisations and activists, and Security situation for more information about the targeting of individuals by the Taliban and and other insurgent groups.

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PROTECTION AND ASSISTANCE

25.113 The USSD report 2011 observed that:

> 'The MOWA [Ministry of Women's Affairs] and NGOs continued to promote women's rights and freedoms… The MOWA, the primary government agency responsible for addressing gender policy and the needs of women, had provincial offices, but the ministry and provincial line directorates suffered from a lack of capacity and resources, despite efforts of the international community to improve its capacity in line with national priority programs. The provincial offices assisted hundreds of women by providing legal and family counseling and referring women they could not directly assist to relevant organizations.' [58c] (section 6)

25.114 The OECD SIGI profile 2011 observed that:

> 'There are a number of significant obstacles to ensuring women's physical integrity in Afghanistan. Firstly, the large vast majority of women will not seek help because of their fears of police abuse, retaliation by perpetrators of violence and the stigma and shame from their families. Human Rights Watch cites a 2008 study by the Women and Children Legal Research Foundation (WCLRF) which found that only 15 percent thought that a woman disabled by violence should seek police help. Women who do seek help often come up against attitudes in the police and judiciary that see violence against women as acceptable. Perpetrators enjoy a culture of impunity that is reinforced at every level.
>
> 'With respect to the implementation of the law, the United Nations Mission in Afghanistan reports that the police and the judiciary are becoming increasingly aware of the law's existence. However, authorities have received little or no guidance from national-level authorities on how to apply the law, particularly in relation to other criminallaws. In many rural and remote provinces, the law remains both unknown andunimplemented. There is a need for investment in building the capacities of law enforcement personnel, training and awareness-raising to enable civil society organisations to monitor implementation, and education for the general public about the law and what it criminalises. To ensure the safety of women, the Mission also called for an increase in support to shelters that offer a refuge for female victims of violence and for the government to ensure that all shelters are well managed and well secured.' [34a]

25.115 The USSD report 2011 stated:

> 'Police response to domestic violence was limited, in part due to low reporting, sympathetic attitudes towards perpetrators, and limited protection for victims. There were reports of government officials' complicity in violations of the EVAW law. For example in rape cases in Baghlan, the victims were imprisoned and the perpetrators were freed. The ANP in Burkah district allegedly raped a girl and assaulted her parents in Bat Tob village on November 26. Some police and judicial officials were not aware or convinced that rape was a serious criminal offense and investigating a rape case was rarely a priority. Authorities infrequently prosecuted abusers, and if cases came to court, the accused often were exonerated or punished lightly. NGOs confirmed that domestic violence occurred in many homes but went largely unreported due to societal acceptance of the practice.
>
> 'According to the AIHRC, between March and November [2011] there were 3,147 cases of violence against women reported, of which 1075 were cases of physical violence, and 269 sexual abuse cases. Most women did not seek legal assistance for domestic or

sexual abuse because they did not know their rights or because they feared prosecution themselves or return to their family or the perpetrator. Women sometimes turned to shelters for assistance and sometimes practiced self-immolation…. Policewomen trained to help victims of domestic violence were hindered by instructions to wait for victims to reach out. There were 355 female response unit (FRU) investigators nationwide working out of 146 FRU offices, which were staffed primarily by female police officers who addressed violence and crimes against women, children, and families. Women serving in civilian and ANP positions in the MOI offered mediation and resources to prevent future domestic violence. [58c] (Section 6)

25.116 The same source reported that:

'Local officials occasionally imprisoned women at the request of family members for opposing the family's choice of a marriage partner or being charged with adultery or bigamy. Local officials imprisoned women in place of a family member who had committed a crime but could not be located. Some women remained in detention facilities because they had run away from home to escape domestic violence or the prospect of forced marriage.' [58c] (Section 6)

25.117 Human Rights Watch provided this information in an article entitled, 'Afghanistan: stop women being given as compensation,' dated 8 March 2011:

'The courts are still inaccessible to many in rural communities, especially women… Human Rights Watch urged the government to keep its primary focus on efforts to strengthen the formal court system and improve women's access to justice. This would include extending its reach into rural areas, greater access to legal aid in rural areas, the continued growth of police units staffed by women, the development of a witness protection program, flexibility about where sensitive cases can be heard, and protection for prosecutors and judges.' [15d]

25.118 The USSD report 2011 stated that, 'Police, prosecutors, and judges discriminated against women in criminal and civil legal proceedings stemming from violence and forced marriages, but there were increasing numbers of female attorneys who successfully represented female clients.' [58c] (Section 6)

25.119 The AIHRC report 2011 noted, 'Women have very limited access to the justice system. Most of them cannot refer their cases to the competent justice institutions. Family and the social environment do not allow them to do so. In addition to this, both formal and informal justice systems treat women's offences harshly and discriminatorily. Women rarely maintain their property and capital in civil cases.' [31a] (p 93)

25.120 The joint United Nations Assistance Mission in Afghanistan (UNAMA) and Office of the United Nations High Commissioner for Human Rights (OHCHR) report, 'A long way to go: Implementation of the Elimination of Violence Against Women law in Afghanistan,' which was dated September 2011 and based on research carried out between March 2010 and September 2011, commented as follows:

'While UNAMA/OHCHR sees growing implementation of the EVAW law as encouraging, the low numbers of complaints and cases prosecuted make it clear that the Government has not yet applied the law to the vast majority of cases of violence against women… UNAMA/OHCHR also found that some murder cases and other serious crimes criminalized under the EVAW law were prosecuted under the Penal Code instead of the EVAW law. This sometimes resulted in acquittal of perpetrators, reduction of charges to

less serious crimes, convictions with lighter sentences and women victims themselves being accused of “moral crimes.”

‘In many regions, police and prosecutors continued to refer cases of violence against women to mediation and traditional dispute resolution mechanisms that often did not enforce the EVAW law or the Penal Code and failed to adequately protect the rights of women. The report found that a majority of cases of violence against women reported to police and prosecution offices were processed outside the formal justice system—through mediation, pressure for withdrawal of complaints, and by elders in traditional dispute resolution mechanisms. UNAMA/OHCHR documented extensive use of mediation for domestic violence complaints—by institutions ranging from the Police Family Response Unit to the Department of Women’s Affairs and the Afghanistan Independent Human Rights Commission.

‘Reliance on mediation reflects in part the expressed preference of many women who file complaints, especially against their husbands, but authorities often appeared to inappropriately suggest and pressure women to withdraw complaints and opt for mediation. The extensive use of mediation even for serious crimes of violence against women is inconsistent with international best practice and the spirit and the letter of the EVAW law which calls for prosecuting perpetrators of violence against women, protecting victims of violence and preventing further violence.’ [29a] (p 2)

NGOs

25.121 The Afghanistan Analyst provided a list of NGOs which assist Afghan women – see number 5 at the following link: http://afghanistan-analyst.org/ngos/ For more informaiton about civil society and human rights groups, see section Civil society, human rights institutions, organisations and activists

Shelters

This section should be read in conjuction with Trafficking - protection for victims of trafficking.

25.122 The Human Rights Watch World Report 2012, Events of 2011, dated 22 January 2012, provides the following information:

‘A government-proposed regulation in 2011 would have prevented NGOs from independently operating shelters for women and jeopardized the existence of Afghanistan’s few existing shelters. Afghanistan at present has 14 shelters, each able to house an average of around 20 to 25 women and their children. This does not meet even a small fraction of the need in a country where an estimated 70 to 80 percent of marriages are forced and 87 percent of women face at least one form of physical, sexual, or psychological violence or forced marriage in their lifetimes. Although the regulation was significantly improved following strong domestic and international criticism, it exemplifies the hostility felt by many parts of Afghan society, including within the government, to women’s autonomy and ability to protect themselves from abuse and forced marriage.’ [15a] (p 292)

25.123 The following is an extract from IRIN’s article entitled, ‘Afghanistan: women remain prisoners,’ dated 2 December 2010:

‘Many females abandoned by their families, or fleeing domestic violence, seek protection at shelters managed by NGOs with private donations. There are 14 shelters

in different parts of the country, each accommodating dozens of women in search of a new life, the AIHRC said.

'But in Kandahar Province, there is no such shelter, which is why women prisoners without a family have problems being released, while others who suffer domestic violence have nowhere to run.' [27c]

25.124 A joint United Nations Assistance Mission in Afghanistan (UNAMA) and Office of the United Nations High Commissioner for Human Rights (OHCHR) report, 'A long way to go: Implementation of the Elimination of Violence Against Women law in Afghanistan,' dated November 2011 and based on research carried out between March 2010 and September 2011, stated as follows:

'Women's shelters, a relatively new development in Afghanistan play an often life-saving role by offering temporary safe refuge. Afghanistan's Council of Ministers approved the country's first-ever Regulation on Women's Protection Centers on September 5, 2011. The regulation recognizes the critical service that shelters managed by either the Government or NGOs provide and sets standards for their operation designed to safeguard residents' rights and dignity. The regulation's enforcement, along with creation of shelters in regions where they do not exist, may allow more women to obtain the protections of the EVAW law… **(p3)** The need for shelters in all regions of Afghanistan remains acute. Increasing successful prosecutions of perpetrators of violence under the EVAW law depends in part on women victims' ability to secure safe temporary housing along with social and legal support. Some regions currently offer no such safe havens. Enforcement of Afghanistan's firstever Regulation on Women's Protection Centers, approved by the Council of Ministers on 5 September 2011, should encourage creation of new shelters in areas where they are needed and the strengthening of existing ones through improved government oversight.' [29a] (p30)

25.125 Human Rights Watch reported the following in an article entittled, 'Afghanistan: Government takeover of shelters threatens women's safety,' dated 13 February 2011:

'The need for shelters for women and girls in Afghanistan is acute, Human Rights Watch said. Violence against women and girls, including domestic violence, sexual harassment, and rape, is endemic. Forced and child marriage remain widespread and socially accepted. Though the data on the extent of the problem vary, all surveys indicate that well over half of the marriages in Afghanistan are forced or involve girls under age 16. Since violence and abuse often take place inside the family, there is a vital need for safe and secure places for women, Human Rights Watch said.

'Fewer than half of the 34 provinces in the country currently have shelters. Many women and girls are prosecuted for "running away from home" when they flee abuse, even though there is no such crime under Afghan law… Women's shelters have long been controversial among hard-line religious factions, who have portrayed them as encouraging immorality or providing protection for "bad girls."' [15c]

25.126 The USSD report 2011 noted:

'Forty percent of females in shelters were girls younger than 18, most often escaping forced marriages and domestic abuse. In January, following a three-year investigation of claims that women's shelters were akin to brothels, the government announced a plan to bring all shelters under the MOWA's direction. Human rights NGOs worked with the MOWA to change the regulations and stop the proposed nationalization of shelters.

The final shelter regulation approved by the Council of Ministers, but awaiting the president's approval, was modified to have the MOWA regulate all shelters, but NGOs retained their ability to run them… NGOs that ran women's shelters in Kabul reported an increase in referrals from police, possibly reflecting improved ANP training and awareness. Women's access to shelters also increased due to international efforts to open three new shelters and expansion to more remote provinces. However, space at the 19 formal and informal shelters across the country was limited. Women in need of shelter who could not find a place often ended up in prison, either due to a lack of shelter alternatives, for their own protection, or based on local interpretation of "running away" as a morals crime.' [58c] (Section 6)

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HEALTH AND WELFARE

Officials are recommended to read section in conjunction with the section Medical issues

25.127 Radio Free Europe/Radio Liberty reported the following in an article entitled, 'Afghanistan 10 years on: women see progress, but look for a brighter future,' dated 7 October 2011: 'The average life expectancy for women stands today at 44 years. One Afghan woman dies every 29 minutes in childbirth, and two-thirds of women report domestic violence and abuse.' [30d]

25.128 The AIHRC report 2011 noted:

'The availability of women doctors, nurses, and midwives is crucially important in hospitals and other health centers, because there are few women doctors and nurses and many women patients are not willing to approach health centers as a consequence, even in case of very bad and dangerous ailments… According to the information provided to the AIHRC by MoPH [Ministry of Public Health] Department of Cadre and Personnel, there are 1,183 men doctors and 517 women doctors serving in public/governmental health centers. In addition, there are 5,368 nurses (4,563 men (85 percent) and 805 women (15 percent) serving in public/governmental health centers… MoPH believes that the lack of adequate women health workers is a major challenge. According to a report by MoPH, 27 percent of health centers (540 health centers) do not have any women health workers. At the same time, people have a better access to women midwives. Based on information provided by MoPH, there are 2,716 midwives, of which 2,663 are women and 53 men.

'MoPH has reported that hundreds of people have been trained as local birth attendants in recent years, but the program ended as it was unsuccessful. Instead a training program has been launched for almost 10,000 women health workers. As of now it is not certain to what extent the program has been successful. The above information indicates that the lack of women doctors and nurses is a major problem facing health services in the country, causing some women patients not to approach health centers… In its 1389 (2010/11) report, MoPH stated that maternal mortality rate was 1,400 women in every 100,000 live births and that of every six born children, one child dies before reaching the age of five. Afghanistan is still a country with very high child and maternal mortality levels…' [31a] (p 74-76)

25.129 The same report stated:

'Women also have more vulnerabilities than men in accessing their right to health. They have a very limited access to health services. There is little pre-natal and childbirth healthcare for women. Women cannot enjoy prenatal and childbirth health case and service due to the dominant social and cultural traditions in many parts of the country. Around 53 percent of births take place at home in Kabul and only 45.5 percent of childbirths occur with the help of a trained birth attendant. In 28 of all 34 provinces, about 90 percent of women give birth at home and less than 10 percent enjoy specialized assistance in 24 provinces. Maternal mortality rate is 1,600 in every 100,000 live births, which is one of the highest in the entire world. According to the available data, one in every six Afghan women dies at childbirth; one Afghan woman dies every 30 minutes due to delivery complications.' [31a] (p 89)

25.130 The USSD report 2011 stated that:

'The country has achieved substantial improvements in health over the past decade, and public health statistics released in November [2011] indicated a steep drop in maternal mortality. The overall health situation of women and children remained poor, however, particularly among nomadic and rural populations and those in insecure areas. Similar to males, female life expectancy was 64 years of age. Rural women continued to suffer disproportionately from insufficient numbers of skilled health personnel, particularly female health workers.

'Women and children were disproportionately the victims of preventable deaths due to communicable diseases compared to men. Although free health services were provided in public facilities, many households could not afford certain costs related to medicines or transportation to health care facilities, and many women were not permitted to travel to health facilities on their own.' [58c] (Section 6)

See subsection on Freedom of movement above for more information about the limits placed on women's mobility.

Drug addiction

25.131 The AIHRC report 2011 stated:

'Drug addiction is a big challenge. There is no accurate statistics on the number of drug addicts in the country. Drug addiction has steeply risen in recent years in the country… Women and children constitute another category of drug addicts particularly in northern Afghanistan. They use opium to relieve themselves from the tiredness associated to carpet-weaving and the like and they make their children eat opium so as the children do not disturb them during work. MoPH [Ministry of Public Health] data on the number of drug addicts is highly inadequate. Based on data in 2005, there are approximately 920,000 drug addicts, of which 740,000 are men, 120,000 are women, and 60,000 are children. According to a number of media reports, the number of drug addicts in Afghanistan has risen to 1.5 million people. This is while Afghanistan is one of world's poorest countries where drug addicts shockingly constitute around 3 percent of total population.

'The Afghan Government has not paid due attention to the treatment of drug addicts and the prevention of drug addiction among the people. Based on information provided by MoPH, so far 12 drug addiction treatment hospitals have been built that include less than 20 beds and additionally six drug addiction treatment centers have been built in six

provinces. These figures indicate that these hospitals and centers are in no way proportionate to the number of Afghanistan's drug addicts.' [31a] (p 77)

25.132 The AIHRC report also stated: 'Insecurity also has had negative implications for reconstruction, investment, and development programs and destructive social and psychological aftermath for families and society at large. Continued insecurity specially affects women's and children's mental welfare. They have been directly affected by continued insecurity; for instance, in 2010, there were respectively six and 21 percent increase in women's and children's casualties compared to 2009.' [31a] (p 116)

25.133 Radio Free Europe/Radio Liberty further reported the following in an article entitled, 'Sharp rise reported in drug addiction among Afghan women,' dated 6 October 2010: 'Drug addiction among women in Afghanistan is rising dramatically, according to a survey conducted by the Afghan government in coordination with the United Nations Office on Drugs and Crime (UNODC), RFE/RL's Radio Free Afghanistan reports.

'Afghanistan's Deputy Counter-Narcotics Minister Mohammad Ibrahim Azhar estimates that at least 1 million Afghans, including a large number of women and children, are addicted to heroin.

'In addition, he told Radio Free Afghanistan, tens of thousands more are reportedly addicted to alcohol or other illegal drugs derived from opium poppies.

'Among the factors that drive women to illegal drugs, Azhar listed war, poverty, and economic and social pressures -- including forced marriages… Afghanistan's Health Ministry says there are several facilities that offer counseling and free treatment for drug addicts across the country, but only a relatively small number of women seek treatment for neurotic disorders and drug addiction.

'According to Latifa, a doctor at the Sanga Amaj medical center in Kabul, it is very difficult to persuade drug addicts, especially women, to undergo treatment at a medical center. She explains that drug addiction is a terrible stigma for a woman in Afghanistan's conservative Islamic society, causing many women to conceal their addiction. It is also prohibited by Islam, leading many addicts to hide their problem to avoid the shame of being branded as sinners.' [30e]

See also Children - health and welfare and Medical issues - maternal health

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26. CHILDREN

OVERVIEW

26.01 The Afghanistan Independent Human Rights Commission's 'Fifth Report; Situation of Economic and Social Rights in Afghanistan,' dated November/December 2011 (AIHRC report 2011), stated, '… children below the age of 15 form nearly half of the population.' [31a] (p 81) The CIA World Factbook provided the following age breakdown, which was updated on 15 November 2012:

'0-14 years: 43.2% (male 6,671,683/ female 6,460,034)

15-64 years: 54.4% (male 8,414,716/ female 8,121,616)

'65 years and over: 2.5% (male 350,692/ female 401,187) (2012 est.)' [1e] (People and Society; Age structure)

26.02 UNICEF provided this information in its report, 'Humanitarian Action for Children, 2012, undated, accessed on 1 October 2012:'

'Violence in Afghanistan continues to inflict severe suffering and is undermining efforts to provide a protective and secure environment for children. A total of 147,661 people were displaced between January and August 2011, bringing the cumulative number of the conflict-related displaced population to 473,000 (73,452 families). Recruitment and use of children in armed conflict emerged as an increasing concern. Children represented at least 81 per cent of mine/explosive remnants of war casualties in the country.

'Up to 3 million Afghans are severely affected by an unprecedented drought, the eighth in 11 years. There is a significant shortage of safe drinking water, deteriorating sanitation, and an increase in waterborne or water-shortage disease outbreaks. Some 525,000 children under 5 are at risk of severe acute malnutrition, and trends registered in the second half of 2011 show that roughly 60,000 children nationwide will need nutrition therapeutic care in 2012. Measles outbreaks are common, with 107 small-scale outbreaks reported and 1,606 measles cases captured by active surveillance systems from 107 districts as of August 2011. Afghanistan is one of four polio-endemic countries in the world. The harsh winter conditions, which are often accompanied by flooding, disrupt education for children, particularly in schools that are not adequately designed for the conditions.' [48a]

26.03 The United Nations High Commissioner for Refugees (UNHCR) made these points in the 'Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,' dated 17 December 2010:

'Among the most vulnerable groups in Afghanistan, children bear the brunt of the ongoing armed conflict. The Taliban and other anti-Government armed groups are reportedly responsible for the vast majority of the human rights violations against children. UNHCR considers that children with the specific profiles… including child soldiers, school-age children, particularly girls, as well as children victims of sexual and gender-based violence, may be at risk on the ground of membership of a particular social group, religion and/or (imputed) political opinion depending on the individual circumstances of the case.' [53a] (p 25)

26.04 The UN Committee on the Rights of the Child document, Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Afghanistan, dated 8 April 2011 (UNCRC report 2011), stated,

'While taking note of the National Strategy for Children at Risk which aims to build a comprehensive child protection and family support system, the Committee is, nonetheless, concerned that one third of the State party's [Afghanistan's] families and children live in absolute poverty, and a further 37 per cent live just above the poverty line, also less than one quarter of Afghan families have access to safe drinking water, and less than one-third can access sanitation facilities. In this context, the Committee expresses concern about the lack of services in the State party to support families in raising their children, and ensure their rights to holistic development.' [52a] (p 13)

26.05 The Save the Children report, 'Afghanistan in Transition: putting children at the heart of development,' published in 2011, observed that:

'Over the past 10 years, institutional mechanisms for child protection have been established… Notwithstanding these commitments, violations of child rights remain common. The situation for marginalized children, discriminated against on the basis of ethnicity or disability, is particularly dire. It is widely believed that Afghanistan suffers from a lack of legal and police referral mechanisms and a culture of impunity around such issues.

'Poverty remains an underlying cause of many violations of child rights. It contributes to child trafficking and child labor. Many families send their children to work, especially in households headed by women unable to enter the labor market themselves, or by fathers unable to work due to disability. Many of the 37,000 street working children in Kabul are working because of such family situations. Kabul reflects a trend of declining rural security and income opportunity leading to growing urbanization. Children often work in unsafe environments in order to support their families.

'Poverty is also a contributing factor to early marriage. According to the Afghanistan National Development Strategy (ANDS), 57 percent of girls are married before the age of 16.71 Early marriage and early childbirth can have a negative impact on the health of girls and young women, as well as increasing the risk of child mortality. They also limit girls' access to education and economic opportunity.

'Children continue to suffer the consequences of the ongoing conflict. The number of civilian casualties in Afghanistan continues to increase, with 2010 recording the highest level since the international intervention began in 2001. In 2010, the UN recorded 2,777 civilian casualties as a result of the conflict, with two children dying a day on average.72 Children are at risk from landmines, improvised explosive devices, aerial bombardment, attacks on schools and hospitals, recruitment, the use of children as suicide bombers and other gross violations of their rights. In one recent incident an 8-year-old girl was used as an unwitting suicide bomber by an Armed Opposition Group (AOG) in the Char China district of the country.' [46b] (p 8-9)

26.06 Afghanistan ratified the UN Convention on the Rights of the Child (CRC) on 27 April 1994; the Optional Protocol of the Convention of the Rights of the Child (CRC-OP-SC) on the sale of children, child prostitution and child pornography on 19 October 2002; and the Optional Protocol to the Convention on the Rights of the Child (CRC-OP-AC) on the involvement of children in armed conflict on 24 September 2003. (Afghanistan Independent Human rights Commission website, International Instruments, undated, accessed on 1 October 2012) [31f]

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Socio-economic statistics

26.07 The UNCRC report 2011 noted: 'The Committee expresses concern about the absence of a comprehensive data collection system, which allows disaggregation and further analysis of data on the living conditions of children, particularly girls, children in poverty, or children with disabilities.' [52a] (p 5)

26.08 The links below provide statistical data about children (and women) in Afghanistan.

The UNICEF website, Afghanistan country page, undated, accessed on 1 October 2012, provides a range of statistical data about children (and women):

http://www.unicef.org/infobycountry/afghanistan.html

http://www.unicef.org/infobycountry/afghanistan_statistics.html

UN's State of the World's Children 2012 report, February 2012:
http://www.unicef.org/sowc2012/statistics.php

LEGAL RIGHTS

26.09 Save the Children outlined legal rights for children in a report, 'Afghanistan in Transition: putting children at the heart of development,' which was published in 2011:

'There have been improvements in the promotion and protection of child rights at the level of national policy, with the government agreeing to adhere to international standards. Afghanistan ratified the UN Convention on the Rights of the Child in 1994 and submitted its first report in 2008. This report recognized that "the right to life, survival and development of the child is central to both family and society. According to Article 23 of the Constitution, life is a gift from God, and is the natural right of all human beings." The GIRoA [Government of the Islamic Republic of Afghanistan] should also be congratulated on its recent signature of an Action Plan with the office of the UN Special Representative of the Secretary General for Children and Armed Conflict. Effective implementation of this plan would reduce the number of children recruited into armed groups, including the country's police and armed forces, and would end harmful and abusive practices, such as "bacha bazi" (literally, "boy play" — a ritual where young boys are made to entertain older men with music and dance, which can sexualize them and lead to sexual assault).' [46b] (p 8)

See sub-section: Bacha bazi

26.10 The UNCRC report 2011 listed legislation and policy initiatives to support children adopted by the Afghan government:

'(a) Law on the Rights and Privileges of People with Disability and Martyrs' Families in 2010;
(b) Law on the Elimination of Violence against Women in 2009;
(c) Law on Juvenile Rehabilitation Centres in 2009
(d) Education Law in 2008;
(d) Law on Counter Abduction and Human Trafficking in 2008;
(e) Labour Law in 2007;
(f) Law on Public Health in 2006; and
(e) Juvenile Code in 2005.

'The Committee also welcomes the ratification by the State Party of the following international human rights treaties:
(a) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 24 September 2003;
(b) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 19 September 2002;
(c) Convention on the Elimination of All Forms of Discrimination Against Women on 5 March 2003;

(d) ILO Conventions No. 138 (Minimum age) and 182 (Worst Forms of Child Labour) on 7 April 2010; and
(e) Convention relating to the Status of Refugees (1951) and its 1967 protocol on 30 August 2005.

'The Committee also welcomes the following institutional and policy measures:
(a) The establishment of the Inter-Ministerial Steering Committee on Children and Armed Conflict in 2010;
(b) The Afghan National Development Strategy of 2008, in particular its sub-strategies on education, children at risk, and children with disabilities;
(c) The adoption of the National Plan of Action against Trafficking and Kidnapping of Children adopted in 2004;
(d) The establishment of a Child Protection Action Network (CPAN) in 2003; and
(e) The establishment of the Afghanistan Independent Human Rights Commission (AIHRC) in 2002.' [52a] (p 1-2)

26.11 However, the UNCRC committee also stated:

'The Committee notes with concern that in spite of recent legislative developments in the field of child rights, the State party [Afghanistan] does not consider the Convention [on the Rights of the Child] as a legally binding instrument in the internal order, and has therefore not incorporated it systematically into the domestic legal system in order to make it applicable. The Committee is also concerned that child rights continue to be negatively affected by the application of different sources of law, namely codified, customary and sharia laws, and that legislation contradictory to the Convention remains in force. The Committee is further concerned about the low implementation of legislation enacted in the field of child rights due mainly to weak enforcement, limited level of awareness of the legal norms promulgated, widespread corruption, and the application by courts of provisions of customary or sharia law which infringe the principles and rights contained in the Convention… (p 2-3)

'The Committee is concerned that the general level of awareness about the Convention [on the Rights of the Child] remains extremely limited, and that training on child rights reach only a limited number of professionals working with or for children….(p 5)

'The Committee is concerned that the principle of the best interests of the child is not adequately applied by legislative bodies and is therefore absent from most of the legislation concerning children, as well as from the judicial and administrative decisions and policies, and programmes relevant to children.' [52a] (p 6)

Basic legal information

26.12 The age of criminal responsibility is 12 years. (Irinnews, 3 May 2012) [27e] The minimum age for voting is 18 years. (BBC News, 3 November 2009) [44d] The Save The Children report, 'Every Woman's Right; how family planning saves children's lives,' published in 2012, stated that 'In Afghanistan, the legal age for sexual consent is 18 with an exception for girls who are married under this age.' [46c] (p 10)

26.13 The Human Rights Watch report, 'We Have the Promises of the World; Women's Rights in Afghanistan, published in December 2009, explained:

'Currently child marriage is not a crime in Afghan law, but is prohibited under the Civil Code. Article 70 states that marriage is permissible when a girl is 16 and a boy is 18,

while article 71 states that the marriage of a girl under 15 is prohibited. If a girl is between 15 and 16 and she wishes to marry, her father or a court has the right to consent to her marriage. However, there are no punishments stipulated for those who violate these laws, so the law has little or no impact on marriage practices.' [15i] (p 58-59)

26.xx With regards to the legislation on child labour, the United Nations report of 3 February 2011 stated 'In April 2010, Afghanistan ratified the 1999 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182) of the International Labour Organisation. The Rome Statute was ratified in 2003; however, it has yet to be incorporated into domestic legislation. The minimum age of recruitment into the Afghan National Security Forces is 18 years.' [18g] (p3)

See also Subsection on Children - underage/forced marriage

26.14 With regards to the legislation on child labour, the United Nations report of 3 February 2011 stated 'In April 2010, Afghanistan ratified the 1999 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182) of the International Labour Organisation. The Rome Statute was ratified in 2003; however, it has yet to be incorporated into domestic legislation. The minimum age of recruitment into the Afghan National Security Forces is 18 years.' [18g] (p3)

See also Subsection on child labour

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JUDICIAL AND PENAL RIGHTS

This section should be read in conjuction with Arrest and detention - legal rights.

Juvenile justice

26.15 The Afghanistan Juvenile Code, introduced in March 2005, states:

'[Article 4] Child: A person who has not completed the age of 18

'Non-discerning child: A person who has not completed the age of 7

'Discerning child: A person who has completed the age of 7 and has not completed the age of 12

'Juvenile: A person who has completed the age of 12 and has not completed the age of 18…

'[Article 5] A person who has not completed the age of 12 is not criminally responsible.

'[Article 7] Contemptuous and harsh punishment of child, even if for correction and rehabilitation purposes, is not allowed…

'[Article 8] Confinement of a child is considered to be the last resort for rehabilitation and re-education of the child.' [55a]

26.16 However, the Office of the UN High Commissioner for Human Rights (OHCHR) noted the following on 8 April 2011:

'The Committee is extremely concerned by the high level of violence against children in the State party [Afghanistan] and abhors that child victims of abuse and violence, especially girls, are often treated as perpetrators and sent to juvenile rehabilitation centres, while most of the perpetrators of violence against children enjoy impunity. While noting as positive the recent establishment of the Child Protection Action Networks (CPAN) in several provinces and districts, the Committee expresses concern about the absence of comprehensive public and private systems of protection for child victims of violence as reflected by the lack of a mechanism through which child victims of violence can lodge complaints and obtain protection and rehabilitation services.' [52a] (p 8)

26.17 The UNCRC report 2011 stated, 'The Committee welcomes the adoption of the Juvenile Code in 2005 and the establishment of the specialized juvenile justice system based on said Juvenile Code. The Committee is however deeply concerned at the situation of juvenile justice in the State Party [Afghanistan], in particular that:

'(a) To date juvenile courts have only been were [sic] established in six districts and children in conflict with the law are tried by family judges, many of whom are not specifically trained for juvenile justice;

'(b) Status offences regarded as "abnormal behaviours" can lead children to be sentenced as criminals, in particular girls who are victims of violence and abuse and who are made responsible for the criminal acts committed against them;

'(c) Detention is not the last resort and a large number of children are in detention, almost half of them in pre-trial detention, while about half of the girls in Juvenile Rehabilitation Centres have been charged with so-called moral offences, such as running away from home, some of them even during pregnancy and the birth of their child;

'(d) A number of children under the age of criminal responsibility, which is 12 years, are in Juvenile Rehabilitation Centres;

'(e) Alternatives to detention are rarely used despite options provided by the Juvenile Code of 2005;

'(f) A number of children in detention are not separated from adults, nor are they provided with adequate food, care, protection, education and vocational training, and they are often subjected to abuse and torture;

'(g) Children are not provided with legal aid, including while in court, and often statements are forcibly extracted from them; and

'(h) Many parents are not informed of the detention of their children, and children not allowed to meet with their parents.' [52a] (p 18)

Arrest and detention conditions

26.18 The UNCRC report 2011 stated:

'The Committee is deeply concerned that almost half of the children arrested are reportedly subjected to different forms of verbal and physical abuse by the police during arrest in order to extract a confession, and that virginity testing is imposed on girls in judicial proceedings. The Committee also expresses grave concern that children are being handcuffed and shackled in juvenile rehabilitation centres, during transportation to court or hospital, and at night, allegedly for security reasons or as a form of punishment.' [52a] (p 7)

26.19 The Office of the Special Representative of the Secretary-General for Children and Armed Conflict provided this information in its report, 'Developments in Afghanistan (based on the 2011 report of the Secretary-General to the Security Council issued on 23 April 2011):'

'Sixty-six incidents of detention of children for crimes relating to national security and alleged association with armed groups were verified and documented. Children were often detained with adults in police custody and some reported abuse and mistreatment. The Afghan National Security Forces detained 62 children, while 3 children were arrested and detained by the international military forces. According to ISAF, there are an additional 300 detainees between the ages of 16 and 18 held in the detention facility in Parwan (formerly known as Bagram). This has yet to be verified and followed up by the country task forces on monitoring and reporting.' [50a]

26.20 The UNCRC report 2011 stated: 'The Committee is also concerned that, when arrested, children used by insurgent groups are held with adults under national security charges for extended periods of time in facilities of the international armed forces or of the National Directorate of Security, with limited access by national and international child protection bodies.' [52a]

26.21 The USSD report 2011 stated:

'According to the MOJ [Ministry of Justice], 81 children were detained on national security-related charges in juvenile rehabilitation centers during the year; all were male, six younger than age 15. The juvenile code presumes that children should not be held to the same standards as adults. The code states that the arrest of a child "should be a matter of last resort and should last for the shortest possible period." An estimated 850 children in juvenile rehabilitation centers across the country lacked access to adequate food, health care, and education. Detained children typically were denied basic rights and many aspects of due process, including the presumption of innocence, the right to be informed of charges, access to defense lawyers, and the right not to be forced to confess. The law provides for the creation of juvenile police, prosecution offices, and courts. Due to limited resources, the special juvenile courts functioned only in six areas (Kabul, Herat, Balkh, Kandahar, Jalalabad, and Kunduz). In provinces where special courts do not exist, children's cases fall under the ordinary courts. The law also mandates that children's cases be addressed in private and may involve three stages: primary, appeals, and the final stage at the Supreme Court.

'Some of the children in the criminal justice system were victims rather than perpetrators of crime. Particularly in cases of sexual exploitation, perpetrators seldom were imprisoned, as cases seldom were prosecuted; some victims were perceived as shameful and in need of punishment, having brought shame on their family by reporting the abuse. Some children allegedly were imprisoned as a family proxy for the actual perpetrator.' [58c] (Section 6)

26.22 IRIN reported the following on 3 May 2012:

'A government plan to relocate an all-boys juvenile rehabilitation centre (JRC) in Kandahar, southern Afghanistan, from the city centre to a site near Sarposa prison, where top Taliban leaders are held, could expose the children to significant risk, according to observers.

'The Kandahar JRC in its current site holds 20 to 55 boys at a time, some as young as seven, in cramped and insanitary conditions. According to the Child Rights Consortium (CRC), a program managed by Terre des Hommes in conjunction with Afghan NGOs, the centre "gathers a large number of youths who should not be in custody: the offence they committed is often trifling, or the legal age of detention is not respected". It also offers no educational, vocational or recreational activities…

'Other sources said the centre lacks adequate bed space and food, and there have been complaints of pilfering of some of the donations it receives… Drug use, sexual abuse and torture are reportedly ongoing problems, with guards, who are government employees, accused of providing drugs in exchange for sexual favors. Recently a boy was shot by one of the guards who was said to have had problems with the juvenile…

'Hundreds of children are held in JRCs across Afghanistan. As at May 2011, almost 800 (including approximately 100 girls), aged 12 to 18 were being held in 31 centres, according to the UN Office on Drugs and Crime. But 29 were located in rented properties that had not been designed to house juveniles and lacked rehabilitation programmes or recreational facilities.

'"In Juvenile Rehabilitation Centres children's basic needs are not met," said the NGO War Child. "Many children are not provided with a medical check-up before being placed in detention and those who become sick struggle to access to medical attention. The food is not nutritionally adequate, there's nowhere to play and no toys or equipment to play with. Children also struggle to get an education as many facilities lack books, pens and writing paper."

'Yet, according to the CRC, the juvenile justice system in Afghanistan has evolved over the last decade.

'"The legal framework has been enriched with some of the most important international standards, such as the principle of detention as last resort (Art. 40 of the United Nations Child Rights Convention) and the principles guaranteeing a fair trial and a due process of law," it said. The 2005 Afghan Juvenile Code, for example, raised the age of criminal responsibility from 7 to 12 years old and defined alternatives to detention such as performing social services, conditional suspension of punishment or home confinement, the rights group noted.

'"Until recently, these alternatives to detention have hardly been used by judges and prosecutors; the predominant trend has been to systematically send children to JRCs regardless of the severity of the offence," said CRC. "A 14 year-old child who committed a theft to survive can be detained with a 17-year-old murderer. This exposition to the justice process can have a very negative impact on juveniles."' [27e]

26.23 The Afghan Analyst's Network, an independent policy research organisation, described the position of children whose mothers are in prison in an article dated 14 October 2011:

'The Afghan Prison Law (Art. 56), states that children up to the age of seven can stay with their mothers in prison, after that they should stay with their family or relatives or move to a shelter for children. Based on Ministry of Justice statistics there are today around 560 women and with them around 260 children in prison in Afghanistan. It is difficult to assess how reliable this statistics [sic] is and the Prison Department has no reliable statistics of the ages of the children. However, Habib Jan Rezwni, Central Prisons Director in the Ministry of Justice, confirmed that some of the children are much older than seven years. "We have cases that some of the children are over 15 years old, but because we don't have any shelters and the children don't have any relatives, so they are kept in the prison" said Rezwni. A woman, now living in a transition house for women released from prison, told us about her difficulties finding a solution for her children. The three children, all older than seven years, were severely mistreated by the relatives she had left them with, but in prison she was bothered by the prison guards on a daily basis for having too old children with her.

'In Kabul, tells us [sic] Samoonwal Amir Mohammad, the Head of the Kabul Women's Prison, "155 women are imprisoned… their crimes are prostitution, running prostitution rings, adultery, human and drug smuggling and running away from home. With these women, 42 children are also in prison". He continues, "We try to make a good environment for the children, but prison is no place for children. Prison affects the psychology and habits of children. The children live with criminals, they are treated like criminals – and they will most probably be future criminals." This said the Kabul women's prison is advanced compared to women's prisons in other provinces: It is fairly safe, has vocational training for the women and a kindergarten for the children. In some provinces there is no separate women's prison making the situation precarious for both the women and their children, and in most prisons, mothers have to share their food rations with their children. A woman who had given birth to her baby boy in Takhar women's prison told us that because of the food shortage and lack of health services, she had had to sell her son: "I sold my son for 7000 Afs. I did not want the money, but I knew he would die in prison". She continued, "I was two and a half years in prison, but having sold my son I now feel I am a life time in prison."

'There are few alternatives for the children that cannot return to their family or relatives when they have reached the age of seven. Amongst the few shelters that exist, are the Child Support Centers (CSCs) established in 2009. There are today CSCs in Kabul, Kunduz and Mazar-e Sharif. The CSC that we visited hosts around 60 children whose mothers are in prison in Kabul or in the neighboring provinces. Shah Bibi Halimi, CSC manager, stressed that "prison makes children into future criminals; we try to give them alternatives". Mr. Sekandar, the CSC psychologist, summarizes some of the problems that they need to deal with when taking care of children who have grown up in prison: "The children learn how to commit violent acts against themselves and against others"...

'The children we talked to all emphasized the constant violence in prison: Violence between guards and the women, between the women and between the children. One young boy, maybe seven years of age, told us: "I was very quiet in prison, because I was scared of everyone. Our mothers fought with each others, so the other mothers used to beat us". A teenage boy, who had spent most of his life in prison with his mother, two brothers and a sister, summarized his experience saying "In prison I was not alive, our lives was worth nothing". He also emphasized the constant shortage of food and the violence and fighting that makes studying impossible. Another boy also emphasized how the pressure of being in prison, made it impossible for him to learn: "I went to school until grade three in prison, but still I was illiterate when I came out".

'A teenage girl (the daughter of the woman now in the transition house, see above) told us how she and her siblings had been constantly moving since their mother went to prison, staying with members of the extended family who did not want them and were cruel to them, in an orphanage and then back to prison. She remembers how in prison the prison guards used to come every day to tell their mother that she could not keep her children there as they were all too old, and how her mother every day had to say that there was nowhere for her children to go. She emphasized that the worst thing in prison was the "bad behavior of police": "The police beat the women. It worried me a lot to see the police beat my mother". [57a]

26.24 A paper by Justice Studio, Afghanistan: Child Justice Brief, June 2012, provides useful further background on the treatment of children in the Afghan justice system. The paper stated on page 1, Structural content that:

'The child justice system in Afghanistan is not yet fully formed. Although there have been clear gains in establishing a separate justice system for children, the practical reality is that the government controls only parts of the country, and that security is unstable. Therefore, the formal state apparatus with ministries, institutions and representatives at the different regional levels, often works in parallel to a customary justice system which operates in rural or volatile areas. This informal system, based on traditional practices and divided along tribal lines or allegiances to warlords, sees disputes and crimes resolved by a council of elders (jirgas or shuras). These councils are almost exclusively male and can include members of local government, as well as members of armed groups.1 It is estimated that they are responsible for resolving between 50 and 80% of legal cases in Afghanistan.2 Despite this, little is known about the way that children are treated in the informal system and there is a legitimate concern that children who are in contact with the justice system do not have their rights respected.' [128] (p1)

Further background is available in the paper:
http://www.crin.org/resources/infoDetail.asp?ID=29126&flag=report

See also sections on Judiciary, Arrest and detention - legal rights, Prison and detention centre conditions and Women - imprisonment of women)

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VIOLENCE AGAINST CHILDREN

This subsection provides an overview of the various forms of violence and harassment faced by children and divides this into further sub-categories. However, the nature and causes of violence overlap; for example, domestic violence will include forms of sexual violence. Therefore, to gain a full appreciation of violence faced by children the section should be read as a whole. For a wider context and understanding of the nature of violence against children in Afghan society, officials are advised to refer to the above sections on legal rights, political rights and socio-economic rights.

Children (and women) are directly and indirectly affected by the ongoing civil conflict, the intensity and nature of which varies across the country; for more information about conflict officials are advised to read the Security situation section. In addition, parts of Afghanistan remain outside central government control and are controlled by different groups, including the Taliban. Officials are therefore advised to read the section on non-

state armed groups for further information on human rights violations committed by the various non-government groups.

Officials should also read this section in conjunction with the section on women, including the subsection on violence against women. Women are usually the primary carers of children and human rights violations or socio-economic difficulties they face are likely to have a direct bearing on their children (or the children they care for). Additionally, to understand the situation of girls, officials will need to be aware of the position of women in Afghan society generally. Some human rights issues that affect girls and women, such as underage and forced marriage, are covered in greater depth in the section on women.

Overview

26.25 The UNCRC report 2011 stated that: 'The Committee is extremely concerned by the high level of violence against children in the State party and abhors that child victims of abuse and violence, especially girls, are often treated as perpetrators and sent to juvenile rehabilitation centres, while most of the perpetrators of violence against children enjoy impunity.' [51a] (p8)

26.26 The USSD report 2011 stated:

'Child abuse was endemic throughout the country and on the increase according to the AIHRC, based on cultural beliefs about child-rearing. Such abuse included general neglect, physical abuse, sexual abuse, abandonment, and confined forced labor to pay off family debts. There were reports that police beat and sexually abused detained children. During the year drought and food shortages forced many families to send their children on to the streets to beg for food and money. NGOs reported a predominantly punitive and retributive approach to juvenile justice throughout the country. Although it was against the law, corporal punishment in schools, rehabilitation centers, and other public institutions remained common.' [58c] (Section 6)

Conflict-related violence

26.27 The UNCRC report 2011 stated:

'While welcoming the establishment in July 2008 of a Country Task Force on Monitoring, Reporting and Response (CTFMRM) in compliance with Security Council resolution 1612, the Committee expresses deep concern over the death of hundreds of children as a result of attacks and air strikes by insurgent groups, international military forces and the Afghan National Army (ANA). The Committee expresses serious concern that armed forces responsible for the killing of children have not been held accountable and that the grievances of families have not been redressed. The Committee expresses further concern that the 2007 Law on Public Amnesty and National Stability may be used to grant amnesty to perpetrators of the most serious crimes against children.' [52a] (p 6)

26.28 The same source added:

'While welcoming the establishment in 2010 of the Inter-Ministerial Steering Committee on Children and Armed Conflict and the adoption of an Action Plan to respond to grave violations committed against Afghan children during conflict, the Committee is concerned that there is no specific reference in the 2010 Afghanistan Peace and

Reintegration Programme to, nor resources or responsibilities allocated for, the particular needs of all children affected by armed conflict.' [52a] (p 15)

26.29 Reliefweb reported the following on 19 March 2012: 'In 1390, 372 Afghans were injured or killed by landmines and other explosive remnants of war, representing a significant decrease from a monthly average of 1,116 casualties in 1380. Of the total, 74% were children.' [49a]

26.30 The UNAMA Mid-Year Report 2012, Protection of civilians in armed conflict, July 2012, observed that:

'Women and children continued to suffer the effects of armed conflict in Afghanistan. In the first six months of 2012, UNAMA documented a total of 925 women and children killed or wounded, of which 578 were children (231 deaths and 347 injuries) and 347 were women (118 deaths and 229 injuries). This represented 30 percent of the total number of civilian casualties for the first six months of 2012.128 Improvised explosive devices remained a leading cause of conflict-related casualties of women and children along with ground engagements. 58 women and 144 children were casualties of IEDs; representing 22 percent of the total number of women and children casualties. A further 150 women and 166 children were killed or injured due to ground engagement, representing 34 percent of the total of women and children casualties.

'In the first half of 2012, of the 129 civilian casualties caused by aerial attacks, 81 were women and children representing nearly two-thirds of the total number of civilian casualties caused by aerial attacks129 and 10 percent of the total number of women and children killed or wounded.' [29g] (p 49)

26.31 The Office of the Special Representative of the Secretary-General for Children and Armed Conflict addressed the issue of children killed or maimed as a result of the war based on its 2011 report:

'A total of 1,396 children were killed or maimed (486 killed and 910 maimed) in 2010. This is a 35 per cent rise compared to 2009, mainly owing to an increase in indiscriminate methods of warfare and asymmetric attacks by armed groups all around the country. The majority of incidents occurred in the southern and eastern regions. Seventy-two per cent of child casualties were attributed to armed groups, including the Taliban, the Haqqani network, and Hizb-e-Islami and their respective factions. Improvised explosive devices, suicide attacks, and rocket and mortar shelling were the main causes of death and injury to children by these groups. Of grave concern is the killing of children by the Taliban on the suspicion that they were spies, or for being allegedly associated with or supporting the international military forces. One such case in Helmand Province and another case in Ghazni Province have been reported. Pro-Government forces (the Afghan National Security Forces supported by the international military forces) were responsible for 21 per cent of all child casualties in 2010, mainly caused by air strikes, artillery and operations conducted during night raids. Cross-fire accounted for the remaining 7 per cent of child casualties, for which it was impossible to determine which party was responsible. Furthermore, explosive remnants of war and landmines, left over from the preceding decades of conflict, continued to cause loss of lives and injury to children, mostly boys between 8 and 14 years old in the south and central regions.' [50a]

See also sub-sections Security situation - situation in 2012, Security situation - types of violence and Security situation - security by region for further information about the impact of conflict on children.)

Abduction and trafficking

26.32 The United Nations High Commissioner for Refugees (UNHCR) gave this warning in the 'Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,' dated 17 December 2010:

'… no convictions for trafficking-related offences have been reported. Furthermore, there are serious concerns that some victims of trafficking are punished for acts they may have committed as a result of being trafficked. NGOs – the main providers of victim protective services – may also face threats and harassment at the hands of the local community, particularly when assisting victims of perceived "honour" crimes, such as rape.

'In light of the foregoing, UNHCR considers that victims of trafficking and persons at risk of being trafficked or re-trafficked, particularly women and children, may be at risk on account of their membership of a particular social group, depending on the individual circumstances of the case.' [53a] (p 28)

26.33 The Office of the Special Representative of the Secretary-General for Children and Armed Conflict commented as follows in their report of 23 April 2011:

'Eight incidents of abduction of children by armed groups, including the Taliban, were verified in 2010. Children were abducted for various reasons, to intimidate families perceived as pro-Government or to pressure an exchange or release of individuals detained by the authorities. Dozens of additional reports of abduction of children were received during the reporting period, but information on the perpetrators and their motives has been difficult to obtain.' [50a]

26.34 The United Nations Report of the Secretary-General on Children and Armed Conflict, dated 26 April 2012 and covering the year 2011, stated: 'During the reporting period, 31 incidents of abduction of children by armed groups were documented. All cases involved boys and were motivated by recruitment, kidnap-for-ransom, retaliation and intimidation for suspected association with pro-Government forces. Five of these incidents indicated a link to armed groups located in Pakistan, and involved the movement of children across the Afghanistan-Pakistan border.' [18c] (p 4)

26.35 The UNCRC report 2011 observed:

'The Committee expresses concern that children are trafficked by criminal groups mainly within the country and into neighbouring countries for forced prostitution, begging and labour in brick kilns, carpet-making factories, the drug smuggling industry and domestic service. The Committee is also deeply concerned that some families knowingly sell their children into forced prostitution, including for bacha baazi. The Committee notes with concern that little has been done to implement the provisions of the 2008 Law on Counter Abduction and Human Trafficking and the 2004 National Plan of Action on Combating Child Trafficking, and that human trafficking convictions remain rare while victims of trafficking are punished for acts they may have committed as a direct result of being trafficked, and jailed pending resolution of their legal cases, despite their recognized victim status.' [52a] (p 17)

See also sub-section on Bacha bazi

26.36 IRIN reported on human trafficking on 25 July 2011: 'Afghanistan should develop mechanisms to raise awareness about the dangers of human trafficking, support victims and prosecute perpetrators, say rights activists.

'"We see it as an alarming problem because a huge number of women and children are vulnerable to trafficking in the country," Hussain Nussrat, child rights programme coordinator with the Afghanistan Independent Human Rights Commission (AIHRC), said. "The victims are exploited both inside and outside the country for forced labour, prostitution, drug selling and many more illegal activities."

'Most victims, according to a July AIHRC report, are women and children who lack parental care, live in poverty or are forced into early marriage. The report was based on a study covering victims of trafficking, family members and the public in 20 of Afghanistan's 34 provinces.

'Most of those trafficked were girls who had been married before reaching the legal age of marriage, the report said. About 81 percent got married before 18, of whom about 50 percent were married when they were under 15. About 29 percent were forced into marriage after being raped, kidnapped, harassed or exposed to violence, said the report which identified 1,889 cases of trafficking in women and children.

'Afghanistan, according to the US Department of State's 2011 trafficking report, is a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking.

'Sixty percent of those trafficked were inside Afghanistan while 40 percent were taken to Iran, Pakistan and a few other countries. In Iran most trafficked persons are boys who are addicted to drugs, do hard work on farms and factories, or are sexually exploited. In Pakistan women and girls are forced to weave carpets and to engage in sex work, AIHRC said.

'"Generally due to the conservative, male-dominated society, women and girls are more the victims of trafficking than boys," Nussrat told IRIN in Kabul.

'Gulnaz [not her real name], 18, was forced to marry the man who raped her, who was also addicted to drugs, when she was only 15. Then she was taken to Iran and forced into commercial sex work to make money for her husband.

'"He used to beat me up very badly every day besides forcing me to make money for him," Gulnaz was quoted as saying in the AIHRC report. "After a year or so he sold me to an Iranian drug seller for a huge amount of money before my family found out about it in Afghanistan and my mother came to Iran to rescue me."…

'According to the report, more than half of the victims had been deprived of parental support; nearly 17 percent were housewives, and 7 percent beggars, street children.

'More than half of the victims' families had no stable income, while a third of victims were trafficked after being tricked. Most victims were abused and exploited by the traffickers during and after the transfer operation.

'Among boys taken to Iran, 70 percent ended up in domestic work or agriculture, and 6

percent reported involvement in sex work. In Pakistan 30 percent of the girls are sexually exploited. Interestingly, 40 percent did not want to return home citing insecurity, fear of losing their life and prestige, unemployment, poverty and political instability.

'Most perpetrators are not prosecuted. According to the report, only 17 percent of respondents reported the arrest of a perpetrator, while only 13 percent knew of a perpetrator who had been punished. Those involved include local powerful people, domestic and international organized groups, the Taliban and opposition groups.

'"We are deeply concerned about the findings of the report," Nussrat said, especially because poverty is still widespread, ongoing conflict is leaving children without parents and early/forced marriages are still practised widely.

'According to the International Labour Organization, more than 12 million people are trafficked each year worldwide. An estimated 70 percent of those trafficked are females under 25.' [27g]

See also sections on Compulsory and bonded labour and Underage and forced marriage

Corporal punishment

26.37 A briefing paper by Peter Newell, Coordinator, Global Initiative to End all Coporal Punishment of Children, to the UN Human Rights Council during its Universal Periodic Review of Afghanistan, 5th session, 2008, noted:

'Corporal punishment of children is lawful in the **home**. Children have limited protection from violence under the Penal Code, the Constitution and the Juvenile Code, but there is no explicit prohibition of corporal punishment. In an official statement in 2005, the Ministry of Justice announced that "the use of any form of violent behaviours and beating and humiliating of children that breaches their human rights to be respected and treated with dignity, is prohibited", and at a meeting of the South Asia Forum in July 2006, following the regional consultation in 2005 of the UN Secretary General's Study on Violence against Children, the government made a commitment to prohibition in all settings, including the home. But legal reform to enact explicit prohibition has yet to begin… There is no explicit prohibition of corporal punishment in **schools**. The Afghanistan Educational Act (1968) makes no reference to corporal punishment or other disciplinary matters, and the Penal Code, the Constitution and the Juvenile Code prohibit only severe abuse. In 2004 the Ministry of Education issued a letter to all schools prohibiting severe beating of children by teachers, and in June 2006 the Ministry of Education announced "that the use of any form of violent behaviours and punishment against children are seriously prohibited". Explicit prohibition of all corporal punishment in schools has yet to be clarified in law…

'In the penal system, corporal punishment is unlawful as a **sentence for crime**, but it is not explicitly prohibited as a disciplinary measure in **penal institutions**.

'There is no explicit prohibition of corporal punishment in **alternative care settings**.' [130a]

26.38 The UNCRC report 2011 stated:

'The Committee notes with concern that in spite of the prohibition contained in the Education Law against all kinds of physical and psychological punishment of students, such practices continue to be common in the State party's [Afghanistan's] schools. The Committee is particularly concerned that all schools continue to have a discipline/guards committee, comprised of teachers and students, with full permission to use physical punishment on school children.' [52a] (p 8)

See also Education subsection

Domestic violence

26.39 The UNCRC report 2011 stated:

'The Committee notes with deep concern that in spite of widespread abuse and neglect of children and women in the home, domestic violence has not been criminalized in the State party [Afghanistan], and that the Penal Code even allows the father to discipline family members, including children, without incurring penalties. The Committee also expresses serious concern about Edict No. 1497/1054 of 26 October 2010 by which the Supreme Court ruled that women and girls who run away from their residence to a stranger's residence, instead of to a relative's house, or a security or justice department, regardless of whether they had experienced violence caused by a family member, will be condemned as having committed the crime of adultery or prostitution.' [52a] (p 10)

26.40 The United Nations High Commissioner for Refugees (UNHCR) made this observation in its Eligibiltiy Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, dated 17 December 2010: 'In some cases, women and girls escaping domestic violence are encouraged to return or are forcibly returned to their families by law enforcement authorities rather than being afforded protection.' [53a] (p 22)

See also sub-sections on Children: Sexual violence and Gender-specific human rights violations Underage and forced marriage.

Also see sub-sections on Women: Bad and badal marriage, Forced and underage marriage, Honour killings and moral crimes, Marriage and child custody, and Violence against women.

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Sexual violence

26.41 The UNCRC report 2011 stated:

'The Committee expresses grave concern that limited action has been taken by the State party [Afghanistan] to combat widespread sexual abuse and exploitation of children, and that perpetrators of such abuse enjoy impunity. The Committee also expresses deep concern that while there is a systematic failure on the part of the authorities to prosecute perpetrators of sexual abuse, child victims are very often considered and treated as offenders, and charged with offences such as debauchery, homosexuality, running away from home or zina. The Committee is also particularly concerned that:

'(a) Shame and stigma are attached to the child victim rather than the perpetrator;

'(b) The crime of rape has not been clearly defined and separated from the offence of zina in domestic legislation, and that other types of sexual abuse, including abuse in homosexual relations as well as sexual exploitation, have not been included in the Penal Code;

'(c) There is no mechanism in place through which child victims of sexual abuse can lodge complaints and obtain protection and recovery services, with their privacy protected; and

'(d) Girl victims of sexual abuse and exploitation are at risk of honour killing, the practice of baad or forced marriage with their rapist, and rejected by their families.' [52a] (p 16-17)

26.42 The USSD report 2011 stated that: 'Although pornography is a crime, child pornography is not specifically prohibited by law. Exploiting a child for sex purposes, as is done with bacha baazi, also is not specified as a crime under the law.' [58c]

26.43 The Report of the Secretary-General on children and armed conflict in Afghanistan to the UN Security Council, covering the period 1 September 2008 to 30 August 2010, dated 3 February 2011, noted:

'Sexual violence continues to be vastly underreported and concealed in Afghan society. Sexual violence, including that against children, is pervasive. The general climate of impunity, a vacuum in the rule of law, lack of faith in investigating and prosecuting authorities, and misplaced shame have adversely affected the reporting of sexual violence and abuse against children to law enforcement authorities and subsequent prosecution of perpetrators. Child sexual abuse, against both girls and boys, is not clearly defined as a crime in Afghan law, and perpetrators of such violations are rarely held accountable.

'The Penal Code (1976), article 427, criminalizes adultery and pederasty. The Law on the Elimination of Violence against Women (2009) criminalizes sexual violence, including rape, forced and underage marriage, forced labour and prostitution, and significantly enhances protection and the promotion of women's rights. However, implementation of the law remains a huge challenge, as does for example, the need to define what constitutes an act of rape.

'Isolated reports were received of sexual violence committed against children by members of the Afghan National Security Forces. Moreover, there continued to be reports of children, especially boys, being sexually abused and exploited by armed groups, including through the practice of baccha baazi (dancing boys). Such incidents and their context were difficult to document, and further efforts will be made to fully research and investigate these allegations.' [18g] (p10)

See also sub-sections on Bacha bazi and Women – 'Zina'.

26.44 The USSD report 2011 observed:

'Sexual abuse of children remained pervasive. NGOs noted that most child victims were abused by extended family members. During the year the MOI [Ministry of the Interior] recorded an estimated 100 cases of child rape in Kabul alone. Reports from 13 other provinces totaled 470 cases of child rape. Final reports from all the provinces were not available by year's end, but the unreported numbers were believed to be much higher.

On May 10, two defendants in Kunar province were sentenced to 15 years in prison for the kidnapping and rape of a 13-year-old boy. Most child sexual abusers were not arrested, however, and there were reports that security officials and those connected to the ANP raped children with impunity.' [58c] (Section 6)

26.45 The UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict included this in their report of 23 April 2011:

'Reports were received of sexual violence committed against children by members of the Afghan National Security Forces with no or limited follow-up by the authorities. Moreover, there continued to be reports of boys being sexually abused and exploited by armed forces and groups, including the practice of baccha baazi (dancing boys). Such incidents and their context continue to be difficult to document, but efforts are being made to further investigate.' [50a]

26.46 The UN General Assembly's Security Council issued a report on Children and Armed Conflict, dated 26 April 2012, which stated:

'Reports of sexual violence against girls and boys by armed elements continued to be received in 2011. Four incidents involving Afghan National Police elements were reported, including two verified cases. In one case of an attempted rape of a 9-year-old girl, the Afghan National Police officer was sentenced to six years' imprisonment by the regional military prosecutor. Of 76 interviewed boys detained in juvenile rehabilitation centres on national security-related charges, 10 reported sexual violence or threats of sexual violence upon their arrest. Reports also continued to be received of sexual abuse of boys by elements of armed groups.' [18c] (p 3)

See also sub-section on Bacha bazi below.

Bacha Bazi (dancing boys)

26.47 The following article, dated 18 November 2007 and published on Reuters website, described the practice of bacha bazi, or dancing boys: 'It's an age old practice that has led to some of the boy dancers being turned into sex slaves by wealthy and powerful patrons, often former warlords, who dress the boys up as girls, shower them with gifts and keep them as "mistresses"…

'In a society where the sexes are strictly segregated, it is common for men to dance for other men at weddings in Afghanistan. Many local residents have called for a crackdown, but are skeptical it will work as many of the men are powerful and well-rmed former commanders…' [28c]

26.48 The following BBC article, dated 8 September 2010, provided further information about the practice of bacha bazi: 'The men behind the practice are often wealthy and powerful. Some of them keep several bachas (boys) and use them as status symbols - a display of their riches. The boys, who can be as young as 12, are usually orphans or from very poor families… I spent months trying to find a bacha who was willing to talk about his experience.

'Omid (not his real name) is 15 years old. His father died in the fields, when he stepped on a landmine. As the eldest son, it's his job to look after his mother - who begs on the streets - and two younger brothers… I ask him what happens when people take him to hotels. He bows his head and pauses for a long time before answering. Omid says he is paid about $2 for the night. Sometimes he is gang raped. I ask him why he doesn't go to

the police for help. “They are powerful and rich men. The police can't do anything against them…” According to Abdulkhabir Uchqun, an MP from northern Afghanistan, the tradition is not just alive, but steadily growing. “Unfortunately it is the on the increase in almost every region of Afghanistan. I asked local authorities to act to stop this practice but they don't do anything,” he says. “Our officials are too ashamed to admit that it even exists…” ‘The Independent Human Rights Commission in Kabul is one of the few organisations that has attempted to address the bachabaze practice. The group's head, Musa Mahmudi, says while it is common in many parts of Afghanistan there have been no studies to determine how many children are abused across the country… ‘Every Afghan I spoke to knew about bachabaze. Many tried to convince me that it exists only in remote areas. But I went to a party late at night in the old quarter of Kabul, less than a mile from the government's headquarters. It was there that I met Zabi (again not his real name), a 40-year-old man who is proud to have three dancing boys… ‘There are many people who support this tradition across Afghanistan and many of them are very influential. The Afghan government is unable and some say unwilling to tackle the problem.’ [44b]

See also subsection on Sexual violence.

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Gender-specific human rights violations

Detailed information about ‘harmful traditional practices’ is provided in Women, subsection Violence against women.

26.49 The Amnesty International Report 2011, ‘The state of the world’s human rights: Afghanistan,’ published on 13 May 2011, stated: ‘Afghan women and girls continued to face endemic violence and discrimination at home and in the public sphere.’ [5a]

26.50 The United Nations High Commissioner for Refugees (UNHCR) noted the following points in its ‘Eligibiltiy Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,’ dated 17 December 2010:

‘Harmful traditional practices are pervasive in Afghanistan, occurring in varying degrees in both rural and urban communities throughout the country, and among all ethnic groups. Rooted in discriminatory views about the role and position of women in the Afghan society, traditional harmful practices disproportionately affect women and girls. Such practices include child and forced marriages, the giving away of girls to settle disputes, exchange marriages, forced isolation in the home and honour killings.’ [53a] (p 22)

26.51 The UN Office of the United Nations High Commissioner for Human Rights (OHCHR) made these comments on 8 April 2011:

‘The Committee expresses grave concern that girls continue to be subject to multiple gender-based discrimination from the earliest stages of their life, and through their childhood. It notes with concern that discrimination against girls is due to the persistence of adverse and traditional attitudes and norms. The Committee recognizes that the State party [Afghanistan] has initiated steps to expand girls education, improve their safety, and protect them against violence, but remains deeply concerned that no

systematic efforts have been undertaken, including with religious leaders, opinion makers, and the mass media, to combat and change the discriminatory attitudes and practices. It is particularly concerned that discrimination against girls and women has been legitimized by the Shia Personal Status Law adopted in 2009.' [52a] (p 5-6)

26.52 The same source stated:

'The Committee commends the State party [Afghanistan] for the adoption of the Law on Elimination of Violence against Women (EVAW Law) in 2009 as a major step forward in the elimination of harmful practices. The Committee is however seriously concerned that harmful practices such as child marriage, giving away girls as dispute resolution, forced isolation in the home, exchange marriage and "honour" killings are pervasive and cause suffering, humiliation and marginalization for millions of Afghan women and girls. In this context, the Committee notes with particular concern:

'(a) The absence of effective measures to prevent and eliminate early and forced marriages;

'(b) That the EVAW Law does not criminalize honour killings, and that the Penal Code (art. 398) exempts perpetrators of honour killings from punishment for murder, and sanctions them with a prison sentence of less than two years;

'(c) The implication of traditional dispute mechanisms in the perpetuation of harmful practices, and the impunity that perpetrators of those practices often enjoy as a result of inaction and complicity of local and State authorities, religious leaders and elders.' [52a] (p 13)

26.53 The United Nations Assistance Mission in Afghanistan's report, 'A long way to go: implementation of the Elimination of Violence Against Women law in Afghanistan,' dated November 2011, examined the situation for women and girls:

'The Government of Afghanistan took a big step forward in support of women's equality and protection of women's rights when it enacted the Law on the Elimination of Violence against Women (EVAW law) in August 2009. The landmark legislation criminalizes for the first time in Afghanistan child marriage, forced marriage, forced self-immolation and 19 other acts of violence against women including rape, and specifies punishments for perpetrators.' (p 1)

26.54 However, it pointed out these deficiencies:

'Although the EVAW law is a milestone in the battle to criminalize violence against women, discussions about possible amendments to improve it began almost as soon as it was enacted. The EVAW law does not create a separate offence for crimes perpetrated in the name of "honor" and does not clearly define some other crimes, including rape, and the element of coercion that is required to distinguish it from consensual zina (sexual intercourse outside of marriage).

'The law does not address how authorities should treat a woman who runs away to escape any of the offences the law criminalizes. In monitoring individual cases, UNAMA/OHCHR encountered numerous instances of girls and women who fled their home to avoid forced marriage or domestic violence and who were arrested, usually charged and convicted including by the Supreme Court, with "intent to commit zina." While the EVAW law penalizes the perpetrators of such offences, it offers no protection for the woman or girl who runs to escape these crimes. This situation is demonstrated

by the large number of women detained in Afghan prisons for so-called "moral crimes."' [29a] (p 7-8)

Underage and forced marriage

26.55 The Human Rights Watch (HRW) report, 'We have the Promises of the World; Women's Rights in Afghanistan,' published in December 2009, stated that 'Forced marriage is a crime under Afghan law, though the law only covers widows and women under 18.' [15i] (p 58)

26.56 The same HRW report added, 'Article 517 of the Penal Code states that someone who forces a girl or widow into marriage "contrary to her will or consent" shall be given a short-term prison sentence, the duration of which is not specified but is unlikely to be more than one year.' [15i] (p 58)

26.57 The Afghanistan Independent Humarn Rights Commission (AIHRC) provided this information in their 'Fifth Report; Situation of Economic and Social Rights in Afghanistan,' dated November/December 2011 (AIHRC report 2011): 'One inadequacy in existing laws (ACC [Afghan Civil Code] and Shia Personal Status Law) is the difference in marriageable age for boys and girls, which is 18 years for boys and 16 years for girls. This age difference of two years is regarded as gender-based discrimination between boys and girls.' [31a] (p 49)

26.58 The same report described the legal situation regarding early/forced marriage:

'ACC [Afghan Civil Code] has conditioned the marriage of a child aged between 15 and 16 to the consent of the child's father and the competent court and has prohibited the marriage of a child aged below 15 in all circumstances. Article 70 of ACC stipulates, "Marriage competence is completed when males reach the age of 18 and females the age of 16." In addition, Paragraph 2, Article 71, ACC explicitly states, "The marriage of a minor below the age of 15 is forbidden in all circumstances." Likewise, Article 94 of Shia Personal Status Law has determined "the age for marriage for girl to be 16 and for boy to be 18 in accordance with the solar hijri calendar." Therefore, exerting any pressure and compulsion on marriage without the consent of the intending parties before the completion of the marriageable age is in contravention of the law of the land and "marriage before the completion of the legal age" is violence against women according to Article 28 of the Law on the Prohibition of Violence against Women and "when any person marries a woman, who has not completed the legal age of marriage, without respecting the provisions contained in Article 71 of ACC shall be sentenced to medium-term imprisonment not less than two years, depending on the circumstances, and the marriage will be annulled upon the woman's request in accordance with the law."' [31a] (p 52)

26.59 The UNCRC report 2011 stated: 'The Committee expresses concern that there are inconsistencies between civil law, sharia and customary laws as to the legal minimum age for marriage.' [52a] (p 5)

26.60 The AIHRC report 2011 commented, 'According to CRC [United Nations Convention on the Rights of the Child], every human being under the age of 18 is a child. Likewise, UNICEF has recommended that 18 be the minimum age for marriage.' [31a] (p 53)

26.61 The USSD report 2011 stated:

'The legal age for marriage was 16 years for girls and 18 years for boys. International and local observers estimated that approximately 60 percent of girls were married younger than the age of 16. Under the EVAW [Elimination of Violence Against Women law], those who arrange forced or underage marriages may be sentenced to imprisonment of not less than two years; but there has been very limited, if any, implementation of this law. The Law on Marriage states that marriage of a minor may be conducted by a guardian.

'By law the marriage contract requires verification that the bride is 16 years of age; however, less than 10 percent of the population had birth certificates. The custom of bride money motivated poor families to pledge daughters as young as six or seven years old, with the understanding that the actual marriage would be delayed until the child reached puberty. However, reports indicated that this delay was rarely observed and that young girls were sexually violated not only by the groom but also by older men in the family, particularly if the groom was also a child. There were reports that young girls who were married between the ages of nine and 11 attempted self-immolation.' [58c] (Section 6)

26.62 The United Nations High Commissioner for Refugees (UNHCR) explained different types of forced marriage in the 'Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,' dated 17 December 2010:

'As a culturally accepted practice, forced marriage is used to settle debts or strengthen a family's status through social alliances. Coerced forms of marriage in Afghanistan include: (i) 'sale' marriage, i.e. women and girls sold for a fixed quantity of goods, cash or simply to settle a family debt; (ii) baad dadan, a tribal form of dispute-settling in which the offending family offers a girl for marriage into the "wronged" family, for instance to settle a blood debt; and (iii) baadal, when two families exchange their daughters in an attempt to minimize marriage costs. Economic insecurity and ongoing conflict perpetuates the problem of child marriages. The practice is often seen as a means of survival for the girl and her family.' [53a] (p 22-23)

26.63 The AIHRC report 2011 explained the main reasons for child marriage:

'The AIHRC Report on the Situation of Human Rights in 1388 (2009/10) indicates that of all complaints related to violations of the right to marriage, 13.2 percent concern marriages below the age of 15. The cases addressed by the AIHRC monitors in its provincial and regional offices list family debt, gambling, poverty, destitution, bad [a practice in which a girl is given in marriage to an opposing family in order to resolve a dispute or as a form of compensation], and badal [where families exchange girls for marriage] as the common reasons for child marriages. During the AIHRC HRFM [human rights field monitoring] exercise in 1388 (2009/10), four percent of all interviewees said that their girls below the age of 16 and their boys below the age of 18 have married. Moreover, the ANDS [Afghanistan National Development Strategy] shows that girls' early marriages (below the legal age of marriage) are at 57 percent. Economic problems, exchange for resolution of conflicts, and exchange for debt payments are the main reasons why families marry their children at an early age…

'Poverty is a main, common factor for most of the cases of early marriages. Families sometimes use the marriage of their girls below the legal marriageable age to get rid of extreme poverty.

'Protracted conflict and crisis is another factor that has disturbed human dignity and security and causes risks to vulnerable groups of persons, especially children. The Afghan legal system has recognized age differences between girls and boys and has allowed a lower marriageable age for girls, despite the provisions enshrined in the international human rights instruments. Nonetheless, the ACC [Afghan Civil Code] has explicitly outlawed early and forced marriages.' [31a] (p 53-54)

26.64 The AIRHC report 2011 described the harmful effects of child marriages:

'There is no doubt that child marriages have many harmful physical and mental implications. Early marriages have irreparable physical and mental impacts, especially for girl children. First of all, child marriages deprive the affected children of their childish life, peace, and tranquility and additionally hamper education, cause early pregnancies, and seriously sabotage children's physical, psychological, and intellectual growth and development. Besides, the physical and mental effects of early marriages will have long-term and lifelong effects particularly for girl children as they are not bodily prepared for pregnancy.

'There are several reasons why early marriages have obvious harms for girl children. First, these marriages hamper women's education and training and thus pave the way for future violence against women. The previous Reports on Economic and Social Rights indicate that boy children have a higher chance of completing their primary education than do girl children. It is therefore clear that there are two male graduates for every girl who completes her education. Likewise, the previous reports show that more girls than boys drop out of primary schools. Second, child marriages cause children to engage in family issues without any understanding and physical and mental preparedness for forming families and looking after children. As previous reports indicate, early marriages are dangerous for both those who give birth to children and those who are newly born as a result…' [31a] (p 52)

See sub-section on Education.

26.65 The USSD repot 2011 noted that 'Although the situation improved, early marriage and pregnancy still puts girls at greater risk for premature labor, complications during delivery, and death in childbirth.' [58c]

26.66 The same report stated, 'Forty percent of females in shelters were girls younger than 18, most often escaping forced marriages and domestic abuse.' [41a]

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Child labour

26.67 The UNCRC report 2011 stated:

'While welcoming the ratification of ILO Conventions No. 138 (Minimum age) and No. 182 (Worst forms of child labour), and the provision in the Labour Law setting the minimum age for employment at 18 years, the Committee expresses concerns that half of the children in the State party [Afghanistan] are economically active, most of them subject to the worst forms of child labour. The Committee also notes that not enough efforts have been made to prevent forced labour in the informal and private sectors, where most of the children are engaged. The Committee notes with particular concern

that a large proportion of child workers start working between the ages of 5 and 11 years, and work all day; also, more than one third of child workers do not attend school and are illiterate due to the need to work, the high cost of school-related expenses, and their parents' decision not to enrol them in school.' [52a]

26.68 The AIHRC report 2011 stated: 'Child laborers refer to a large group of children who are employed in hard and difficult labor in agricultural fields, mines, roads, underground workshops, kilns, etc. The employers exploit these children as cheap labor for increasing their profit.

'Article 49 of the Afghan Constitution specifies, "Forced labor on children shall not be allowed." Likewise, Article 13 of the Afghan Labor Law sets out, "Completion of the age of 18 is one of the fundamental requirements for employment" and "completion of the age of 15 in light labor and the completion of the age of 14 for apprenticeship" are the necessary requirements for employment. Paragraph 4 of the Article emphasizes, "Employing youth aged less than 18 years in harmful work that threatens their physical development or subjects them to disability is forbidden." In addition, Article 31 of the Law stipulates that children "aged between 15 and 18" should work "for 35 hours per week" and it is illegal to exceed this limit.' [31a] (p 35)

26.69 However, the same report explained:

'Despite the legal prohibition of child labor, about 1.9 million children aged 6 to 17 are engaged in labor in Afghanistan. These children work in 22 kinds of hard labor, from street work to agriculture, construction work, carrying heavy loads, washing cards, weaving, shepherding, and so on. Around 92.5 percent of child laborers aged 12-17 work for 42 hours per week and most of them work under inappropriate circumstances. The AIHRC HRFM [human rights field monitoring] findings in 1388 (2009/10) shows that 42.7 percent of interviewees (3,958 out of 9,278 interviewees) had child laborers and these children were aged below 15 years. Of these, 5.6 percent stated that all children in their families worked, 54.5 percent said that most children in their families worked, 23 percent (910 people) reported that child labor was the only income source for their families. This is while in 1387 (2008/09) 38 percent of interviewees said that children aged below 15 years in their families worked. The number of child laborers has increased by 3 percent in a period of one year.' [31] (p 16)

26.70 The same source compared the position of boys and girls:

'In 1389 (2010/11), 51 percent of interviewees told the AIHRC HRFM [human rights field monitoring] team that girls aged below 15 in their families worked and 49 percent of them reported that boys aged below 15 in their families worked. Similarly, 53 percent of interviewees said that boys over 15 years in their families worked and 47 percent of them stated that girls over 15 years in their families worked. On the whole, the HRFM findings in 1389 (2010/11) indicate that 68 percent of children (children aged below 18 years) work/are engaged in labor. More important is that 40.3 percent of interviewees reported that their children work in inappropriate, unhealthy, and unsafe conditions.' [31a] (p 37)

26.71 The AIHRC report also described the main forms of child labour as below:

'Street work: Children who work on streets in urban areas are the most commonplace and most obvious category of child laborers. These children are engaged as vendors, work in factories, collect metals from garbage bins, polish the shoes of passers-by,

wash clothes, beg, clean the windows of cars in busy city squares and in front of restaurants and hotels, work with drivers, and so on. In numerous cases, these works are the worst forms of child exploitation, because these children are sometimes used for the purposes of sex work, drug trafficking, and other illegal activities…

'Carrying heavy loads: This is a common form of child labor in which a high percentage of children are engaged. This is manifested in carrying commercial loads in markets, transporting boxes and other loads by cart, transporting firewood, and carrying buckets and barrels full of water in rural areas…

'The percentage of girls who are engaged in hard labor is much more than that of boys. Of all interviewees, 28 percent stated that their girls fetch water across long distances. In rural areas, girls often face much hardship to fetch drinking water for their families. This type of labor has negative social and health implications and obstructs the physical development of the affected children.

'Work in mines: Although there are not any accurate statistics on child labor in the mining industry, a study conducted by the AIHRC in cooperation with the Child Protection Action Network (CPAN) in Klij and Ashpashta coal mines in Kehmard district of Bamyan province reveals that around 212 children are engaged in hard labor in these mines. These children work without adequate equipment, masks, eyeglasses, helmets, or other protection equipment and they work for long hours, even during nighttime… 15 percent of the children said that they personally witnessed dangerous incidents leading to injuries and deaths in the mines. Plumes of dust and smoke are a serious threat to these children's respiration and respiratory system.

'Other forms of child labor: Working in hotels and restaurants, in farmlands and in the military; shepherding; weaving; and doing overnight work, work in excessively hot and cold weather, and work with dangerous equipment; and so on are the forms of child labor identified and assessed by the AIHRC in its HRFM [human rights field monitoring] exercise…There is a perceptible link between child labor and education. There is a large group of children who are deprived of education due to labor and long working hours. 11.6 percent of interviewees (564 people) told the AIHRC HRFM team that their children cannot go to schools due to work and long working hours.' [31a] (p 38-39)

See also sub-section: Education.

26.72 The Office of the UN Special Representative of the Secretary-General for Children and Armed Conflict provided the following information, which was based on its 2011 report:

'The Government's policy is to not recruit children under 18 into the national security forces, and efforts are made to identify and remove children during the recruitment process. However, children continue to be found in the ranks of the Afghan National Police. This was especially true for local recruitment in rural district police stations and conflict-affected areas, where there were consistent reports of children associated with Afghan National Police units at checkpoints and police stations, including as drivers, messengers and tea boys. Insufficient age-verification procedures, extremely low levels of birth registration, opportunities to manipulate age in national identity documents, and the current recruitment drive within the Afghan National Police have led to such underage recruitment.' [50a]

26.73 The same source added:

'On 30 January 2011, the action plan for the prevention of underage recruitment into the Afghan National Security Forces was signed by the Minister for Foreign Affairs, Zalmai Rassoul, and my Special Representative for Afghanistan, and witnessed by my Special Representative for Children and Armed Conflict. In the action plan, the Government of Afghanistan committed itself to preventing underage recruitment in the Afghan National Army, the Afghan National Police, including the Afghan Local Police, and the National Directorate of Security. In addition, the Government committed itself to addressing issues of sexual violence against children by its security forces, and of killing and maiming in contravention of international humanitarian law.' [50a]

See sub-section: Child soldiers.

26.74 A feature article dated 1 June 2012 on the website of Revolutionary Association of the Women of Afghanistan (RAWA) stated: 'Many children suffering from war and instability in Afghanistan are seen in the capital city Kabul, busily engaged in forced labor including car-washing, shoes-polishing and street vendors.

'"I have been forced to join hundreds of children workers in Kabul and to work in a brick factory as a bread earner for my family, because my father is sick," Mohammad Qadir, 17, told Xinhua in a recent interview, adding that his family won't survive if he quit the work.

'Mohammad Qadir, whose family has ten members including three older sisters, said that he could earn some 100 to 200 Afghanis (2 to 4 U.S. dollars) daily. "I have no option but to work, to pay off loans taken by my family for basic necessities, and the medical expenses of my father."

'The child labor has remained rampant in the brick industry of the war-ravaged Afghanistan, according to a survey by the United Nations International Labour Organization (ILO) in February.

'The survey, titled "Buried in Bricks," and aiming to provide an accurate picture of the bonded and child labor in brick factories in two provinces of Afghanistan, Nangarhar and Kabul, said that 56 percent of brick makers in Afghanistan are children under the age of 18, among which 58 percent are boys and 42 percent are girls; while 47 percent are children under the age of 14, among which 33 percent are boys and 14 percent are girls.

'"I come to this brick factory at early morning every day. I would love to go to school, to read and write. But I don't have a chance to join school children," said Ahmad Zai, another child labor [sic].' [51a]

Compulsory and bonded Labour

26.75 The USSD report 2011 stated that, although the Constitution forbids compulsory and forced labour:

'Compulsory labor was used in practice. Men, women, and children were forced into poppy cultivation, domestic work, drug trafficking, and sexual exploitation. Reports document the practice of bonded labor, whereby customs allow for families to force men, women, and children to work as a means to pay for debt or to settle grievances. The debt can continue from generation to generation, whereby children are forced to work to pay off their parents' debt. In addition forced child labor existed in sectors such

as agriculture, brick kiln work, carpet weaving, domestic service, and organized begging.' [58c]

26.76 IRIN reported on bonded labour in brick kilns on 16 May 2012:

'Bonded labour in Afghanistan's brick kilns is one of the most common forms of hazardous labour in the country. More than half of the brick kiln workers surveyed in a recent report by the International Labour Organization (ILO) were children, with most under 14. Few are getting any education to allow them to develop skills needed to break out of work in the kilns.

'Most children began working at the age of seven or eight, and almost 80 percent are under 10. According to the ILO, the kilns rely on debt bondage: Workers and their families are tied to a kiln by the need to pay off loans taken out for basic necessities, medical expenses, weddings and funerals.

'The ILO report found that basic subsistence needs force families to repeatedly take out loans, often paying for a winter's food with a loan which they pay back over an entire season. Of the families surveyed, 64 percent had worked in the kilns for 11 years or more, and 35 percent had done so for more than 20 years.

'The exact number of kilns in Afghanistan is unknown, but reports suggest that in Nangarhar Province's Surkhroad District alone there are about 90, with 150-200 children working in each one. ILO estimates that Kabul Province's Deh Sabz District has 800 kilns.

'"It is out of necessity and extreme poverty that households enlist their children from an early age to work in the kilns," said Sarah Cramer, lead author of the ILO report. "There are four cycles prevalent in the situation of bonded labour in Afghanistan - the cycle of debt, cycle of vulnerability, cycle of dependence and the cycle of poverty."' [27f]

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Child soldiers

This section should be read in conjunction with Section 11: Military Service to gain context.

26.77 The United Nations General Assembly Security Council Report of the Secretary-General, 'The situation in Afghanistan and its implications for international peace and security,' dated 9 March 2011, stated:

'On 30 January 2011, the action plan for the prevention of underage recruitment into the Afghan national security forces was signed by the Minister of Foreign Affairs and my Special Representative, and witnessed by my Special Representative for Children and Armed Conflict, Ms. Radhika Coomaraswamy. The Government committed to the prevention of underage recruitment into the army, police, intelligence services and local police forces. It also committed to addressing issues of sexual violence against children by security forces, and of killing and maiming in contravention of international humanitarian law.' [18e] (p 9)

26.78 The United Nations General Assembly Security Council's Report of the Secretary-General, 'The situation in Afghanistan and its implications for international peace and security,' dated 5 March 2012, stated:

'Together with the other members of the country task force on monitoring and reporting, UNAMA continued to implement the monitoring and reporting mechanism on the situation of children in Afghanistan. In response to the action plan signed in February 2011, the Government of Afghanistan reported progress in preventing child recruitment and other grave violations, including the issuance of decrees, an awareness-raising campaign and capacity-building of Afghan security forces on child rights. Concrete steps were made in the western provinces of Herat and Ghor, with child protection units established in army and police recruitment sections.' [18a] (p 7)

26.79 The 'Children and armed conflict' Report of the Secretary-General, dated 23 April 2011, covering the period from January to December 2010, stated:

'As steps towards the development of the action plan, the Ministry of Interior issued an executive order on 24 April 2010 prohibiting children from being recruited or used within ANP [Afghan National Police], requiring children found in ANP ranks to be separated within 30 days; and calling for investigations and disciplinary action against those found to be in violation of this order. The United Nations Assistance Mission in Afghanistan (UNAMA) undertook its first unannounced verification visit to the Afghan National Police recruitment and training centre in Kunduz City, Kunduz Province, in May 2010, and noted that the executive order was clearly posted on the walls of the centre, and trainers and new recruits were fully aware of its contents. Further, a Government steering committee on children and armed conflict, consisting of eight Deputy Ministers, the Director of the National Directorate of Security and the Presidential Adviser on Health and Education, was launched on 18 July 2010. The steering committee approved the action plan and established a technical working group, comprising focal points from relevant ministries and the United Nations to ensure its implementation.' [18f] (p 3)

Practice by Government and anti-Government elements

26.80 However, the United Nations General Assembly Security Council reported on Children and Armed Conflict on 26 April 2012, and found:

'Although there has been notable progress on implementation of the Action Plan, the use of children by units of the Afghan National Police and the Afghan National Army at checkpoints, including as messengers and tea boys, in contravention of Afghan law, remains to be fully addressed. Children were also recruited, mostly in the eastern and southern regions, into the Afghan Local Police, including through intimidation. Verification of all reports of recruitment and use of children remained a serious challenge owing to the ongoing conflict and security constraints.' [18c] (p 3)

26.81 The Office of the Special Representative of the Secretary-General for Children and Armed Conflict provided this information, which was based on its 2011 report:

'The recruitment and use of children by anti-government elements, including the Taliban and its various factions, Haqqani network, Hizb-e-Islami of Gulbuddin Hekmatyar, the Tora Bora Front, Latif Mansur Network and Jamat Sunat al-Dawa Salafia, was observed throughout the country in 2010. Children were used by them to carry out suicide attacks, plant explosives and transport munitions. The country task forces on monitoring and reporting verified 23 incidents of recruitment and use of children by armed groups. Half

of these incidents were reported from provinces near the border with Pakistan and the Islamic Republic of Iran. All recruited children are male, between the ages of 9 and 17, and most of them were recruited in southern and western regions.

'There have been continued reports of cross-border recruitment and use of children by armed opposition groups, including the Taliban, from both Pakistan and Afghanistan. Many have been forced to carry explosives across the Pakistan-Afghanistan border, often without their knowledge, while others have received more advanced training in weapons.' [50a]

26.82 The United States Department of Defense Country Report on Human Rights Practices for 2011 stated:

'Anecdotal evidence suggested that insurgent recruitment of underage soldiers continued to rise. There were also numerous credible reports that the Taliban and other insurgent forces recruited children younger than age 18, in some cases as suicide bombers and human shields, and in other cases to assist with their work. The media, NGOs, and UN agencies reported that the Taliban tricked children, promised them money, or forced them to become suicide bombers. President Karzai ordered the release of 20 such incarcerated children on August 25.' [58c]

26.83 The United Nations Assistance Mission to Afghanistan (UNAMA) noted the following concerns in their report entitled 'Protection of Civilians in Armed Conflict,' dated February 2012:

'UNAMA remains gravely concerned about recruitment of under 18-year olds into armed forces and armed groups. In 2011, a total of 212 incidents of child recruitment were reported by parties to the conflict, including ANP, ALP and Anti-Government Element. Of the 212 cases of underage recruitment, verified and unverified, 173 (81 percent) were attributed to Anti-Government Element, 23 by ALP and 16 by ANP. Eleven children, including one eight-year old girl who was asked by unidentified men to carry a package to an IMF base, were killed when executing suicide attacks and a 14-year old boy was killed when planting an IED that prematurely exploded.' [29b] (p 38)

26.84 The Human Rights Watch (HRW) news release, Afghanistan: Taliban Should Stop Using Children as Suicide Bombers, 31 August 2011, stated:

'There has been an alarming increase in recent months of suicide bombings, and attempted suicide bombings, by children, Human Rights Watch said. Younger and younger children have been involved. Children as young as 7 have reported that they were deployed as suicide bombers. Surviving children who trained as suicide bombers describe having been given amulets containing verses from the Quran that they were told would protect them from the explosion. They said they were told that when the bomb they carried detonated, everyone around them would die but they would survive.' [15h]

26.85 IRIN reported on children used as suicide bombers on 23 May 2011: 'About 100 boys aged 12-17 are being detained by Afghanistan's National Intelligence Directorate (NDS) on charges of attempting suicide attacks on behalf of the Taliban, but the insurgents deny they recruit minors as their presence could cause "vice" in the ranks.

'On 20 May, a suicide vest strapped to a 12-year-old boy in the eastern province of Nooristan prematurely exploded, killing several suspected insurgents including the boy,

NDS and the provincial authorities allege.

'"About 100 would-be child suicide attackers are currently in our custody," Lutfullah Mashal, an NDS spokesman, told IRIN, adding that the children had been trained by the Taliban, Hezbe Islami and the Haqqani Group - the three main insurgent groups which are also accused by the UN of using children for military purposes, including suicide missions.

'"We have evidence that the Taliban have been recruiting children aged 11-17 to carry out a range of activities - from armed combat to smuggling of weapons across the Pakistan-Afghan border and planting IEDs [improvised explosive devices]," said Dee Brillenburg Wurth, a child rights adviser with the UN Assistance Mission in Afghanistan (UNAMA).

'The Taliban reject the allegations about the Nooristan blast… He also denied children were being used as suicide attackers or for other military purposes…

'About 140 suicide attacks were carried out in 2010 in Afghanistan resulting in at least 228 civilian deaths, reports UNAMA. Article 1 of the 1989 Convention on the Rights of the Child stipulates that "every human being below the age of eighteen years" is a child, and Afghan law forbids the recruitment of minors into armed forces or the police. However, jihad - the term used by the Taliban to describe their armed insurgency in Afghanistan - does not require participants to be older than a certain age; they need only to be beyond the age of puberty and mentally fit, according to Islamic scholars.

'"It's our policy not to recruit children - in order to prevent vice in our ranks because most Mujahedin are single men and spend a lot of their time away from their homes, so the policy is to avoid any child sexual abuse in our forces," said the Taliban spokesman.

'Child sexual exploitation, so-called "bacha bazi", is an illegal but widespread practice in some parts of Afghanistan and the UN has called on the government to stop it...

'The Afghan authorities believe most child suicide bombers are trained in Pakistan. "Ninety-nine percent of the children detained on charges of suicide attack have come from Pakistan where they were indoctrinated, trained and equipped in religious schools and other insurgency training camps," alleged NDS spokesman Mashal, but the Pakistani authorities have always rejected such claims.

'Other reports also suggest extremist religious groups may be preaching armed jihad against foreign forces in Afghanistan. UNAMA said it has been conducting research to try and collate data on cross-border child recruitment by state and non-state military actors.

'But the UN acknowledges it is very difficult to monitor and report on the recruitment of children in non-state armed forces because of lack of access. "And some of it is cross-border as well, so those are the difficulties we face," said Radhika Coomaraswamy, special representative of the Secretary-General for children and armed conflict, at a press conference in Kabul on 24 February 2010.' [27h]

See also Section on Trafficking.

Street children

26.86 The UNCRC report 2011 stated:

'The Committee is concerned that there are significant numbers of children working in the streets in the State party [Afghanistan], and that these children are at great risk of physical, emotional and sexual exploitation and abuse. The Committee expresses particular concern that children in street situations are often used as sex workers and introduced to intravenous drug use by criminal groups. The Committee is also concerned that children in street situations under the age of criminal responsibility have been arrested and detained by the Afghan National Police.' [52a]

26.87 The USSD report 2011 stated:

'The Ministry of Labor, Social Affairs, Martyrs, and Disabled's (MoLSAMD) estimated that the number of street children in Kabul dropped during the year from previous NGO estimates of 37,000 street children in urban areas, but no new survey had been undertaken by the National Census Directorate at year's end. Street children had little or no access to government services, although several NGOs provided access to basic needs, such as shelter and food.' [58c]

26.88 The Xinhuanet news agency reported on 18 January 2011 that:

'An Afghan non-governmental organization (NGO) -- Aschiana has been collecting street children and provides shelter, education and vocational courses to them. "There are between 60,000 to 70,000 street children only in capital city Kabul," Director of Aschiana, Mohammad Yousef, told Xinhua recently. However, there is no official statistics about the number of street children in the militancy-hit Afghanistan. "We pick up children from streets and after providing education or working skills integrate them to society," Yousef said. In addition to Aschiana, there are some orphanages run by Afghan government, Afghan Red Crescent Society and some foreign NGOs in Kabul and other Afghan cities provide shelters and education to street children.' [54a]

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CHILDCARE AND PROTECTION

26.89 The UNCRC report 2011 observed:

'The Committee is concerned that traditional societal attitudes towards children limit, and often totally prevent, children from expressing their views on issues that affect them and from having their views duly taken into account within the family, schools, other children's institutions, the judicial and administrative system, and society at large. The Committee also notes with concern that although the 2005 Juvenile Code provides therefor[e], the right of children to be heard in any judicial or administrative proceedings affecting them is rarely respected, especially when girls are concerned, and children are not present or often requested not to speak during proceedings that concern them.' [52a] (p 6-7)

26.90 The same source stated:

'The Committee is extremely concerned by the high level of violence against children in the State party [Afghanistan] and abhors that child victims of abuse and violence, especially girls, are often treated as perpetrators and sent to juvenile rehabilitation centres, while most of the perpetrators of violence against children enjoy impunity.

While noting as positive the recent establishment of the Child Protection Action Networks (CPAN) in several provinces and districts, the Committee expresses concern about the absence of comprehensive public and private systems of protection for child victims of violence as reflected by the lack of a mechanism through which child victims of violence can lodge complaints and obtain protection and rehabilitation services.' [52a] (p 8)

26.91 The Report of the Secretary-General on children and armed conflict in Afghanistan to the UN Security Council, covering the period 1 September 2008 to 30 August 2010, dated 3 February 2011 noted:

'Insufficient protection for victims of sexual violence and witnesses to such incidents remains a concern. Fear of violent retaliation against victims and families was cited as a factor for underreporting. Child victims, both boys and girls, are often arrested and charged with intention to commit zina (sexual intercourse outside of marriage). There is also a lack of appropriate referral pathways for victims, including children, to receive services and care. Moreover, there is little awareness that rape and sexual violence are criminal offences.' [18g] (p 10)

See also Women - protection and assistance.

Internally displaced and refugee children

26.92 The UNCRC report 2011 stated:

'The Committee commends the State party [Afghanistan] for its efforts to provide assistance to returnee and internally displaced children, especially those who were internally displaced between June 2009 and July 2010 in the Helmand and Badghis provinces. However, the Committee expresses concern that there is currently no clear policy to monitor the situation of internally displaced children and their families and respond to their needs. and that refugee, returnee and internally displaced children, especially Pashtun and Jogi children continue to face harsh living conditions and problems accessing birth registration, identity documents and education.' [52a] (p 15)

Adoption, orphans and children's homes

This section should be read in conjuction with Trafficking - protection for victims of trafficking.

26.93 The AIHRC report 2011 stated:

'The number of orphaned and unsupported children is not fully known. Based on information provided to the AIHRC by MoLSA [Ministry of Labour and Social Affairs], 6.5 million children are at risk in the country and 1.9 million children are engaged in child labor. Also around 16,000 orphaned children live in 70 institutions. This is while 9,347 children lived in institutions until 1387 (2008/09). This only includes children registered by MoLSA and who are institutionalized; the real number of orphaned children is higher than this.' [31a]

26.94 The same report stated: 'Article 53 of the Afghan Constitution explicitly states that the Government should protect and assist unsupported women and orphans…

'Many orphaned and unsupported children are on the streets and in the markets, begging, collecting things from the garbage, acting as vendors, and washing cars—this

labor puts these children at risk… The AIHRC findings reveal that the conditions in Afghanistan's institutions [i.e. childrens' homes] are unfavorable and it has recorded many complaints in this regard. Generally many of the institutions lack welfare and education facilities and are located in rented houses. The AIHRC has received reports that the children of the institution authorities or their relatives and friends have been registered in the institutions instead of deserving, needy children. At the same time, the Government's monitoring mechanism for these institutions is not transparent and has failed to address inadequacies and challenges.' [31a] (p 45-46)

26.95 The UNCRC report 2011 noted the following with regard to orphaned children who are placed in institutions:

'The Committee expresses serious concern about the continuous increase in the institutionalization of children in the State party [Afghanistan], especially children from poor families. The Committee notes with concern that other alternative care options, such as foster care, remain underdeveloped which leads to excessive institutionalization of children. The Committee is also concerned that most alternative care facilities are unregistered and are not adequately regulated and monitored.' [52a] (p 9)

26.96 The same source further commented:

'While noting the information provided in the State party's [Afghanistan's] report that the State party does not practice adoption or "kafalah," the Committee expresses concern that the State party does not have a system that provides special protection and assistance to children deprived of a family environment. The Committee also takes note of the information provided during the interactive dialogue that a system of guardianship exists in the State party to take care of orphaned children, and that legislation to protect those children is being considered. Nevertheless, the Committee is concerned about the absence of a legal framework regulating such guardianship and protecting children deprived of a family environment on a long-term basis.' [52a] (p 9-10)

26.97 The USSD report 2011 stated:

'Living conditions for children in orphanages were poor. The MoLSAMD [Ministry of Labour, Social Affairs, Martyrs and Disabled] oversaw 84 Child Protection Action Network (CPAN) centers and 70 residential orphanages, which were designed to provide vocational training to children from destitute families. Of these, 30 were privately funded orphanages and 40 were government-funded centers (but operated by NGOs by agreement with the ministry). NGOs reported that up to 80 percent of four-to 18-year-old children in the orphanages were not orphans but were children whose families could not provide food, shelter, or schooling. Children in orphanages reported mental, physical, and sexual abuse; were sometimes trafficked; and did not always have access to running water, winter heating, indoor plumbing, health services, recreational facilities, or education.' [58c] (Section 6)

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EDUCATION

Legal framework

26.98 The AIHRC report 2011 stated:

'The Afghan Constitution guarantees the right of all Afghans to free education up to bachelor's degree in public institutions of higher learning and requires the Afghan Government to ensure balanced development of education all over the country. The Government is also required to formulate and implement effective programs for providing compulsory intermediate education and teaching in mother tongues where these are spoken.

'In accordance with Article 44 of the Afghan Constitution, the Government is required to formulate and implement effective programs to ensure balanced and developed education for women, improve education for kuchis, and eradicate illiteracy. In addition, Article 3 of the Law on Education states, "The citizens of the Islamic Republic of Afghanistan have an equal right to education without any kinds of discrimination."

'Goal 3 of Afghanistan's MDGs [Millennium Development Goals] clearly sets out that all boys and girls should equally complete a full course of primary education by 2020. Besides, the ANDS [Afghanistan National Development Strategy] and the Afghanistan Compact have established significant benchmarks for the realization of universal primary education by the Afghan Government.' [31a] (p 81)

Schooling in practice

26.99 The UNCRC report 2011 observed:

'The Committee takes note of the adoption of the Education Law in 2008 and of the Education Strategy for 2006-2010 and 2010-2014 and commends the State party [Afghanistan] for the remarkable expansion of the educational system over the last decade, in terms of the number of schools, trained teachers and enrolled children, including the notable increase in the enrolment of girls. The Committee is however concerned that almost half of the State party's children are not enrolled in school, and that extreme gender disparity with regard to school enrolment and high-school dropouts persist at all levels. The Committee is further concerned that budgetary allocations to the education sector remain insufficient to build and restore school infrastructure and to enforce the provision of free and compulsory education, which may result in schools asking parents for so-called "voluntary" donations. The Committee is concerned that children from minorities, notably Hindu and Kuchi children, have limited access to education.' [52a] (p 14)

26.100 The United Nations General Assembly Security Council, Report of the Secretary-General, 'The situation in Afghanistan and its implications for international peace and security,' dated 23 June 2011, stated:

'While national figures indicate a silent crisis for 5 million children (42 per cent of all children) not in school due to poverty and vulnerability, significant progress was made in promoting access to schooling through provision of learning spaces, establishment of community-based schools and the provision of teaching and learning materials. The United Nations Educational, Scientific and Cultural Organization has provided literacy and skills development classes to illiterate youths and adults in 18 provinces through the programme for the enhancement of literacy in Afghanistan. Between April and June, 91,400 learners were enrolled in 3,656 literacy classes in 18 provinces in Afghanistan. Despite the security situation in some districts, literacy classes are being held successfully.' [18d] (p 11)

26.101 The Afghanistan Research and Evaluation Unit (AREU) report, 'Local Governance in Afghanistan: A View from the Ground,' dated June 2011, focused on research carried out in six provinces of Samangan, Jawzjan, Sar-i-Pul, Day Kundi, Laghman and Wardak. The report noted:

'Intensive efforts made to improve education delivery have brought a turnaround in the education sector. New schools have been built and teacher training colleges have been established. Growth in teacher numbers has been matched by an increase in professionalism, and a growing number of teachers interested in the technical development of teaching standards and the curriculum was observed at both provincial and district levels. This has been accompanied by a steady increase in pupil enrolment. As economic situations have improved, families have required less labour, enabling children to go to school. The MoE [Ministry of Education] has involved mullahs, village elders, maliks [village representative, landlord] and qaryadars [village representative] in spreading awareness about the benefits of education. Engaging mullahs in primary education programmes has both compensated for the lack of qualified teachers in villages and countered their traditional opposition to mainstream education by involving them in the process. This in turn has achieved a balance between religious and formal education and reportedly softened their stand towards the revision of curricula.' [8a] (p 29)

26.102 However, the AIHRC report 2011 stated:

'Providing the access of 96 percent of population to education is a considerable achievement for the Afghan Government particularly MoE [Ministry of Education], without taking into account the quality of education. But if we consider the quality of education, it is easily found out that the Afghan Government and the relevant stakeholders have focused on the quantity, rather than the quality, of education services in the past recent years. This inattention and negligence has caused many children not to use low-quality education services and even be deprived of their right to education… MoE [Ministry of Education] authorities admit that of all schools, only half (50 percent) have buildings. A report by Oxfam and Agency Coordinating Body for Afghan Relief (ACBAR) entitled Health and Education in Afghanistan confirms this.' [31a] (p 82)

26.103 The same report continued, 'The AIHRC findings indicate that school-age children's access to education is not easy and many obstacles, such as long home-school distance, insecurity, labor, discrimination, and other impediments deprive some students of their right to education.' [31a] (p 83)

26.104 The Save the Children report, 'Afghanistan in Transition: putting children at the heart of development,' published in 2011, noted: 'The figure of 7 million children in classrooms is an enrolment figure only, which belies severe disparities in access, and reveals little about the quality of education that children receive – or whether they stay in school.' [46b] (p 7)

26.105 The same report continued:

'Given the jump in enrollment rates, an enormous strain has been put on a system that barely existed a decade ago. There are few appropriate facilities available for education: around 50 percent of schools are not located in proper buildings. Instead, lessons are being conducted under trees or in tents. The quality of education is often poor; a Save the Children evaluation study in 2010 found that only 43 percent of a sample of children in grade 3 could read with comprehension. Moreover, schools are not consistently safe

spaces to ensure children are able to learn in a protective environment. Many children confront an abusive environment in school, with 100 percent of boys in one Save the Children assessment reporting that they had encountered physical and humiliating punishment. Attacks on schools by armed groups remain a major threat.' [46b] (p 7)

Urban/rural divide

26.106 The AIHRC report 2011 noted:

'There are huge disparities in education between urban and rural areas. Urban-dwellers have a better economic situation than that of rural residents. Urban inhabitants are less forced to make their children engage in labor to support the family. In cities, there is lesser and safer distance between home and school, while home-school distance is longer and more insecure in villages. The other difference is the availability of more human resources in city than in village schools. There are more qualified teachers and more women teachers in city schools than in village schools. There are also gross differences between these two types of schools with regard to educational facilities. For example, city schools have more equipment, tools, and furniture, such as tables, chairs, stationery, hygiene, buildings, while the lack of such facilities has caused many children, especially girls, no to go to schools in rural areas. There are more problems in schools in rural areas and these are impediments to students' attendance in schools.' [31a] (p 83)

Targeting of schools and teachers by insurgents

See also subsection on Violence against children above and section on Non-Government armed forces.

26.107 The UNCRC report 2011 stated:

'The Committee expresses its extreme concern over attacks by insurgent groups on school facilities, which have killed dozens of school children and their teachers, and led to the closure of hundreds of schools throughout the country since 2007, especially in the South of the country. The Committee is particularly concerned that, in the prevailing conditions of conflict, schools have been used as polling stations during elections and occupied by international and national military forces.' [52a] (p 14)

26.108 The UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict provided this information in a report of 2011:

'A total of 197 education-related incidents throughout the country were verified. Incidents affecting education included direct attacks against schools, collateral damage, killing and injury of students and education personnel, threats and intimidations, and forced school closures. These incidents were mostly perpetrated by armed groups (86 per cent); 30 per cent of the incidents were carried out in September 2010, the month of the Parliamentary elections, when half of the polling stations were located in schools… The occupation of schools and health facilities by pro-Government forces is a concern, including five verified incidents of school occupation by the international military forces in 2010…' [50a]

26.109 The United States Department of Defense Country Report on Human Rights Practices for 2011 stated:

'In some parts of the country, especially rural areas, schools were closed due to societal bias or security issues. In some areas individuals opened schools inside their homes or recruited local mullahs as teachers. The media reported hundreds of schools re-opened and attacks on schools declined in areas where local education leaders negotiated with the Taliban. A Kabul-based think tank reported at year's end that the government had struck deals over the years by which insurgents would end attacks on state schools in exchange for a more conservative religious curriculum and discretion in hiring Taliban-approved teachers, an allegation which the MOE [Ministry of Education] denied.' [58c]

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Access to education for girls

26.110 The Save the Children report, 'Afghanistan in Transition: putting children at the heart of development,' published in 2011, stated:

'In 10 years primary school access rates have jumped from 1 million to 7 million. A decade ago not a single formal girls' school was functioning; now over 2.5 million girls are in school. Community acceptance of girls' education of girls [sic] has increased and in some major urban centers there are now more girls than boys in school. In Badakhshan and Herat provinces, the ratio of girls to boys in school is almost 9:10, but in Zabul and Uruzgan it is still only 1:10.' [46] (p 6)

26.111 However, the AIHRC report 2011 noted, 'Most importantly, there are still no girl students in secondary schools in 200 districts. There is not even a single women teacher in 250 districts. It means that girls face serious hardships and difficulties in accessing their right to education in these districts and this leads to their massive deprivation of the right to education.' [31a] (p 21)

26.112 The Save the Children report of 2011 added:

'Obstacles remain however: of the over 4 million children out of school, over 60 percent are girls. Although community acceptance and harassment continue to be issues of concern in some areas, the overwhelming causes of lack of access to classrooms are poverty and the absence of female teachers. In a recent NGO coalition report, poverty was identified as the "single biggest barrier to girls' access to education," with 41.2 percent of parents, teachers and girls interviewed citing this as the main reason girls were not in school.

'In remote areas, girls may walk for hours to attend the nearest school. Given incidences of harassment and violence and the cultural taboos limiting the travel of girls and women, this can prove dangerous. Almost a quarter (23.7 percent) of people interviewed for the 2011 High Stakes report on Girls' Education in Afghanistan "saw distance as a major obstacle to girls' access to education". A teacher in the rural province of Parwan commented: "In our village, the schools are very far. Girls are harassed on their way to school so a lot of families don't send them."…Only around 29 percent of teachers are women, and they are concentrated in major urban centers. Dropout rates for girls at secondary level are particularly high due to this shortage of female teachers. Existing initiatives require further support to address this situation.' [46b] (p 7)

26.113 The AIHRC report 2011 outlined reasons why children may not attend school:

'The 1389 (2010/11) data refers to labor (47.5 percent), long distance of school (21.2 percent), and low-quality education (15.4 percent) as the main causes for lack of boys' regular school attendance. These causes have been differently stated regarding lack of regular girls' school attendance: labor (20.6 percent), long distance of school (20 percent), and low-quality education (17.5 percent). In addition, lack of women teachers (11.1 percent) and other people's discouraging words (7.9 percent) are the other causes the lead to girls' irregular school attendance.

'Early school dropout of a significant number of students, especially girl students, is a cause of grave concern concerning the right to education in Afghanistan. The number of girls keeps decreasing as the level of education goes up. According to information provided by MoE [Ministry of Education] officials, in 1388 (2009/10), around 96,000 students graduated from grade 12; only 10 percent of them are girls. This is while the number of girl student graduates was approximately 26 percent in 1387 (2008/09) and more importantly, some 117,000 students graduated from grade 12 in 1389 (2010/11) and only 9 percent of them were girl students. The AIHRC HRFM [human rights field monitoring] findings in 1388 (2009/10), however, reveal that over 52 percent of girl students and nearly 66 percent of boy students who are in grade 6 or above drop out of school. Dropout rate is lesser in lower grades; over 15 percent of girl students and over 10 percent of boy students who are below grade 6 drop out of school.' [31a] (p 22)

26.114 The AIHRC report further stated:

'There are very limited educational opportunities for girls in most parts of the country, particularly in rural and insecure areas. They encounter with many cultural and traditional constraints in accessing their right to education. In addition, girls have more economic and security vulnerabilities than boys. In poor families, girls have fewer opportunities for schooling and education than boys. Therefore, the first priority is given to boys. Security threats by the armed opposition and fundamentalist groups further constrain girls' educational opportunities. During the rule of the Taliban, girls could not go to school and their schooling is still obstructed in areas under the control of the Taliban. In recent years, in different parts of the country, including in Kabul city, there have been suspicious attacks on girls' schools. These problems further limit girls' educational opportunities…

'Of all 61,375 university students in 1388 (2009/10), only 20 percent are girls and the remaining 80 percent are boys. This ratio was around 18 percent of girl university students to 78 percent of boy university students in 1387 (2008/09).' [31a] (p 90)

Attacks on schoolgirls

26.115 Reuters reported on attacks on girls' schools on 9 May 2012:

'Afghan girls were banned from receiving an education and women were not allowed to work or vote under the five-year rule of the hardline Islamist Taliban… The Ministry of Education says 550 schools in 11 provinces where the Taliban enjoy popular support have been shut recently. "Most of these are girls' schools and it is obvious that the Taliban are responsible for the threats against them," ministry spokesman Amanullah Iman said. The Taliban denied involvement.

'Earlier this week unknown attackers burned down a large girls' school in Khogiani district in Nangarhar province, on the border with Pakistan. Five more girls' schools in that district have since shut, said regional education spokesman Asif Shinwari. Also this

week, a roadside bomb in eastern Paktika province targeted the vehicle of five education department workers but missed. They were later gunned down in a firefight, local officials said. In southern Helmand province, a bastion of the Taliban, education official Mohammad Sarhadi said they have managed to reopen only 100 of the 170 that were forced to shut in recent months.

'President Hamid Karzai, who has taken to calling the Taliban "brothers" in recent speeches, urged the group to stop their campaign against education. "I call on the Taliban elders to avoid this and let our children get educated," he said in a radio address last week…

'Parents are terrified of sending daughters to school even in the capital Kabul, where the Afghan government and a heavy NATO and foreign diplomatic presence maintain security. "I am scared my daughters will get poisoned or killed while going to school," said father Abdul Satar, from the north of the city. Last year girls at a school near Kabul survived a poisoning attack, similar to that last month in northern Takhar province, where 150 girls became ill after drinking contaminated water in what officials said was an attack by conservative radicals.' [28d]

26.116 The BBC also reported on attacks on schoolgirls on 23 May 2012:

'More than 120 girls at a school in Afghanistan have been taken to hospital following a suspected poison attack… Police said preliminary evidence suggested that poisonous materials had been sprayed in classrooms at Bibi Haji school, in Takhar province.

'They believe that Taliban insurgents may be responsible.

'The 125 victims, who include girls as young as 10, were taken to hospital on Wednesday after complaining of nausea, headaches and dizziness. Police spokesman Khalilullah Aseer said he believed Taliban insurgents were trying to spread fear by poisoning the schoolgirls. The BBC's Bilal Sarwary in Kabul says similar events have been reported before, but no conclusive evidence of poisoning has been found.

'However Afghan officials say the insurgents and other groups are behind a wave of similar attacks against schoolchildren in several provinces. In April, more than 100 schoolgirls from Takhar were taken to hospital after drinking water at their school that was suspected to be poisoned.

'The National Directorate of Security (NDS) intelligence agency said the Taliban appear determined to target schools ahead of a 2014 withdrawal by foreign combat troops.

'"A part of their... spring offensive operation is... to close schools," NDS spokesman Lutfullah Mashal told Reuters news agency.' [44c]

See also Subsection on Violence against children and Section 25: Women - access to education and employment.

HEALTH AND WELFARE

26.117 The UNCRC report 2011 stated:

'The Committee notes with concern that in spite of efforts made by the State party [Afghanistan], maternal and infant mortality remains among the highest in the world, and

the death of most of the children who die in their early years is due to preventable diseases. The Committee is also concerned that:

'(a) Health facilities are inadequate, significantly underfunded as well as subject to attacks by insurgent groups, and occupation by the State party's armed forces, as a result of which, one third of children living in rural areas do not have access to any public or private health facilities;

'(b) Two thirds of children are chronically malnourished, and among them, thousands suffer from acute malnutrition;

'(c) Limitations on the movements of women and girls, imposed by traditional norms, and the lack of female medical staff poses a serious obstacle to providing essential health-care services to women and girls;

'(d) A significant number of children use drugs or are given drugs by addicted parents who want them to keep quiet, and one third of women who do not have access to health services use narcotic drugs to treat themselves and their children, resulting in addiction;

'(e) Mental health services remain insufficient to cope with widespread war-related psychosocial disorders suffered by children; and

'(f) The rate of exclusive breastfeeding for at least six months is very low.' [52a] (p 11-12)

26.118 The same source noted: 'The Committee is concerned that specific health assistance for adolescents as well as reproductive health education are not adequately provided in the State party [Afghanistan]. The Committee is also concerned that adolescent pregnancy is a consequence of the widespread practice of early marriage, and one of the leading causes of maternal mortality.' [52a] (p 12)

26.119 The Save the Children report, 'Afghanistan in Transition: putting children at the heart of development,' published in 2011, stated: 'For mothers, Afghanistan's maternal mortality statistics are at the bottom of global measurements. The lifetime risk of maternal death is one in 1128, a figure directly related to the fact that only 14 percent of births occur in the presence of a skilled health worker. Given the young age at which females marry in Afghanistan, many of the mothers dying are themselves children…' [46b] (p 6)

26.120 Save the Children's report, 'Aghanistan in Transition: putting children at the heart of development,' published in 2011, stated:

'In 2001 more than one in five children died before reaching his or her fifth birthday. Largely due to efforts to bring care closer to communities, the child mortality rate has dropped from 257 deaths per 1,000 live births in 2000… to 191deaths per 1,000 live births in 2006. Additionally, while the maternal mortality ratio in Afghanistan remains unacceptably high, the tally has dropped from 1,600 deaths per 100,000 live births in the year 2000 to 1,400 live births per 100,000 today, showing that genuine progress can be made.

'There have also been marked improvements in access to health care and in combating major diseases. In contrast to 2001, when only 9 percent of the population was able to access primary health care, today 85 percent can. Vaccine coverage is a particular success story, with 83 percent of children now vaccinated against the childhood

diseases of diphtheria, tetanus and whooping cough, compared to just 31 percent in 2000.

'However, despite a 26 percent reduction in child mortality over the past decade, Afghanistan remains one of the worst places in the world to be a child and a mother. One out of every nine children dies before his or her first birthday and one out of every five dies before the age of five. Every day 550 children die of preventable diseases, primarily pneumonia and diarrhea. Afghanistan remains one of only four polio-endemic countries in the world.' [46b] (p 6)

26.121 On 6 June 2011 IRIN news reported, 'Diarrhoeal diseases, linked to poor hand-washing and hygiene practices, as well as inadequate sanitation, are a significant cause of death among children under five in Afghanistan. According to the health Ministry, around 50,000 under fives die every year due to pneumonia and diarrhoeal diseases.' [27d]

26.122 The USSD report 2011 noted that 'Women and children were disproportionately the victims of preventable deaths due to communicable diseases compared to men. Although free health services were provided in public facilities, many households could not afford certain costs related to medicines or transportation to health care facilities, and many women were not permitted to travel to health facilities on their own.' [58c]

26.123 The Save the Children report, 'Afghanistan in Transition: putting children at the heart of development,' published in 2011 (SC report 2011), noted that, 'The disproportionate lack of access to health care for women and girls is one of many glaring and pervasive inequities in Afghanistan.' [46b] (p 6)

26.124 Save the Children's briefing on child malnutrition in Afghanistan, dated February 2012, stated:

'As well as high levels of stunting, 33% of children in Afghanistan are underweight and 8.6% are wasted. Whereas in most countries girls tend to have better nutritional status than boys, in Afghanistan 20% more girls than boys are wasted. According to a nutrition assessment led by the Ministry of Public Health, nearly a quarter of lactating mothers are malnourished, and therefore have an increased risk of delivering low-weight babies. Other factors that affect the nutritional status of children include lack of family planning and women having several children close together, decreasing amounts of food during pregnancy, and a lack of antenatal care. Inadequate infant and young child feeding practices are a major cause of undernutrition. Around 40% of those admitted to therapeutic feeding units (for treatment of severe acute malnutrition) are under six months old, pointing to breastfeeding problems as a primary cause.

'Furthermore,nutritional survey results show that acute malnutrition is highest in children aged 6–29 months.' [46a]

26.125 The same report added:

'Every year thousands of children die from illnesses like pneumonia and diarrhoea. Undernourished children who fall sick are much more likely to die from illness than well-nourished children. Despite recent decreases in the rate of child mortality, one in ten children will die before their fifth birthday. Afghanistan's infant mortality rate is among the highest in the world, and it is not declining as quickly as the under-five mortality rate.' [46]

Vaccinations

26.126 The AIHRC report 2011 described the vaccination programme:

> 'The vaccination program is a significant means for the prevention of diseases. In recent years, the Afghan Government has cooperated with the UN and other pertinent organizations to implement the vaccination program in many parts of the country, but the implementation process has faced such challenges as continued war and insecurity in southern, southwestern, southeastern, and some districts in northern Afghanistan, hampering the nationwide coverage of the vaccination program. In the AIHRC HRFM [human rights field monitoring] in 1389 (2010/11), 74.9 percent of people said that their under-five children have been regularly vaccinated, 24.6 percent of them stated that their under-five children have not been regularly vaccinated, and around 3 percent did not answer this question. MoPH [Ministry of Public Health] has reported that 83,000 children aged between 2 and 3 were vaccinated against measles and 23,000 children aged below two were vaccinated against eight diseases of childhood during vaccination campaigns in 1389 (2010/11). In addition, two vaccination campaigns were launched against intestinal worm and polio in 1389 (2010/11) in which 6.4 and 4.2 million children were vaccinated respectively. MoPH has further stated that there have been 34 percent decrease in children's polio cases compared to 1388 (2009/10).' [31a] (p 78)

26.127 The Foreign and Commonwealth Office (FCO) Afghanistan Country Profile, updated on 8 June 2011, accessed on 21 September 2011, noted:

> 'Immunisation is having a real impact. In March 2006, a Ministry of Public Health, UNICEF [United Nations Children's Fund] and World Bank nationwide campaign was launched to immunise 7 million children, in all of Afghanistan's 34 provinces, against polio. Since 2002 UN agencies have administered 16 million vaccinations against measles, saving an estimated 35,000 lives. Cholera and diarrhoeal diseases are being tackled through health education, water chlorination and the construction of wells throughout the country.' [37a] (Health)

26.128 IRIN reported on polio in Afghanistan on 15 September 2011:

> 'Afghanistan is intensifying efforts to eradicate polio by the end of next year, but security remains a major challenge especially in the southern provinces where the virus is localized, says a health expert… Polio remains endemic in Pakistan, Afghanistan, Nigeria and Chad, according to WHO. So far this year, 13 cases have been reported in seven districts in Kandahar, Helmand and Farah provinces. Most were children under two.
>
> 'According to the Health Ministry, focusing on the southern region involves concerted efforts to reach all children in conflict-affected areas. Priority is also given to immunization in southern and eastern border regions, it said in a statement.
>
> 'Government data shows that 85 percent of the population now live in polio-free areas, but the virus is still circulating in 13 districts, including the seven where recent cases have been detected.
>
> 'Insecurity in the polio-affected districts, according to health workers in Kabul, makes supervision and monitoring of eradication campaigns difficult. People in these areas also tend to have low literacy rates, poor hygiene practices and low awareness of the benefits of vaccination… But in May, thousands of children missed out on vaccination in the southern region, especially Zabul Province, because anti-government elements refused to allow the campaign, according to WHO's National Surveillance Cell.

'In June, another 101,085 children under five could not be reached in the same region due to "insecurity and prevention of Taliban in the areas they control", according to the Surveillance Cell.

'Despite the setbacks, officials are upbeat ahead of another nationwide campaign to be launched on 17 September by President Hamid Karzai. Targeting 7.8 million children, the campaign has enlisted 55,000 personnel and volunteers.' [27i]

Drug addiction

26.129 The AIHRC report 2011 stated:

'Women and children constitute another category of drug addicts particularly in northern Afghanistan. They use opium to relieve themselves from the tiredness associated to carpet-weaving and the like and they make their children eat opium so as the children do not disturb them during work. MoPH [Ministry of Public Health] data on the number of drug addicts is highly inadequate. Based on data in 2005, there are approximately 920,000 drug addicts, of which 740,000 are men, 120,000 are women, and 60,000 are children. According to a number of media reports, the number of drug addicts in Afghanistan has risen to 1.5 million people. This is while Afghanistan is one of world's poorest countries where drug addicts shockingly constitute around 3 percent of total population.' [31a] (p 79)

26.130 The Watchlist report, 'Setting the Right Priorities: Protecting Children Affected by Armed Conflict in Afghanistan,' dated June 2010, stated:

'The large supply of opium together with poverty, unemployment, mental illness, lack of awareness and widespread despair has created an increasing demand for drugs in Afghanistan's war-torn society. The most recent UN Office on Drugs and Crime Drug Use Survey 2005 estimated that nearly 1 million Afghans, including 60,000 children under the age of 15, were addicted to drugs. Children were mostly reported as using inhalant tranquilizers. Figures on drug abuse among youth are believed to be much higher today and encompass a wider range of substances due to availability and continuing stresses, according to UNODC. Most of the women using opium are of reproductive age, making babies they may have more susceptible to withdrawal syndromes, prematurity, accidental poisoning and other health issues.

'More recently, a few health agencies have reported entire families in Afghanistan becoming addicted to drugs. An AIHRC study found that 15 percent of drug users surveyed gave their children drugs to keep them quiet while they work. The use of drugs has particularly harmful consequences for children because they are more easily addicted and suffer permanent mental and physical damage. In their drive to acquire more drugs, some children join criminal networks or armed groups, according to UNAMA's 2007 report. Health experts also warn of the impending risks relating to diseases that can be transmitted by sharing needles such as HIV/AIDS and hepatitis C.

'Only one out of four reported drug addicts in Afghanistan receives the necessary treatment and rehabilitation services, according to UNODC. Patients expecting treatment often have to wait months for one of the 100 beds reserved for treatment. The fear of being stigmatized also keeps many women and children from seeking information and services.' [118] (p 21)

Mental health

26.131 Radio Free Europe/Radio Liberty reported the following on 19 September 2011:

> 'Human rights officials in Afghanistan have endorsed earlier findings suggesting that endemic violence is inflicting considerable psychological trauma and distress on children in that country... Afghanistan's Independent Human Rights Commission in Kabul told RFE/RL that many Afghan children have witnessed acts of violence, seeing people being killed in bomb attacks or seeing dead bodies on the streets. A 2009 study by England's Durham University, the first large-scale survey of Afghan children's mental health, reported that one in five children suffers from psychiatric disorders, including anxiety, depression, and posttraumatic stress disorder.' [30g]

See also Medical issues - mental health.

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Children with disabilities

26.132 The UNCRC report 2011 stated that:

> 'The Committee welcomes the National Strategy for Children with Disabilities (2008) and the Law on the Rights and Privileges of People with Disabilities and Martyrs' Families (2010), which should ensure access to education and health services, and promote the participation of children with disabilities. The Committee is however concerned about the limited measures taken so far to implement the law and the strategy, and in particular to collect reliable data on children and their disabilities and support families raising children with disabilities. The Committee also expresses serious concern at the extent of maltreatment of children with disabilities in families and institutions, including psychiatric medication and deprivation of education for the majority of children with disabilities, in spite of the goals set in the above-mentioned National Strategy for Children with Disabilities.' [52a] (p 11)

26.133 The AIHRC report 2011 described the position regarding education for children with disabilities: 'Children with disabilities face many constraints in exercising their right to education. Disability leads to the humiliation of children in schools. According to some reports, educational facilities are generally inaccessible for children with disabilities in Afghanistan. Of around 200,000 children with permanent disabilities, 75 percent are deprived of education.' [31a] (p 22)

26.134 The Watchlist report, 'Setting the Right Priorities: protecting children affected by armed conflict in Afghanistan,' dated June 2010, stated:

> 'More than 200,000 children in Afghanistan live with permanent injuries and disabilities suffered during hostilities or as a result of inadequate medical support, according to the most recent survey by Handicap International in 2005… School facilities and teachers are not equipped to address the special needs of students with disabilities, which further casts the children into disadvantage and isolation, according to officials at the Ministry of Education. Only 22.4 percent of the 196,000 children with disabilities in Afghanistan who would have qualified for school were able to attend school, according to the International Organization of Persons with Disabilities. Afghanistan has not signed the UN Convention on the Rights of Persons with Disabilities, which asks signatory states to

ensure that “children with disabilities are not excluded from free and compulsory primary education, or from secondary education.” National legislation related to persons with disabilities is currently in the process of being approved. In order to facilitate integration of children with disabilities, the Ministry of Education has introduced awareness-raising components in the school curriculum and is working on strategies to provide specialized and inclusive education.’ [118a] (p 14)

26.135 The Watchlist report also mentioned disability and death caused by landmines:

‘The majority of the mine incidents, an estimated 61 percent, involve children, with boys being disproportionately affected. Of the 734 recorded instances of children injured or killed by ERWs in 2008 and 2009, 626 were males and 105 females, according to MACCA’s national database. This can be explained by culturally-based gender differences, including the greater restrictions placed on girls’ mobility and the different set of responsibilities assigned to boys in Afghan society. The data reveals that most children died while playing outside, tending animals, collecting food, water or wood or travelling. Most of the mine incidents affected children between the ages of eight and 17 years old.’ [118a] (p 37)

See also Women - health and welfare, Disability and Medical Issues.

Internally displaced children

26.136 The Save the Children report 2011 noted:

‘Afghanistan has focused on post-conflict reconstruction and consistently ignored widespread humanitarian needs. Current rates of displacement are an example of the difficult humanitarian situation. Internal displacement in Afghanistan continues to increase, recently reaching 472,601 internally displaced people (IDPs) in August 2011. This includes a 52 percent increase in conflictrelated displacement in 2010, although many IDPs remain unaccounted for, given poor levels of access to insecure areas. More than 54 percent of IDPs registered since 2009 are children, and children also account for 60 percent of forced displacement victims. The return of 5 million people to Afghanistan since 2002, approximately 20 percent of the current population, has added a strain, with livelihoods and conflict further affected by land disputes. After 30 years of conflict, only 27 percent of mined areashave been cleared.’ [46b] (p9)

See also Humanitarian issues and Internally displaced people for further information on these subjects.

DOCUMENTATION

26.137 The United States State Department Country Report on Human Rights Practices for 2011, Afghanistan, 24 May 2012 (USSD report 2011), commented on birth registration: ‘Citizenship is transmitted by a citizen father to his child. Birth in the country or to a citizen mother alone is not sufficient.’ [58c] (Section 6)

26.138 The UNCRC report 2011 stated:

‘While noting some progress made in 2009 to increase birth registration, the Committee is however concerned that the majority of children remain unregistered. The Committee also expresses concern about the situation of children born out of wedlock, who may be deprived of their right to birth registration.

'The Committee draws the attention of the State party [Afghanistan] to the fact that birth registration is an essential means of protecting children's rights, in particular protecting children against early marriage, child labour, premature enlistment in the armed forces or, if accused of a crime, prosecution as an adult, and that the lack of a birth certificate may prevent a child from receiving health care, social assistance, and enrolment in school. It urges the State party to take all necessary measures to ensure that all children, including children born out of wedlock, are properly registered at birth.' [52a] (p 7)

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27. TRAFFICKING

OVERVIEW

27.01 The US State Department's 'Trafficking in Persons Report, 2012', Afghanistan, covering events in 2011, released in July 2012, explained:

'Afghanistan is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Trafficking within Afghanistan is more prevalent than transnational trafficking. The majority of victims are children, and during the year, IOM reported that younger boys and girls were increasingly subjected to forced labor in carpet-making factories and domestic servitude, and in commercial sexual exploitation, forced begging, and transnational drug smuggling within Afghanistan and in Pakistan, Iran, and Saudi Arabia. Some families knowingly sell their children for forced prostitution, including for "bacha baazi" – where wealthy men use groups of young boys for social and sexual entertainment. Other families send their children with brokers for employment but the children end up in forced labor. Opium-farming families sell their children – especially girls – to settle debts with opium traffickers. According to the government and the UN, insurgent groups forcibly use children between 12 to 16 years old as suicide bombers. Some Afghan families, including children, are trapped in debt bondage in the brick-making industry in eastern Afghanistan. Some Afghan women and girls are subjected to forced prostitution and domestic servitude in Pakistan, Iran, and India. There were reports of women and girls from the Philippines, Kyrgyzstan, Pakistan, Sri Lanka, Iran, Tajikistan, and China being forced into prostitution in Afghanistan. Under the pretense of highpaying employment opportunities, labor recruiting agencies lure foreign workers, including those from Sri Lanka, Nepal, India, Iran, Pakistan, and Tajikistan, to Afghanistan, and traffickers lure Afghan villagers to Afghan cities or to India or Pakistan, and then sometimes subject them to forced labor or forced prostitution after their arrival. Afghan men are subjected to forced labor and debt bondage in the agriculture and construction sectors in Iran, Pakistan, Greece, the Gulf states, and possibly southeast Asian countries. During 2011, one Azerbaijani victim was identified in Afghanistan and two Afghan victims were identified in Serbia.' [58d]

27.02 The Afghanistan Independent Human Rights Commission noted factors which may make a person vulnerable to trafficking in 'Summary Report on Investigation of Causes and Factors of Trafficking in Women and Children', dated July 2011 . The report is based on information obtained through 457 interviews with victims of trafficking in persons and 1871 interviews with the general public in 20 provinces in the country conducted between 22 November 2010 and 24 May, 2011:

'Vulnerability of women and children such as being without parents or having only one of them has role in victimizing of victims of trafficking in persons. Based on the findings of this report most of the victims have been vulnerable people. For instance, more than half of the victims (54%) have been deprived of parental support. Nearly 17 % (77 cases) have been housewife, 7 % of the victims (32 cases) have been beggars, peddlers and the junk collectors and the rest belonged to other categories such as students, teachers, government staff, shopkeepers, tailors, carpet wavers, parents helpers, etc. 'Early and forced marriages have been another major factor of trafficking in persons. This report shows that most of the victims of trafficking in persons have been those who have been married before reaching the legal age of marriage…

'Poverty and unemployment are among the most important causes of trafficking in persons…'

'Victims of trafficking, who are transferred abroad by traffickers, are faced with various problems including lack of documents for border crossing and movement within destination or transit countries. This report shows, that more than 97 % of the victims who have been transferred abroad have illegally and without having any documents or with fraudulent documents crossed the borders. And only 2.4 % of them have left the country with official and valid documents.' [31e]

In the Summary Report mentioned above, the Afghanistan Human Rights Commission (AIHRC) noted, 'Gender differences in trafficking in persons are one of the causes that make women and girls more vulnerable to become victims of this horrible crime. According to this report, out of the total internal trafficking, 19 % of the cases relate to boys, while 45 % relate to girls and more than 38 % to women.' [31e]

27.03 The AIHRC report added:

'Number of victims of trafficking in persons outside of the borders varies based on the type of exploitation. For example, most of the victims of trafficking in persons that are trafficked to Iran are boys (70 %) that are mostly exploited for domestic works, agriculture, daily wage, and sale. More than 6 % of them are exploited for sex trafficking and more than 19 % for distribution and selling of drug in Iran. But, about 39 % of victims transferred to Pakistan are women, (38 %), girls and 23 % boys. In Pakistan, these victims are mostly used for domestic works (54.4 %), majority of them are girls that are exploited, then, sexual exploitation (more than 30 %), destructive operations and suicide (6.4 %), distribution and sale of narcotics (5.5%) and daily wage work, begging, and sales 1.3 % each.' [31e]

27.04 The same source noted that:

'An absolute majority of the perpetrators of trafficking in person are not prosecuted, this issue it self can be a matter of concern in this regard. According to the interviews conducted with general public only 17 % of people have said that the perpetrators of trafficking have been arrested and 83 % have said that they have not been arrested. However, only 13 % of people have said that perpetrators of trafficking in person have been punished, but 87 % have stated that perpetrators have not been punished.

'According to people three groups are largely involved in the issue of trafficking in persons in Afghanistan: local powerful people (more than 32 %), the domestic and international organized groups (28 %), the Taliban and opposition groups (about 17.5 %).' [31e]

PREVENTION

27.05 The US Department of State 'Trafficking in Persons Report, 2012' designated Afghanistan as being on its 'Tier 2 Watch List.' The criteria for countries to be placed on this Watch List are set out below:

'Countries where governments do not fully comply with the TVPA's [Trafficking Victims Protection Act] minimum standards, but are making significant efforts to bring themselves into compliance with those standards, and whose:

a) 'the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;

b) 'there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecution, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or

c) 'the determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional steps over the next year.' [58d]

27.06 The same US State Department report stated:

'The Government of Afghanistan does not fully comply with the minimum standards for the elimination of trafficking in persons. The government has not shown evidence of increasing efforts to address human trafficking compared to the previous year; therefore, Afghanistan is placed on Tier 2 Watch List for a third consecutive year. Afghanistan was granted a waiver from an otherwise required downgrade to Tier 3 because its government has a written plan that, if implemented, would constitute making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, and would devote sufficient resources to implement that plan. The Afghan government did not prosecute or convict trafficking offenders under its 2008 law, and it reportedly punished trafficking victims for offenses they committed as a direct result of being trafficked. The level of understanding of human trafficking among Afghan government officials and the government's institutional capacity to combat human trafficking remained very low. Civil society groups reported, nonetheless, that the government showed evidence of increased political will in combating trafficking.

'During the reporting period, the Government of Afghanistan made no discernible progress in preventing human trafficking, but did launch an anti-trafficking structure. In January 2012, the High Commission for Combating Crimes of Abduction and Human Trafficking/Smuggling envisioned under the 2008 law was finally inaugurated by the Minister of Justice, and it subsequently met several times, and approved Terms of Reference for its operations. The Ministry of Interior's anti-trafficking/smuggling unit continued to be understaffed. Coordination among government ministries on trafficking issues improved during the reporting period. The quasigovernmental Afghanistan Independent Human Rights Commission issued a report in July 2011 about the causes and modalities of the trafficking of women and children that included recommendations for addressing them. The government did not undertake initiatives to prevent trafficking, such as public awareness campaigns to warn at-risk populations of the danger of trafficking. There was no progress reported toward fulfilling the goals of the action plan

signed in January 2011 to combat the usage of bacha baazi by Afghan National Security Forces. Less than 10 percent of the population have birth certificates, and the government did not undertake any campaigns to document unregistered populations. The government did not take steps to reduce the demand for commercial sex acts. Afghanistan is not a party to the 2000 UN TIP [Trafficking in Persons] Protocol.' [58d]

PROSECUTION

27.07 The US State Department's 'Trafficking in Persons Report, 2012' stated:

'The Government of Afghanistan made no discernible anti-trafficking law enforcement efforts over the reporting period. Afghanistan's Law Countering Abduction and Human Trafficking/Smuggling (2008), along with Article 516 of the Penal Code, prescribes between eight and 15 years' imprisonment for labor trafficking. The law also prescribes penalties of life imprisonment for sex trafficking. This life sentence, however, is superseded by the Elimination of Violence Against Women law (2009) which decreased maximum sentences for forced prostitution of females to 15 years' imprisonment. These penalties are sufficiently stringent and commensurate to those prescribed for other serious crimes, such as rape. Local NGOs continued to report that Afghan government personnel persisted in confusing trafficking with smuggling, abductions, abuse, and other crimes, and the government did not take steps to curb this conflation. In Dari – the most widely spoken language in Afghanistan – the same word denotes both human trafficking and human smuggling, compounding the confusion. A government official reported some investigations of human trafficking offenses, but the case lacked details of human trafficking, thereby calling into question whether these investigations were for trafficking or for smuggling. The government did not report any prosecutions, or convictions for human trafficking offenses or offenders in the reporting period.' [58d]

Corruption

27.08 The US State Department's 'Trafficking in Persons Report, 2012' addressed the issue of corruption:

'Government employees' complicity in human trafficking remained a problem. One government official noted that traffickers bribe Afghan officials to ensure their release from prison. Both the UN and local NGOs have cited isolated reports of the sexual abuse of boys – including bacha baazi – by members of the Afghan National Security Forces. Living conditions in government-run orphanages are extremely poor and some corrupt officials may have sexually abused children and forced them into prostitution. There were reports that national and border police facilitated trafficking and raped sex trafficking victims. The government did not investigate, arrest, or prosecute government officials facilitating trafficking offenses. International organizations and NGOs provided training to police, prosecutors, and other government officials on identifying and investigating trafficking cases. Training noted in the 2011 and 2010 TIP [Trafficking in Persons] Reports did not appear to increase or improve law enforcement efforts.' [58d]

PROTECTION FOR VICTIMS

27.09 The US State Department's report described both protection and punishment for victims of trafficking in the 'Trafficking in Persons Report, 2012':

'The Government of Afghanistan did not make discernible progress in protecting victims of trafficking. Afghanistan did not develop or employ systematic procedures to identify

victims of trafficking or refer them to protective services. The government refers some women victimized by violence – including trafficking victims – to care facilities. The government reported that in 2011 it identified eight Pakistani victims of trafficking. Four of the victims, who were women, were referred to a shelter, but the other victims, who were men, were arrested and imprisoned. The government lacked resources to provide victims with protective services directly or fund the provision of services by others; IOM and partner NGOs operated the country's three short-term trafficking shelters and provided the vast majority of victim assistance, but funding gaps impeded more effective protection efforts. Some victims faced hardships due to threats from the local community. IOM reported that it assisted 199 victims during 2011, the majority of whom were boys. Although there were specific protective services in Afghanistan for male trafficking victims ages 11 and under, no such services are available for boys above the age of 11. There is no evidence that the government encouraged victims to assist in investigations of their traffickers during the reporting period.

'Government officials have punished victims of trafficking for acts they may have committed as a direct result of being trafficked. In some cases, trafficking victims were jailed pending resolution of their legal cases, despite their recognized victim status. Female trafficking victims continued to be arrested and imprisoned or otherwise punished for prostitution or adultery, for escaping from their husbands who forced them into prostitution, or for being unchaperoned as they fled abuse in their homes, even if the destination was a shelter. Victimized women who could not find place in a shelter often ended up in prison. Authorities arrested several would-be child suicide attackers after they were reportedly psychologically coerced, trained, and equipped in Pakistan by armed opposition groups. There were reports of police raping female trafficking victims and would-be child suicide attackers prior to incarceration. Some trafficked boys were placed in government-run orphanages or a facility for juvenile criminals while their cases were being investigated, and trafficked adult men were arrested and incarcerated.' [58d]

See also Women, Children - abduction and trafficking, Non-government armed forces

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28. MEDICAL ISSUES

OVERVIEW

28.01 The World Health Organisation provided the following information in its 'Country co-operation at a glance,' updated in May 2011:

'Afghanistan, with a per-capita income of US$ 561, is among the least developed countries in the world with 70% of the population living in extreme poverty and health vulnerability. The social indicators, which were low even before the 1979 Soviet invasion, rank at or near the bottom among developing countries, preventing the fulfillment of rights to health, education, food and housing. Since the fall of the Taliban, important progress has been achieved in all sectors, but much remains to be done in order to reach a significantly strengthened social infrastructure, realize the rights to survival, livelihood, protection and participation, and reach the Millennium Development Goals (MDGs).

'The Ministry of Public Health (MoPH) has made significant progress in charting the direction of the health sector for the medium term period. A national health policy and

strategy has been put into effect, aiming at building institutional capacities and strengthening human resources to provide heath services using the basic package of health services (BPHS), the essential package of hospital services (EPHS) and the establishment of prevention and promotion programs. The goal is particularly to reduce morbidity and mortality by improving maternal and reproductive health and child health care.

'The bulk of health care is contracted out to nongovernmental organizations (NGOs). NGOs provide the bulk of primary health services in Afghanistan through a contracting out mechanism, which is managed and overseen by the MoPH. The MoPH in addition to providing the remaining care particularly focuses on: monitoring, evaluation and coordination of the delivery of BPHS by NGOs and donors inputs…

'Underdevelopment and low economic status are the main causes of ill-health and need massive support by the international community. Poverty is rampant and half of the rural population cannot afford to have a food intake of 2100 calories per day. Half of the men and 85% of women are illiterate. The lack of physical infrastructure (proper housing, adequate schools, rural roads, communication, electricity and other utilities) impedes the improvement of the health. Also, the low status of women, low level of water supply and sanitation coverage, extremely poor hygiene and environmental health shortcomings contribute to high infant and child mortality and morbidity.' [47b]

28.02 The Afghanistan Independent Human Rights Commission provided this summary of healthcare in their Fifth Report, Situation of Economic and Social Rights in Afghanistan, dated November/December 2011:

'All in all, it can briefly be said that health services and facilities have improved during recent years, but health-related benchmarks enshrined in the ANDS [Afghanistan National Development Strategy] have not been achieved. By the end of 1389 (2010/11), 60 percent of Afghan population had access to health services, while, according to the ANDS, 90 percent of Afghan population must have had access to health services by the end of 1389 (2010/11). There have been no remarkable reductions in maternal and child mortality rates and a considerable number of Afghan people complain against the poor quality of health services, medicines, and other equipment and physical access to healthcare. Around half of interviewees stated that they were assisted by their relatives during the birth of their last child. Inadequacy of female health workers is another major challenge facing the realization of the right to health. The increase in the number of drug addicts is another serious problem.' [31a] (p 80)

28.03 Reliefweb reported on the lack of healthcare in Uruzgan province in an article dated 11 May 2012:

'With health professionals and medicines in short supply, falling ill in rural Afghanistan is always bad news. But it is a particular problem in Uruzgan province's Dehrawud district, which has just two doctors to provide for tens of thousands of people. There one male and one female doctor and three female nurses in this part of central Afghanistan, in a province that is one of the country's least developed.

'The lack of care means sick people and pregnant women have to travel 40 kilometres east to the provincial capital Tarin Kowt, or to Kandahar to the south, though some die on the way. "I have taken many pregnant women to Tarin Kowt to deliver babies, but sadly six of them have died in my presence during the journey," Shawali, a Dehrawud taxi driver said…

'A range of problems make it difficult to recruit medical staff in Uruzgan, not least security. Located next to Helmand and Kandahar, the province has a strong insurgent presence… Dr Akhtar Mohammad, one of the two doctors in Dehrawud, said potential recruits were also deterred by the low pay and lack of support from the state… Dr Mohammad Nabi, acting director of public health in Uruzgan, believes shortfalls in provision here and elsewhere in the province stem from incorrect population data, on which funding allocations are based…

'To address Dehrawud's needs, a 30-bed hospital is to be built there. Ajab Nur, local representative of the non-government group Afghan Health and Development Services, AHDS, said the hospital was being funded by the European Union.' [49j]

28.04 Reliefweb reported on the impact of fighting on the provision of healthcare in an operational update of 25 July 2012:

'The summer fighting season is at its height, and civilians, above all, are paying the price – either directly, as victims of the violence, or indirectly, as they face massive difficulties obtaining health care. The security situation is depriving a large part of the Afghan population of access to health-care facilities. Moreover, health personnel are also often unable to reach areas of the country where the need for care is high and the ability to provide it is low. Some health-care facilities have been directly attacked.' [49i]

28.05 The UNHCR Eligibility guidelines for assessing the international protection needs of asylum-seekers from Afghanistan, dated 17 December 2010, noted, 'Vulnerable IDPs, such as female-headed households, widows, and orphaned and separated children have the greatest difficulty in accessing relief and assistance, including health care and education.' [53a]

28.06 The United States Department of State Country Report on Human Rights Practices for 2011, Afghanistan, published in May 2012, mentioned reproductive health care: 'Oral contraceptives, intrauterine devices, injectables, and condoms were available commercially and were provided at no cost in public and private health facilities and by community health workers. There was a 20 percent usage rate of most modern forms of contraception. Men and women were diagnosed and treated equally for sexually transmitted infections, including HIV, when health care was available.' [58c] (Section 6)

28.07 The same report commented on health care for women and children:

'The country has achieved substantial improvements in health over the past decade, and public health statistics released in November indicated a steep drop in maternal mortality. The overall health situation of women and children remained poor, however, particularly among nomadic and rural populations and those in insecure areas. Similar to males, female life expectancy was 64 years of age. Rural women continued to suffer disproportionately from insufficient numbers of skilled health personnel, particularly female health workers.

'Women and children were disproportionately the victims of preventable deaths due to communicable diseases compared to men. Although free health services were provided in public facilities, many households could not afford certain costs related to medicines or transportation to health care facilities, and many women were not permitted to travel to health facilities on their own.' [58c] (Section 6)

UNREGULATED PHARMACEUTICALS

28.08 Reliefweb reported on the unregulated trade in pharmaceuticals in an article dated 1 August 2012:

'Khair Mohammad may not be a qualified doctor, but he offers a wide range of treatments to whoever will pay. On a blanket laid out beside a road in Afghanistan's Uruzgan province, the self-appointed pharmacist sells cures for everything from acne and depression to liver complaints. Many of Mohammad's customers in the provincial capital of Tarin Kowt are poor or illiterate. They do not have prescriptions from a doctor, and Mohammad, who cannot read or write, does not ask for them…

'Mohammad's pills enable him to make a living in a particularly isolated and impoverished province in central Afghanistan, where drugs and health professionals are often in short supply… But he is part of a largely unregulated pharmaceutical trade which some people fear is carries [sic] high risks. Sources in Uruzgan say anyone can sell medication, regardless of their level of medical training, or whether the drugs have expired.

'Afghanistan imports medicines from countries including Iran, China, Pakistan and India. Regulation is slack, the country's borders are notoriously porous, and some import companies are unlicensed. This creates ideal conditions for counterfeit or low-quality drugs to enter the market.

'Dr Sayed Agha Miakhel, head of Uruzgan's provincial public health department, said there was little he could do to rein in the free-wheeling pharmaceutical trade. His officials inspect the town's 52 formal pharmacies every six months looking for low-quality or expired medication, but when it comes to enforcement they have few options. In 2009, Miakhel's department closed down four pharmacies for operating without licences, but they quickly reopened thanks to support from influential local figures. "I could not take on these four [pharmacists] because they are all backed by local commanders, lawmakers and senators," he said. "For this reason, controlling pharmacies and medical check-up centres in this city is pointless."

'Alongside the pharmacies, some 20 to 30 street vendors like Mohammad sell medication around Tarin Kowt. The lack of regulation has undermined public confidence in the health sector. Residents of Chura, Dehrawud, Charchino and Chanartu districts, as well as Tarin Kowt, say they know of people killed by low-quality or expired medicines… In the absence of state support, much of the health work in the province is conducted by the non-governmental group Afghan Health and Development Services, Miakhel said. "The truth is that public health ministry has forgotten Uruzgan because it is a mountainous, underdeveloped province," he said. "They have not supported it. Without money, people can do nothing."' [49h]

National Licensed Drugs List

28.09 The Afghan government's National Licensed Drugs List (LDL), dated December 2007 provides a list of medicines that can be imported and sold in Afghanistan under their International Non-proprietary Name (INN). The LDL stated that: 'The LDL contains all the drugs listed in the EDL [Essential Drugs List], and hence contains all the drugs recommended for use in the BPH [Basic Package of Health Services], EPHS [Essential Package of Hospital Services] and the MoPH's national programs. It also contains dispensary products and products used in dentistry. It is used as guideline by the authorities granting import licenses for drugs used in the public and private sector.' [95a]

The National Licensed Drugs List (LDL) is available on the Afghanistan Ministry of Public Health (MoPH) website.

HIV/AIDS AND ANTI-RETROVIRAL TREATMENT

Risk groups and prevalence

28.10 The United Nations Development Programme provided this summary of HIV/AIDS in Afghanistan in an undated outline of Millennium Development Goal 9 regarding combating various diseases, accessed on 1 October 2012:

'Even though current levels are low, Afghanistan is a potentially high-risk country for the spread of HIV/AIDS. Drug abuse is prevalent; most users inject drugs through shared needles but are unaware of the dangers. There is no systematic testing for HIV before blood transfusion and less than 30% of transfused blood is screened. Low use stems from a lack of awareness of contraceptives. Nearly three-fourth of married women under-50 years of age have never heard of any contraceptive methods.' [69b]

28.11 UNAIDS stated the following in a feature dated 16 April 2010: 'Knowledge of HIV among IDUs [injecting drug users] is also very low. According to the study, only 29 % of the IDUs could correctly identify ways of preventing the sexual transmission of HIV and reject major misconceptions about HIV transmission. About 22 % of the IDUs have ever tested and know their HIV status.' [91a]

28.12 The Afghan Ministry of Public Health provided information about the prevalence of AIDS/HIV in 'Global AIDS Response Progress Report 2012,' submitted in March 2012:

'Through studies conducted on persons who inject drugs (PWID) and IBBS [Integrated Bio-Behavioural Surveillance] 2009, it is now clear HIV is a public health concern among the key affected and vulnerable populations. Other than drug cultivation, trade and use, there are several other underlying factors of vulnerability in the country, including: poor HIV-related knowledge and limited access to sex and reproductive education, low literacy level (85%), high stigma and of people living with HIV (PLHIV), as well as of Key Affected Populations – PWID, female sex workers (FSWs), men who have sex with men (MSM), and prisoners, are the most affected by this. Challenges to HIV prevention are, in addition to the security and humanitarian environment, poor infrastructure and a chronic lack of capacity, including absence of a comprehensive surveillance system on HIV and STIs and current reliance on data which is only available for some of the most at-risk groups. This makes it difficult to further (a) understand the dynamics of transmission, and (b) assess the potential for further diffusion.

'Injecting drug use in Afghanistan is associated with the intravenous injection of (a) heroin, (b) pharmaceutical drugs, or (c) tranquilizers and painkillers. Both 2005 and 2009 national drug surveys point to the alarming rates of high-risk behavior among PWID, including sharing of needles and syringes, use of other substances, low condom use, and exchange of sex for money and drugs. It was reported in the 2005 survey that at least half of the heroin users shared needles. In 2009, the majority of interviewed PWID (87 per cent) reported such behavior. Interestingly, the 2010 cohort study, while reporting lower rates of needles and syringe sharing (17%), revealed a much higher rate of sharing of injecting equipment (40%). This study also provided important information on common use of other substances, such as hashish and alcohol (61% and 65%,

respectively), and, most disturbingly, transitioning from smoking to injecting of heroin among 98% of PWID.' [90a] (Ib. Status of the epidemic)

28.13 The Ministry of Public Health report commented on data and on particular groups at risk:

'Data on HIV prevalence is scarce. With a health information system not yet fully functional, the HIV and other STI surveillance system is basic. Available data shows Afghanistan is currently considered to have low HIV prevalence in the general population, but a concentrated epidemic among people who inject drugs.

'According to the Afghanistan Drug Use Survey in 2009 carried out by UNODC, Ministry of Counter Narcotics (MoCN) and Ministry of Public Health (MoPH), there are an estimated 20,000 (18,000 - 23,000) PWID in the country of which two-thirds were current and regular injectors. Almost 70 per cent of Mazar-e-Sharif IDUs [injecting drug users] and 80 per cent of those in Kabul lived for a period of time outside Afghanistan, mostly in Iran or Pakistan. However, more recently it has been observed that the number of injecting drug users who have not traveled abroad is increasing. HIV prevalence among PWID is estimated at a national average of 7% (18% of PWID in Herat, 3% in Kabul and 1% in Mazar were infected with HIV according the IBBS, 2009).

'HIV prevalence among FSWs is estimated to be zero. A 2005 University of Manitoba study mapped a total of 1,160 FSWs in three major cities of Afghanistan (Kabul, Jalalabad and Mazar), of which Kabul alone accounted for over 77%. Given the socio-cultural stigma attached to accessing FSWs, it is likely that this figure is underestimated. There are 23,800 prisoners and detainees in Afghanistan's 35 prisons as of March 2012. HIV prevalence among prisoners is rising and appears to be primarily related to the proportion of PWID in prison.

'Unlike FSWs and prisoners, there is still almost no information on MSM. Although 100 MSM were reached by a study in 2009, there are no robust estimates or behavioral or biological measures of this population. The ANSF-II displays insufficient knowledge and understanding of the HIV needs of MSM,, lacks a description of how to develop services to meet their sexual health needs (including HIV and other STI-related issues), and absence of an advocacy and policy strategy to address service delivery weakness and barriers, such as significant levels of stigma and discrimination. While there is no reliable data on HIV prevalence among MSM in Afghanistan, information suggests there are high HIV-risk networks of MSM that are not being addressed.' [90a] (II. Overview of the AIDS epidemic)

Treatment available

28.14 The Afghan Ministry of Public Health commented on treatment available in a Global AIDS Response Progress Report 2012, submitted in March 2012: 'In view of the status of the epidemic, the Government of Afghanistan (GoA) with the support of development partners has adopted both a priority focus on policy and programs in this area....

'However, coverage of harm reduction and, in particular, of Needle Syringe Programs (NSP) remains low and insufficient to have an impact on the epidemic. UNODC, WHO and UNAIDS guidelines recommend that 60% coverage of NSP is required to prevent further epidemic spread. Similarly, the geographical coverage of existing programs is limited to eight provinces and needs to be progressively expanded.' [90a] (I.c. Policy and programmatic response)

28.15 The Ministry of Public Health report of March 2012 also described the importance of NGOs in providing health care in Afghanistan:

'Afghanistan has both international and national NGOs involved in the provision of health services. Eighty percent of existing health facilities are either operated or supported by NGOs. The support of NGOs by the health care system is critical, including drug supplies, supervision, training, and incentives. NGOs play a key role in reaching most at-risk and vulnerable groups (injecting drug users and their partners, sex workers and their clients, prisoners, and others). Several NGOs are involved in targeted interventions to prevent HIV among at-risk groups, though still on a small scale.' [90a] (III. National response to the AIDS epidemic)

28.16 The United Nations Assistance Mission in Afghanistan (UNAMA) referred to HIV treatment in an article dated 3 December 2011:

'By end of November 2011, Kabul and Herat Anti-Retroviral Treatment (ART) centers have registered a total of 228 HIV+ patients. Through these centers, 108 HIV+ receive ART in Afghanistan. The National AIDS Control Program provides services through 16 Voluntary Counseling and Testing Centers (VCTs), 28 Drop-in-Centers and in 8 provinces namely Kabul, Herat, Jalalabad, Balkh, Badakhshan, Kandahar, Ghazni and Kunduz and 2 Anti-Retroviral-Therapy (ART) centers in Kabul and Herat.' [29c]

28.17 The Revolutionary Association of the Women of Afghanistan described HIV treatment available in an article dated 25 May 2011: 'About 30 residential and out-patient clinics across Afghanistan treat about 7,000 people per year. Since 2005, needle exchanges, HIV testing and anti-retroviral drugs for the treatment of HIV have been available in some of these facilities. But health advocates said that more needed to be done.' [51b]

28.18 UNAIDS described a cross-border project for injecting drug users in a feature dated 16 April 2010: 'Providing comprehensive HIV services for injecting drug users is critical to an effective HIV response. In recognition of this, the United Nations Office on Drugs and Crime (UNODC) has begun to support the implementation of an initiative to make services accessible to Afghan refugees who inject drugs in Iran and Pakistan, and also to Afghan injecting drug users who have returned home.

'The use of non-sterile injecting drug equipment is one of the most efficient modes of HIV transmission and remains one of the critical activities fuelling HIV epidemics among drug users. HIV can also spread from people who inject drugs to their sexual partners and other populations at higher risk of HIV exposure such as sex workers.

'The project aims to create an environment that supports a cross-border regional network of HIV services so that Afghan refugees will be able to access HIV services when they go back to their country. UNODC awarded two grants to non-governmental organizations to provide services to Afghan drug users in Herat province, bordering Iran and Nangarhar, which borders Pakistan.

'Khatiz Organization for Rehabilitation in Herat and the Health and Social Development Organisation in Nangarhar are using mobile outreach units to offer a wide-ranging set of servcies. These include facilitating specific information and education materials for drug users; distributing clean needles and syringes; promoting and distributing condoms; treating and helping prevent sexually transmitted infections; primary healthcare such as HIV voluntary counseling and testing services and antiretroviral treatment.' [91a]

MATERNAL HEALTH

28.19 The World Bank provided the following information, dated 10 July 2012: 'Afghanistan has one of the worst maternal mortality rates in the South Asia, with an estimated 460 per 100,000 live births. Child mortality is also very high; and more than half the deaths are due to acute respiratory tract infections, diarrhea, and vaccine preventable diseases.' [36d]

28.20 The World Health Organisation commented as follows in its 'Country co-operation strategy at a glance,' which was updated in May 2011:

'The health of women and children is very poor. The major causes of maternal mortality are found to be haemorrhage, obstructed labor, pregnancy-induced hypertension and sepsis. The percentage of preventable maternal deaths is 74%. Home delivery is still the norm with more than 80% of deliveries taking place at home. Coverage of tetanus-toxoid vaccination is 60%. Reproductive health services are provided as an integrated package in the BPHS [Basic Package of Health Services for Afghanistan] and EPHS [Essential Package of Hospital Services] facilities, especially maternal and newborn health care and family planning services. Basic essential obstetric care services are provided at Basic Health centers (BHCs), Comprehensive Health Centers (CHCs) and District Hospitals (DHs) and comprehensive essential obstetric care at district and provincial hospitals. JHU/AHS 2006 survey shows that the percentage of pregnant women receiving care from skilled attendants has increased from 8% in 2002 to 32% in 2006 and delivery by skilled birth attendants increased from 5% in 2002 to 19% in 2006. The contraceptive prevalence rate increased from 10% in 2003 to 16.4% in 2006. The infant mortality rate has decreased from 165/1000 live births in 2002 to 111/1000 live births in 2008 (NRVA 2008).' [47b]

28.21 UNICEF commented on the high rate of maternal mortality in a factsheet dated November 2011:

'Afghanistan has the highest rate of maternal mortality in the world, with 1 out of every 11 women passing away from a complication related to pregnancy or childbirth. This staggering number means every 30 minutes a women in Afghanistan dies. Several issues contribute to this tragedy, ranging from lack of access to medical facilities and personnel in urban and rural environments, early marriage, a scarcity of female healthcare providers to address cultural norms requiring women be cared for by other women and the near absence of family planning. These factors are complicated by the protracted conflict in Afghanistan.

'Not only are mothers at dire risk, but so too are infants and young children. Afghanistan has the second highest rate of under-five mortality in the world, with thousands of children dying every year. Many of these deaths are the result of vaccine preventable diseases, including polio and measles, the lack of clean water and sanitation which directly impacts nutrition and limited access to medical care. In addition to the high mortality rate, Afghanistan also has the highest rates of stunting in the world. Stunting is primarily caused by mothers' poor nutrition during pregnancy and repeated episodes of infectious diseases in a child's early years. Children who suffer from stunting lack the necessary nutrients for their bodies to develop properly, meaning they will not grow to their full size, often ending up smaller and facing greater risk of death during childhood or reduced productivity in adulthood. Reduced food security of families due to destruction of crops during natural disasters, combined with the burden of infectious

diseases, is increasing the rate of acute malnutrition in the country - which is now double the rate of 2004.' [48b]

28.22 In an article dated 11 July 2012, Reliefweb reported the message given by the Afghan Minister of Public Health, Dr Suraya Dalil, to celebrate World Population Day 2012:

'"Improve the quantity and the quality of maternal and reproductive health services in Afghanistan is one of the highest priorities of the Ministry of Public Health. We also know that traditions constitute many barriers to women accessing health services. Afghanistan is a patriarchal society where men are the main decision makers in the community and at home; furthermore women's mobility restrictions impedes their ability to seek care. We know that women who marry early, living in remote areas with limited access to emergency obstetric care, women in low income groups with malnutrition and high fertility and women with no education are more at risk of dying in pregnancy and childbirth. These challenges are affecting the entire country and require a multi-sector approach."' [49d]

28.23 Reliefweb commented on healthcare available in an article dated 11 April 2012: 'Afghanistan has made significant progress on making conditions better for women survive pregnancy and childbirth. Yet health workers say there remains room for more progress…

'Services throughout the country have improved the situation. Currently 34 percent of Afghan mothers are able to benefit from hospitals and midwives services for their pregnancy and childbirth cases, said Dr. Saadia [Dr Saadia Faiq, Director of Maternal Health at Ministry of Public Health]… "Even in Kabul many people prefer women give birth at home instead of dealing their cases at hospitals or through midwives. In rural areas the situation is worse due to the low level of awareness," said Najibullah Safi, National Officer at World Health Organization (WHO)…

'With the technical support of its partners including World Health Organization (WHO), United Nations Children's Fund (UNICEF) and United Nations Population Fund (UNFPA), the Ministry of Public Health has created a number of national programmes aimed at increasing the number of trained midwives, raising awareness about dangers related to women pregnancy and childbirth and strengthening health services at hospitals and clinics.

'So far about 4,000 new midwives have been trained at the midwifery schools throughout the country. At the same time, the Ministry of Public Health has established dedicated maternal hospitals in six provinces. Mobile clinics and sub-centers have been established to travel to areas where adequate health services are not available.

'These efforts have been strengthened by grassroots efforts. Family Health Groups (FHGs) composed of men and women health workers provide advice and conduct lessons throughout the country. Plans also exist to integrate training on maternal health into the curriculum of the Ministries of High Education and of Education.

'These efforts are key if Afghanistan is to achieve the health targets set out in the Millennium Development Goals. To achieve those goals the Ministry of Public Health and its partners are developing a strategy called 'H4 Plus' that allows countries with severe maternal mortality rates to obtain increased funding. The plan has been devised by UNFPA, UNICEF, WHO, World Bank and USAID and already integrated into National Priority Programmes (NPP) to be funded under the Afghanistan National

Development Strategy (ANDS). Maternal mortality is a crosscutting issue and is unlikely to be resolved without inter-sectoral planning and coordination…

'Complicating the picture is that in Afghanistan there remain large areas without female doctors and where people continue to go without basic health facilities. "We don't have female doctors in Daikundi and Nooristan. The government should establish girls schools in these provinces so that they can be trained as medical doctors and midwives in the future," said Dr. Faiq.' [49e]

See also Women - son bias and reproductive rights.

DRUG ADDICTION

This section should be read in conjunction with Women - drug addiction, Children - drug addiction and Crime - drug production.

28.24 The World Bank provided the following information, which was dated 10 July 2012:

'In 2009, UNODC published the second survey on drug use in Afghanistan. It found that since 2005 at the time of the first survey, illicit drug use had increased across the country. The number of regular opium users in Afghanistan grew from 150,000 in 2005 to approximately 230,000 in 2009, a 54 percent increase. In 2005, the estimate of regular heroin users in the country was 50,000, compared to approximately 120,000 users in 2009, an increase of 140 percent. Overall, adult drug users are estimated to number close to one million (high estimate 940,000) people. That figure represents nearly 8 per cent of the population aged between 15 and 64.' [36d]

28.25 In an article dated 1 April 2012, Reuters stated, 'Opiate consumption in Afghanistan, where it has long been a medication but in recent years has been used increasingly for recreation, is also on a sharp rise. The UNODC says Afghanistan has around one million heroin and opium addicts out of a population of 30 million, making it the world's top user per capita.' [28j]

28.26 In an article dated 5 June 2011, Radio Free Europe/Radio Liberty reported on the 'some 8 percent of Afghans the UN says is addicted to drugs, often opium or heroin. That is 8 percent of the population between the ages of 15 and 64, twice the world average.' [30l]

28.27 The article continued:

'Only one in 10 addicts receives any drug treatment, because programs are rare and underfunded. According to a study last year by the UN Office of Drug Control (UNODC) there are roughly 700,000 people in Afghanistan who want treatment for their addictions but cannot gain access to a facility. And even when they gain access, long-term treatments like methadone substitution are rarely available, making the likelihood of relapse high...

'The soaring rate of drug abuse in Afghanistan has many causes. One is widespread unemployment, another is the three decades of war and social upheaval that began with the Soviet invasion in 1979 and continues with the U.S.-led war against the Taliban. Still another... is the flood of Afghan refugees who have returned from Iran, where many became heroin addicts. But fueling it all is the overabundance of opium and heroin in Afghanistan, which is the source of over 90 percent of the world's supply of these drugs.

'The farmers who grow the opium poppies say it is the most certain way to feed their

families because drug dealers pay more than they can earn with other crops. They produce so much that addicts need just $1 or $2 a day to afford their habit. That amount is so little that almost anyone can afford to begin in a country where opium, which contains morphine, has for centuries been a remedy for numbing pain.' [30l]

28.28 The World Bank article of 10 July 2012 also commented on the intensification of the war on drugs, stating, 'Reducing the availability of heroin can cause drug users to turn to injecting drugs as a more cost-effective option.' [36d]

28.29 Reuters examined the issue of female drug addicts in an article dated 1 April 2012:

'No estimates are available on how many women are addicted to opium or heroin. Nejat estimates around 60,000 women in Afghanistan regularly take illegal drugs, including hashish and marijuana. "There has been a definite increase amongst women drug users over the last decade," said Arman Raoufi, director of harm reduction for women at Nejat.

'Smoking opium costs around 200 Afghanis a day ($4), a very expensive habit in a country where a third live beneath the poverty line. Women send their children to collect scrap and bottles to help pay for their habit, or resort to begging, extending a hand to cars from beneath their burqa on busy streets when their husbands have left home. Treatment options are sorely limited. A pilot project launched two years ago by Medecins du Monde, which gives methadone to drug addicts, is the only one in the country. 'The National AIDS Control Programme (NACP) wants to roll it out across the country, but the Ministry of Counter-narcotics has objected, saying it would introduce yet another narcotic onto the black market...

'Raoufi at the Nejat centre says the return of migrant workers and refugees, who fled to Iran and Pakistan during the Soviet occupation of the 1980s, and the bloody civil war and Taliban rule that followed, is the main reason behind the rise in female drug addicts. Increased street prostitution since the fall of the Taliban, which policed the trade more rigorously than the government does today, has also contributed, he said...

'Afghanistan's female narcotics problem is now filling the country's largest women's prison, Badam Bagh or "Almond Orchard", on the outskirts of Kabul. Of its 164 inmates, 64 are opium and heroin users, double what it was when the clinic started in 2008, said clinic doctor, Hanifa Amiri. "There are simply more drugs out there available to women now," she said...' [28j]

28.30 Reuters explored the phenomenon of child drug addicts in Afghanistan in an article dated 15 June 2010:

'While addict babies born to drug-using mothers are familiar in the West, experts say the Afghan phenomenon of parents exposing their young to second-hand opium smoke, or actively encouraging them to partake, is unique and largely unexplored.. Some children are admitted with latent drug levels as much as 15 times higher than that of heroin users in the United States, Browne said, blaming the purity of Afghan poppy products and a high tolerance developed though protracted inhalation indoors.' [28i]

28.31 The article commented on addicts who returned to drug use after therapy, stating:

'Fewer still would fall back into drug use if their original care were longer. According to Fadilan Abdul Kayong of the Colombo Plan, an international group that advises the Afghan government on narcotics awareness, child addicts need a minimum 90-day care

program -- double what is now available... Out of 40 rehabilitation clinics in the country, 30 are paid for by Washington, she said. Most are for men and youths, while three new clinics for women and children are under construction.

'In rural areas, harsh economics can exacerbate the problem. Women eking out a living at carpet weaving have been known to blow opium smoke on babies to keep them calm. The drug also prevents child workers from chafing at long hours on the loom.' [28i]

28.32 The Wall Street Journal referred to the use of illicit drugs by Afghan troops and Police in an article dated 28 July 2010:

'Use of marijuana, opium and heroin among Afghan troops, even while on patrol, is just one of the challenges coalition forces face in working with the Afghan National Army as they begin a major push against the Taliban in and around the southern city of Kandahar. . As for the Afghan police, many Afghan citizens appear to loathe them, considering them little better than uniformed thieves and addicts. U.S. soldiers say that in Zhari, police openly grow marijuana and shoot heroin at some stations.' [92a]

POLIO

28.33 The World Health Organisation provided information about polio in a factsheet dated February 2012: 'Polio (poliomyelitis) mainly affects children under five years of age. One in 200 infections leads to irreversible paralysis. Among those paralysed, 5% to 10% die when their breathing muscles become immobilized…

'In 2012, only three countries (Afghanistan, Nigeria and Pakistan) remain polio-endemic, down from more than 125 in 1988.

'Persistent pockets of polio transmission in northern Nigeria and the border between Afghanistan and Pakistan are the current focus of the polio eradication initiative.

'As long as a single child remains infected, children in all countries are at risk of contracting polio. In 2009-2010, 23 previously polio-free countries were re-infected due to imports of the virus.' [47c]

28.34 The factsheet added, 'There is no cure for polio, it can only be prevented. Polio vaccine, given multiple times, can protect a child for life.' [47c]

28.35 The Global Polio Eradication Initiative is a public-private partnership led by national governments and spearheaded by the World Health Organization (WHO), Rotary International, the US Centers for Disease Control and Prevention (CDC), and the United Nations Children's Fund (UNICEF) with the goal of eradicating polio. The Initiative's website described the situation in Afghanistan:

'Most of Afghanistan is polio-free. Persistent wild poliovirus transmission is largely restricted to 13 districts in the provinces of Helmand, Kandahar and Uruzgan in the south of the country, where accessing children is difficult due to insecurity and conflict. In addition, Afghanistan and neighboring Pakistan repeatedly re-infect one other, with Afghanistan appearing to receive a higher share of the poliovirus importations.

'The Southern Region of Afghanistan and Farah province in the Western Region remain polio-endemic: in 2011, 85% of polio cases occurred in these areas. The other cases were reported in nine previously polio-free provinces, the result of importations from this endemic zone and from neighbouring Pakistan. In the endemic zone, the immunization

status of children was worse in 2011 than in 2008, uncovering a steady decline in the quality of Supplementary Immunization Activities. The 28 worst-performing districts have been identified in Hilmand, Kandahar and Uruzgan provinces in Southern Region and Farah province in Western Region.

'In addition to problems accessing children in insecure areas, serious flaws in the management and accountability of the polio eradication programme persisted in 2011. Poor access and management were compounded by a failure to sufficiently communicate to parents and communities the importance of polio eradication.' [94a]

28.36 Reliefweb explained the efforts of the Afghan government to eradicate polio in an article dated 26 July 2012:

'At the World Health Assembly in May 2012, polio eradication was declared a programmatic emergency for global public health, highlighting the urgent need to tackle the problem in the three countries in which polio remains endemic; in Afghanistan, Pakistan and Nigeria. In response, Afghanistan and Pakistan have prepared National Emergency Action Plans (NEAP) to stop the transmission of the polio virus involving multiple sectors, through more aggressive, focused and measureable approaches…

'In Afghanistan, The Ministry of Public Health (MoPH), along with WHO, UNICEF and others [sic] partners, regularly conducts national and sub-national level immunization campaigns to stop the circulation of the polio virus in the country. Almost 55,000 service providers including coordinators, supervisors, monitors, community mobilizers and volunteers are involved in each National Immunization Day (NID). During each National Immunization Day, almost eight million children under five years are vaccinated against polio through a house-to-house approach. An additional 3 million children are vaccinated in sub-NIDs. Almost one million children are vaccinated every year by the Afghanistan cross border teams...

'Afghanistan and Pakistan are considered as one epidemiological block because they share a long and porous border with both formal and informal crossing points and large cross-border population movements. Halting the circulation of the polio virus in these countries requires close coordination and synchronization, particularly in the border areas on both sides. As of July 15, a total of 13 confirmed polio cases have been reported in Afghanistan in 2012. In Pakistan, 25 confirmed cases have been reported. Most of these cases have occurred in neighboring provinces across the border between these two countries.' [49f]

28.37 Inter-Press News Agency reported on the Taliban's thwarting of polio vaccinations in an article dated 9 July 2012:

'By ordering a ban on polio immunisation, in its strongholds along the Afghanistan-Pakistan border, the Taliban is holding up an ambitious global programme to rid the world of the crippling childhood disease, say World Health Organisation (WHO) doctors…On Jun. 15, the Pakistani Taliban imposed a ban on oral polio vaccination (OPV), saying that it was part of a design by the United States to reduce Muslim populations. The Taliban in South Waziristan went a step further on Jun. 25 by ordering a blanket ban on an on all vaccinations.' [95a]

CANCER TREATMENT

28.38 Daily Outlook Afghanistan reported the following on 10 September 2011: 'Every year, more Afghans die because of cancer than war and bombings. According to a study conducted by the American Center for Disease and Control, cancer is a fairly prevalent disease in Afghanistan. Among men, stomach cancer and among women, breast cancer, are the most common types of cancer. Currently, there is not even one center in the whole of Afghanistan that can offer treatment for cancer.' [99a]

28.39 Pajhwok Afghan News explored the issue of cancer care in an article dated 20 June 2010:

'Hundreds of people die needlessly in Afghanistan because of a lack of cancer specialists and diagnostic centres, doctors say. Afghanistan did have a cancer diagnostic centre at Ali Abad Hospital in Kabul, but that was destroyed during the civil war 30 years ago and has never reopened. Doctors say that if the cancer is caught early enough some patients can be operated on and with treatment live another 10 years. But if the cancer is not detected and spreads, the patient has less chance of survival. Due to a lack of cancer specialists in Afghanistan, those who can afford it travel overseas for treatment, but many more die, having never been properly diagnosed.' [100a]

28.40 However, the article added that 'most Afghans cannot afford to seek treatment overseas. And without specialised care, many die, according to doctors…

'A number of doctors also said the lack of cancer diagnostic and other equipment reflected a big gap in health care services. Dr. Ahmad Walid, doctor for internal medical inspect and blood, working in Jamhoriat Hospital Kabul, said because of this lack dozens of patients go to Pakistan, India and other countries for treatment. The only treatment doctors in Afghanistan can give to cancer patients is a blood transfusion, he said. With a recommendation letter, a patient can get such transfusion from the blood bank, he said. However, the only real treatment for blood cancer is a bone marrow operation, which cannot be carried out in Afghanistan. In India, the operation costs about 1.6 million Indian rupees ($35,000).

'Dr Daud, a surgeon at the Wazeer Akbar Khan Hospital in Kabul, said diagnosing and treating cancer patients is not possible in Afghanistan. Doctors must send their biopsies out the country, he said. Daud and other doctors have also called for a greater focus on establishing treatment and diagnostic centres and training cancer specialists. Dr Abdullah Fahim, an adviser to the Ministry of Public Health, said they needed $5 million to build centres with equipment and specialists needed to diagnose and treat cancer. He said the international nuclear agency had promised to set up such a centre in Jamhoriat Hospital. Fahim also said that a 200-bed cancer centre was being built with assistance from Pakistan, but that only half of it had been completed so far. He said the ministry was still trying to open the centres, but they lacked doctors who were experts in cancer treatment. He said the service cannot start until they have 20 doctors trained to treat cancer, which could take another five years.

'This year, five doctors were sent to Turkey to specialise in cancer treatment and another 15 will also be sent to Turkey and India to expand their experiences. Mansoor Ahmad, an assistant at the Pakistani Embassy in Kabul said 2,000 visas are issued daily, among which 500 to 700 are for medical reasons. He said that most patients going to Pakistan have either heart problems or cancer. Fahim said he did not know the exact number of Afghans travelling overseas for medical treatment.' [100a]

28.41 The International Atomic Energy Agency published an undated interview with the Deputy Minister of Public Health, accessed on 1 October 2012, which stated:

'In Afghanistan Dr Nadera Hayat Borhani worked during the former Taliban rule. She was one of the few doctors able to treat women. Dr Borhani travelled by special car to the houses of female patients forbidden to leave their homes. Today she is the Afghan Deputy Minister of Public Health.

'"Nobody in Afghanistan has access to health facilities for cancer. It's the same situation for the children, the men, the women, the elderly - nobody has access. Thirty years ago we had a centre for radiotherapy and a centre for diagnosis. But unfortunately during the war everything was destroyed and the infrastructure, the equipment, everything, was destroyed. So nearly we are starting at zero again.

'"When the doctor sees some sign or symptom that a patient has cancer – the option is to send the patient to Iran, or to go to Pakistan, or to India, as their economic situation allows. But Afghanistan has a low economic situation, and most of the people are very poor, so most of them don't go.

'"I also worked in a provincial hospital for 15 years, so I met many patients with cancer but unfortunately we cannot help them. In my heart I want to work with my people - especially for the women and children. All over the world they are the most vulnerable, but especially in Afghanistan. As you know we were suffering during the war from bad culture, it's not religious culture, but it's a bad culture of war. Always women are under pressure: they don't have the right to go to a health facility in rural areas without permission of the mother-in-law or father-in-law or husband. It's changing day-by-day but unfortunately if the families don't accept it, it's difficult, so we need time to change our people. We want to educate them, to teach them that this is a women's right, a child's right, a human right. For this change, it will take years and years.

'"In 2002 the coverage of health services was 9% in Afghanistan. But fortunately this access now reached 82% but only for basic health services. For an essential package of hospital services it's about 28%-30% coverage. But there is no radiotherapy for cancer.

'"A big problem we face in Afghanistan is lack of skilled female health staff. Literacy is low among women, about 15%. Afghanistan is a mountain country and mostly the people who are living in very rural areas don't access water, electricity, transportation, roads so it's hard to access schools and hospitals. Doctors don't want to go to rural areas and women from rural areas can not go to the city for training unless their whole family agrees and moves with them. So far we are finding it very difficult to recruit women specialists for training.

'"We need a cancer registry in Afghanistan to see the numbers and different types of cancers in the country. Sadly in Afghanistan we do not know this. We need this information to make our policy. We have some data from the paediatric hospital in Kabul. They now have about 75 children with leukaemia. But the real number I think is much greater, because the doctors send cancer patients to the foreign countries for treatment, or home to die… We need a cancer treatment centre in Afghanistan, and to have radiotherapy treatment."' [98a]

28.42 The International Atomic Energy Agency added the following footnote to the interview: 'Through its technical cooperation programme the IAEA is supporting the establishment

of radiotherapy capabilities in Kabul for the treatment of cancer patients in Afghanistan. Over $4 million has been allocated to support the establishment of a radiation oncology centre in the Medical University of Kabul, over the next seven years.' [98a]

28.43 The UN News Centre reported on 3 February 2012, that the '… IAEA [International Atomic Energy Agency] is supporting more than 130 projects in cancer diagnosis, management and treatment. Oncology and radiotherapy centres are being established in countries such as Afghanistan…' [97a]

KIDNEY DIALYSIS

28.44 PubMed.gov referred to kidney transplants carried out on Afghan refugees in Iran in 2004 and stated: 'In the last 2 years since the civil war has ended, returning these patients to Afghanistan has raised important ethical concerns. Repatriation of dialysis patients and transplant recipients may be tantamount to their deaths. It is expected that The Transplantation Society and the World Health Organization will establish links with the United Nations High Commissioner for Refugee Offices to provide humanitarian assistance to these patients.' [96a]

TUBERCULOSIS AND MALARIA

28.45 The World Health Organisation provided this information in its 'Country cooperation strategy at a glance,' which was updated in May 2011:

'Communicable diseases remain high. Tuberculosis (TB), at annual incidence of 46 000 cases, remains a serious health problem with unusual higher prevalence among women. The immunization coverage remains at best around 70-80%, in spite of major efforts and some successes. There has been good progress for malaria control by MoPH and partners since 2007.' [47a]

The United Nations Development Programme provided the following (undated) information about the prevalence of malaria and TB in Afghanistan: 'Malaria is endemic in elevations below 1500 metres and is prevalent in more than 60% of the country, with over 13 million people at risk. In 2004, the annual incidence of malaria was around 2-3 million.

'All age groups are equally affected, except in the eastern region where those under 15 years of age are more affected. In most parts of the country, the transmission season is April to November. There is some evidence that malaria incidence is on the increase.

'The total caseload of Tuberculosis (TB) is estimated at 333 active cases and 91 fatalities per 100,000 population per year. Young adult women appear to be a highly vulnerable group, and account for 70% of all adult cases of morbidity and mortality of TB reported by public health facilities.

'Factors that contribute to the high prevalence of malaria and TB include:

Population movements,

Lack of health infrastructure,

Poor access to health care,

Use of poor quality and counterfeit medicines,

Lack of adherence to treatment regimes,

Malnourishment, and

Increasing resistance of vectors to chloroquinine, the most widely used

anti-malarial drug.' [69b]

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MENTAL HEALTH

28.46 The World Health Organisation commented as follows in its 'Country co-operation strategy at a glance,' which was updated in May 2011: 'Long period of conflict has afflicted anxiety and depression among many. Due to the long period of conflict, over 2 million Afghans are affected by mental health problems, with high cases of posttraumatic stress disorder, depression and severe anxiety, particularly among women.' [47b]

28.47 Radio Free Europe/Radio Liberty's article, 'Little succor for Afghanistan's mentally ill,' commented on the prevalence of mental health problems and the availability of treatement in an article dated 3 May 2012:

'Decades of war, widespread poverty, and societal restrictions can take a toll on the mind, making Afghanistan uniquely suited as an incubator for mental illness. But while the factors are numerous, the path to treatment is fraught with obstacles ranging from the shame felt by family members, to age-old traditions that compete with modern methods, and a deficiency of professionals and facilities equipped to deal with the situation.

'Among the mental illnesses affecting Afghans most are depression, anxiety, and posttraumatic stress disorder, but precise statistics are difficult to pin down. One frequently mentioned figure estimates that 60 percent of the population is affected by some form of mental illness. Other estimates range from around the 15 percent range to as high as 98 percent.

'Even one of the leading authorities in the field of mental health in Afghanistan, the World Health Organization, expresses skepticism at attempts to quantify the problem. Ahmad Azadi, communication and advocacy officer for the WHO in Afghanistan, cites a lack of recorded data and mental-health professionals to properly diagnose patients. In an e-mail he simply says that "Afghans are in great need" when it comes to mental-health treatment. That conclusion is difficult to dispute. With some 30 million inhabitants, Afghanistan has only a handful of mental-health treatment facilities nationwide.

'In Kabul, the state's main facility has a capacity to treat just 60 patients at a time. There are specialized hospital wards in Jalalabad, in eastern Afghanistan, and Herat, in the west. In the northern city of Mazar-i Sharif a gleaming, private hospital helps fill the void. Other than that there are no other medical facilities to treat mental patients throughout Afghanistan's 34 provinces.

'Azizuddin Hemat, head of the government-run Society of Mental Health Specialists, says the situation is dire, especially in the country's regions, but that there are positive

developments. He singles out the private Alemi Neuro Psychiatric Hospital in Mazar-i Sharif - the administrative center of Balkh Province - as a particular source of pride when it comes to treating patients with mental health-problems. Unlike the dilapidated state hospital in Kabul's crowded Alauddin area, the four-story Alemi facility is gleaming and equipped with modern equipment. Dr. Nader Alemi, the owner of the hospital, claims patients come from all over Afghanistan. "In the past 12 months, 964 patients from different provinces have sought treatment here," Alemi says. "But it's just a drop in the ocean. We have millions of people suffering from depression in villages and cities who desperately need treatment."

'Public awareness of the problem is seen as key to treating it in a country where mental illnesses are seldom recognized as a medical issue, and are often covered up by family members out of shame. Traditional treatments, according to Alemi, involve employing mullahs to "cure" people by means of exorcisms or the reading of verses. Sufferers often turn to holy shrines known as "ziyarats" for treatment. Prominent "ziyarats" such as Niali Saheb in Nangarhar, Shams Saheb in Ghazni province, and Shpole Baba in the eastern Mahipar town have become a popular destination for tens of thousands of people suffering from depression. Only when patients' distress and suffering becomes unbearable for the patients and their families do they find their way to the country's few specialized facilities.' [30n]

28.48 The article continued:

'Time and money are a hindrance, according to Alemi. While treatment for depression, for example, usually takes many months, the majority of his patients come from remote rural areas and cannot afford extended hospital stays. "So we have found the best possible solution under our circumstances." he says. "We hospitalize patients for a few days, during which they undergo psychological counseling, and we prescribe medications before they leave. We stay in touch over the phone; patients can call our doctors for any advice they need. And then they return for another check-up in two-three months. It's not ideal but it helps," Alemi says.

'Meanwhile, in Kabul, the Society of Mental Health Specialists works to convince the government to allocate money to train experts and open mental heath facilities in all provinces. "People are suffering in silence, it's affecting their families and entire society," says Hemat. "If they had access to treatment, perhaps we would have less domestic violence, self-immolation and drug addictions, and even a lot less suicide bombings. You can't make a happy and healthy young man wear a suicide belt to blow himself and others up."' [30n]

28.49 Radio Free Europe/Radio Liberty also reported on children's mental health difficulties in an article dated 19 September 2011:

'Human rights officials in Afghanistan have endorsed earlier findings suggesting that endemic violence is inflicting considerable psychological trauma and distress on children in that country... Afghanistan's Independent Human Rights Commission in Kabul told RFE/RL that many Afghan children have witnessed acts of violence, seeing people being killed in bomb attacks or seeing dead bodies on the streets. A 2009 study by England's Durham University, the first large-scale survey of Afghan children's mental health, reported that one in five children suffers from psychiatric disorders, including anxiety, depression, and posttraumatic stress disorder.' [30o]

28.50 The Huffington Post reported on the use of 'shrines' to treat the mentally ill in an article dated 16 May 2012:

'The young man sits nearly naked in a small concrete room, a thick, heavy chain fastened around his ankle and bolted to the wall. Flies swarm around a wound on his wrist where shackles have rubbed the skin raw. His own waste has pooled in the corner, turning the dirt floor into a pungent mud. This is no jail, however, and 23-year-old Jalaludin has committed no crime. The Mia Ali Baba shrine in eastern Afghanistan is a holy place, and those who care for it say that spending 40 days here will, God willing, free Jalaludin from his personal prison: mental illness.

'For 300 years, the shrine keepers here have been taking in the mentally ill. They say they are upholding the legacy of their ancestor whom the shrine honors, a holy man by the name of Ali Baba who was known in this area outside Jalalabad city for caring for the mentally ill when they were shunned by others…

'Shrines such as Mia Ali Baba are frowned upon by health care professionals and other critics who say they are ineffective and that those who run them prey on vulnerable people's religious beliefs and superstitions to make a profit. But in Afghanistan, wracked by poverty and decades of war, many don't have access to even basic health care, let alone facilities for the mentally ill… Frustrated families often turn to places like Mia Ali Baba, hoping for a miracle.

'The prescription is drastic. Those sent here are chained to the walls of the small, windowless rooms. They are fed only water, black pepper and bread. They are not allowed to bathe anything except their faces, hands and feet. Speaking with others is prohibited. If a shrine keeper decides their situation is improving, they may be unchained for a few minutes so they can pray, walk outside or visit a proper bathroom.' [93a]

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29. HUMANITARIAN ISSUES

OVERVIEW

29.01 The United Nations Office for the Coordiantion of Humanitarian Affairs (OCHA) provided the following undated summary, accessed on 30 September 2012:

'Humanitarian conditions in Afghanistan have steadily deteriorated in recent years due to the protracted conflict and recurrent droughts. An intensified conflict in 2011 caused further civilian casualties and displacement, delayed humanitarian action and disrupted essential services. The planned withdrawal of the International Security Assistance Force (ISAF) from Afghanistan over the next three years risks disrupting local economies, and adversely affecting humanitarian and development action.' [74a]

29.02 OCHA provided further undated information on Afghanistan entitled 'OCHA in 2012 and 2013; Plan and Budget': 'Key humanitarian indicators have steadily deteriorated in Afghanistan in recent years as a result of protracted conflict, recurrent environmental hazards and a combination of under-development and development failure.

'In 2011, the conflict continued to expand and intensify across the country, giving rise to increasing civilian casualties, population displacement, disruption of basic services and delays in humanitarian and development projects. As of August 2011, an estimated 500,000 people had been displaced from their homes, with 130,000 displaced during the first half of 2011. A further 4 million Afghan refugees continue to reside in Iran and Pakistan. An estimated 4.5 million refugees have returned, many of whom require assistance to re-establish their lives and livelihoods.

'The failure to closely link the work of humanitarian and development actors in Afghanistan has resulted in persistent challenges associated with recurrent environmental hazards. Limited snow and rainfall during the past winter and spring caused a slow-onset drought, which affected the food security of people in 14 provinces in 2011. This is the eighth drought in 11 years, indicating the critical importance of implementing not just short-term humanitarian relief, but also longer-term resilience-building measures.' [74b]

See also sub-section on Humanitarian issues - food shortages below

29.03 OCHA also described humanitarian strategy for 2012 and 2013:

'In 2012 and 2013, all levels of humanitarian leadership will advocate an approach to the military transition that ensures immediate humanitarian needs continue to be met, and that early recovery and development plans are instituted and implemented on a scale sufficient to compensate for the economic impact of the withdrawal of Provincial Reconstruction Teams (PRTs), and the loss of economic activity derived from the ISAF presence.

'In 2012, humanitarian action in Afghanistan will focus on the following strategic objectives endorsed by the Humanitarian Coordinator (HC) in August 2011:

'Planning for, and responding to, humanitarian needs and protection concerns arising from the ongoing conflict, particularly regarding the needs of the displaced and those without access to basic assistance.

'Providing protection and initial return assistance to IDPs and refugee returnees.

'Preparing for, and responding to, humanitarian needs arising from recurrent natural disasters and advocating progress in the implementation of Hyogo Framework priorities.

'This represents a shift from previous years, as it excludes the provision of humanitarian assistance to people affected by the consequences of chronic vulnerability and under-development. The humanitarian community will need to better engage with recovery and developmental stakeholders and partners in 2012 and 2013 to ensure that there are no gaps in service delivery.

'Given the increasingly challenging security situation, it will be essential for humanitarian actors to act in accordance with humanitarian principles, and to engage in consistent outreach, advocacy and action to build and develop acceptance among local communities and traditional leaders.' [74b]

29.04 OCHA further commented that humanitarian needs are 'likely to increase as the ISAF withdraws over the coming three years...' [74b]

Situation updates

29.05 Regular updates on the humanitarian situation are available on the following websites:

UN OCHA website: http://www.unocha.org/where-we-work/afghanistan

Relieweb: http://reliefweb.int/country/afg

UNHCR's country operations profile - profile: 2012 UNHCR country operations profile – Afghanistan: http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486eb6

NATURAL DISASTERS

29.06 In an article dated 30 January 2012, IRIN explained that 'Afghanistan suffers from cyclical natural disasters - floods and drought - which affect people annually and require expensive emergency responses…' [27l]

29.07 Reliefweb provided the following table of natural hazards in Afghanistan in a Humanitarian bulletin, dated June 2012:

2012 Natural hazards calendar for Afghanistan

(Reliefweb, 2012) [49b] (p 5)

29.08 Reliefweb further explained the issue of natural hazards in the same bulletin of June 2012:

'Natural hazards affected 21,771 individuals during the month of June 2012, claiming 106 lives. The number of deaths was higher by 47 per cent compared to May records. This was mainly due the high number of deaths that were reported during an earthquake that claimed 75 lives in Baghlan province, according to records provided by local authorities. The impact of natural hazards also declined on number of individuals and districts affected in June compared to the previous month. The number of houses that were either damaged or destroyed stood at 3,529 compared to 9,330 in May 2012. The nature of incidents that were recorded in June included floods, hailstorm and earthquakes. These incidents happened mainly in North-Eastern, Northern, Central Highlands, Eastern and Western regions. Recurrent natural hazards continue to claim a number of Afghan lives, livelihoods and destroy infrastructure.' [49b] (p 8)

29.09 Reliefweb provided the following update on natural disasters in 2012 in a Complex Emergency Factsheet, dated 29 June 2012:

'Heavy seasonal rains and snowmelt—exacerbated by above-average snowfall during the 2011/2012 winter season—have resulted in localized flooding in nearly all of

Afghanistan's 34 provinces since March. Between March and May, flooding in eight northern provinces killed approximately 160 people and affected an estimated 22,000 families, according to the Afghanistan National Disaster Management Authority (ANDMA). Flood events in June have resulted in at least 32 additional deaths, according to the U.N. Office for the Coordination of Humanitarian Affairs (OCHA)…

'On June 11, two earthquakes measuring magnitudes 5.4 and 5.7 struck Baghlan Province in northern Afghanistan, resulting in 63 deaths, according to ANDMA. The majority of deaths occurred in Burkah District, where an earthquake-induced landslide buried several homes.' [49c]

29.10 IRIN reported on the impact of cold weather in an article dated 24 February 2012: 'At least 150 people in Afghanistan have died in the past month after some of the coldest weather for years. The deaths - mainly of those without adequate food, housing or heating in Kabul and the northern province of Badakhshan - have prompted some to ask how this can happen given that the country has received billions of dollars of aid since the Taliban regime fell in 2002.

'Sediq Hassani, director of policy at the Afghanistan National Disaster Management Authority, said every possible effort had been made to stock food and other items in the most at-risk areas, but acknowledged: "We were not 100 percent successful. There were districts to which, due to bad roads, we couldn't send food items before winter started."

'He blamed lack of investment by the government and international community in the last decade, but one UN official told IRIN the international community has failed to prioritize disaster reduction management in Afghanistan. "The ones who died were mostly the children of internally displaced persons who live in tents and mud-huts in Kabul and those poor families in other parts of the country who can't afford to keep their homes warm," said Health Ministry spokesman Kargar Norughli.

'"In the last few days, 35 children were killed by pneumonia in two districts of Badakhshan Province and more than 30 others by avalanches in the last few weeks," Abdul Marouf Rasekh, a spokesperson for the governor of Badakhshan said.

'"I thought everybody was dead after an avalanche hit our village," Ghulam Yahya, 48, from Eshkashim District in Badakhshan Province, told IRIN in Faizabad, the provincial capital. "I saw one of our relatives die after being trapped in the snow for hours. Many houses were destroyed by the avalanche."' [27k]

POVERTY

Officials are advised to read this sub-section in conjunction with Economy.

29.11 The World Bank report, Poverty Status in Afghanistan, dated July 2010, stated: 'The newly released 2007/08 NRVA [National Risk and Vulnerability Assessment] … indicates that the national poverty rate for Afghanistan is 36 percent, meaning that approximately 9 million Afghans are not able to meet their basic needs…' [36b] (p 10)

29.12 The report classified provinces into five categories:

'… ranging from low-poverty provinces, where less than 20 percent of the population is poor, to high-poverty provinces, with poverty rates greater than 57 percent. The low-

poverty provinces are spread throughout all regions of the country, including for example, Helmand in the Southwest, Farah in the West, Jawzjan in the North, and Baghlan in the Northeast. The high-poverty provinces are somewhat more clustered, and include for example, the contiguous provinces of Paktika, Paktya, Logar and Wardak in the South and Central region; as well as Kunarha and Laghman, two bordering provinces in the East.' [36b] (p 10)

29.13 The same report commented:

'Regional and seasonal differences are important aspects of poverty in Afghanistan. Temperatures vary dramatically across seasons, with hot summers and frigid winters; and similarly there are stark differences in elevation and terrain across regions. Both elements are correlated with poverty outcomes, and in some cases, they interact in ways that directly affect wellbeing. For example, severe winter condition affects transportation, and in high mountainous areas, like in Bamyan, Daikundi or Badakhshan, roads are often blocked throughout the winter due to heavy snow accumulation. In these communities in particular, they are forced to rely only on food supply that households store before the winter. Not surprisingly, these three provinces all have poverty rates that are much higher than the national average.' [36b] (p 10)

29.14 The World Bank report noted that: 'Poverty is higher in rural areas. A breakdown of the poverty incidence shows large differences by residence... National level poverty estimates are mainly driven by people living in rural areas, who represent 80 percent of the Afghan population. As a result, while poverty in the rural population is close to the national average, the incidence in the urban population is relatively low (29 percent) and in the Kuchi population very high (54 percent).' [36b] (p 26)

29.15 The tables below are taken from the World Bank report of July 2010 and give an indication of poverty by region and by province:

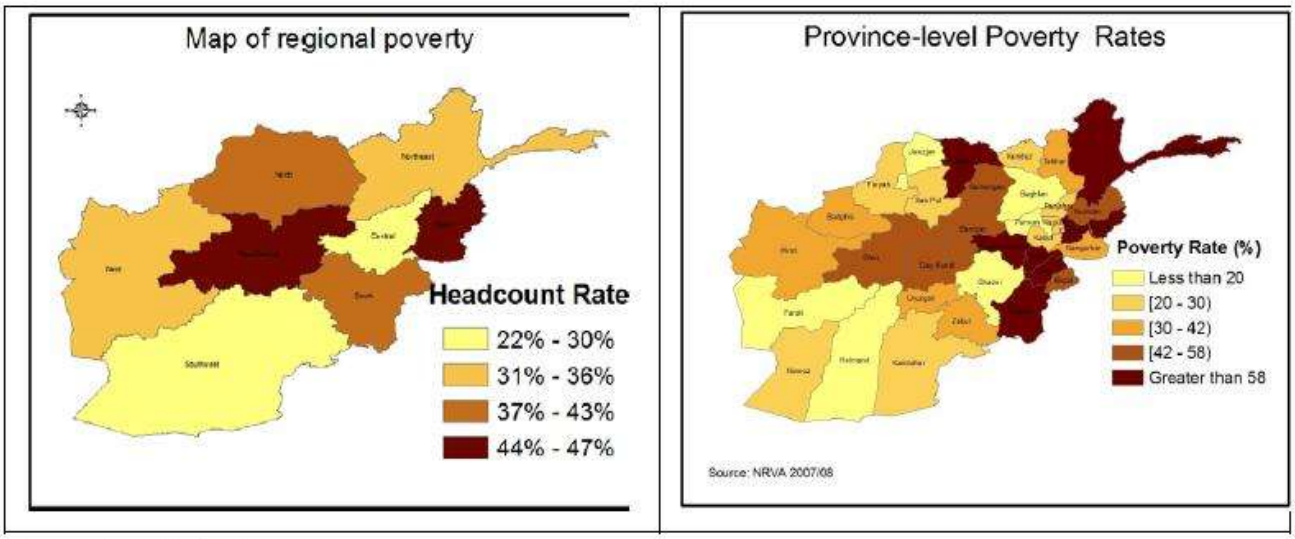
Table 5: Poverty rate by region

Region	Poverty rate (%)
Central	30.1
South	43.7
East	45.0
Northeast	36.8
North	39.5
West	35.4
Southwest	22.7
West Central	44.9
National	**36**

Source: 2007/08 NRVA

(World Bank, July 2010 [36b] (p 27))

Figure 2: Poverty by region and province



Source: 2007/08 NRVA

(World Bank, July 2010 [36b] (p 28))

29.16 The World Bank report of July 2010 further noted:

'Seasonality is a strong correlate of poverty in Afghanistan. The NRVA 2007/08 is the first household survey in Afghanistan to collect poverty and wellbeing data throughout the year, enabling us to learn about seasonality and poverty in Afghanistan. The NRVA collected data during all seasons anticipating the existence of large seasonal differences in economic wellbeing mainly related to the agricultural cycle. Additionally, Afghanistan is particularly subject to extreme temperatures events with droughts and severe winter conditions affecting livelihoods of exposed communities. In many cases, severe winter conditions also affect transportation, with high mountainous areas, like Bamyan, Daikundi or Badakhshan, being often completely secluded during winter months, with roads blocked due to heavy snow accumulation. In these communities, survival during winter times depends on the food stocks that households were able to accumulate before the winter. The subsistence nature of production in the Afghan economy compounds the effects of extreme seasonality. Villages often have difficult connections to outside markets, and as a result, households in rural areas rely on the food supply that they have produced.' [36b] (p 30)

See sub-section below on Food shortages

Poverty in Kabul

29.17 The Afghan Research and Evaluation Unit (AREU) reported in the 2012 A to Z Guide to Afghanistan Assistance, released in 2012, that the poverty rate in Kabul is 23.1%, and this is set against a national average poverty rate is 35.8%. The poverty rate is defined as the percentage of population living below the official poverty line. The AREU report added that the depth of poverty rate in Kabul is 4.2%, and this is set against a national average depth of poverty rate of 7.9%. The depth of poverty rate is the average shortfall of per capita consumption from the poverty line, shown as a percentage of the poverty line. [8c] (p 173)

29.18 The World Bank/UNHCR Research Study on IDPs in Urban Settings, dated May 2011, stated: 'In Kabul, around 70 percent of the population is living in "informal" settlements. UNHCR identified 30 illegal occupation sites that are home to migrants, refugee returnees and IDPs living in poor conditions in tents, shacks or derelict buildings with constant threat of eviction.' [36c] (p 11) The same report added that 'In Kabul, IDPs rely on temporary housing arrangements… (92 percent, of which a third live in tents).' [36c] (p 32)

See also section on Internally displaced persons

29.19 The Overseas Development Institute (ODI) explained the recent rapid growth of the population in Kaubl in a report entitled 'Sanctuary in the City? Urban displacement and vulnerability in Kabul,' dated June 2012:

'Although Afghanistan's population is still predominantly rural, urbanisation is increasing at rates higher than the rest of Asia... Kabul, the capital, has witnessed major growth, with the population doubling in the last ten years, from two million in 2001 to up to 4.5 million in 2010... Urbanisation is driven by a number of factors, including forced displacement. Three decades of conflict, compounded by recurrent drought, flooding and extreme weather conditions, have forced large sections of Afghanistan's rural population to seek increased security, livelihoods and services in the main cities, particularly Kabul.' [78a] (p 1)

29.20 The same report described conditions for the poor in Kabul, stating:

'…large numbers of Kabul's urban poor, including displaced populations, are living in squalid conditions and are at risk of exploitation and abuse. As the transition to full Afghan security authority progresses, tensions over land and resources, social problems, including crime, drug addiction and unemployment, and the widespread disaffection and marginalisation of the urban poor – all in the very heart of the capital – present a major challenge to long-term security and stability in Afghanistan.' [78a] (p 2)

29.21 The ODI report added that '…long-term residents, recently arrived IDPs, returnees and economic migrants often live side by side in the densely populated informal and illegal settlements, and share many of the same vulnerabilities.' [78a] (p 8)

29.22 The ODI paper further described the situation for returnees from other countries to Kabul:

'As indicated by respondents in this study, many have moved multiple times, including back and forth across international borders. Currently, there are approximately 1.7 million Afghan refugees in Pakistan (UNHCR, 2011a), 1 million in Iran (UNHCR, 2011b) and 127,290 in other countries (UNHCR, 2011d). Even for those with formal refugee status, life is becoming increasingly difficult as host countries, particularly Pakistan and Iran, have indicated that they should return.

'Many returnees have found it difficult to integrate into Afghan life, and face problems accessing land, shelter, services and livelihoods and in relation to the prevailing security situation... A survey conducted by UNHCR in 2011 indicated that more than 40% of returnees did not reintegrate into their original communities... As noted by the Afghanistan Protection Cluster, many returnees "have returned to a situation of internal displacement due to their inability to return to their villages of origin, while many others have chosen to remain in urban centres due to their inability to resume life in their demolished and isolated villages of origin" ...' [78a] (p 6)

29.23 The ODI report added:

'Over the last ten years, illegal settlements have also sprung up around the city; these are considered illegal because there is no such agreement with the landowner to settle on or develop the land. UNHCR estimates that there are 43 such sites, characterised by a lack of service infrastructure and very low-quality housing, including old dilapidated buildings or low-level mud constructions (UNHCR, 2011). According to UNHCR the population of these 43 Kabul Informal Settlements (KIS) sites, which include some of the poorest and most vulnerable households in the city, is approximately 20,000, though some NGOs put the figure closer to 30,000.' [78a] (p 7)

See also section on Exit and return

29.24 Reuters reported on poverty in Kabul in an article dated 3 December 2011:

'Kabul's residents have called on delegates at next week's international talks on Afghanistan in Bonn to put their needs on the agenda, saying the government is not doing enough to alleviate poverty and hunger in the Afghan capital.

'Those living in Kabul's poorest quarters are at the sharp end of a country where unemployment is believed to run as high as 40 percent, violence scars day to day life, and nearly half the population has no access to clean drinking water… Despite 2001's optimism and the billions of aid dollars that have poured into the country since that year, many of its people are still living in abject poverty…

'In eastern Kabul, hundreds of people live under canvas, mainly internally displaced persons from provinces such as Helmand in the south and Baghlan in the north, where fighting has been fierce. Tendrils of white smoke curl above the rows of white tents in which they live, while outside children busy themselves in the street, doing laundry and collecting water in plastic bottles from a hose.

'The United Nations estimates that up to half a million Afghans are currently internally displaced, most fleeing violence or the drought that has left three million Afghans facing hunger, malnutrition and disease this year. Among them is Waheeda, who lives in one of the tents in Kabul's eighth district. She displays a picture of her two sons - one has been killed, while the other has disappeared - and says the government is doing little to help her and her grandchildren. "I'm dying of hunger, I'm dying of thirst," she says. "It costs me five Afghanis to buy water. I have young grandchildren. I hope the government gives me some support, because I have a lot of problems in life."

'Afghanistan is one of the world's biggest aid recipients, receiving an estimated $16 billion this year. But in Kabul, public roads are crumbling and the electricity supply is intermittent at best, while country-wide only a fifth of households have sanitary toilet and washing facilities. Residents say it is these basics that they want to see addressed in Bonn. "For almost three years, we have been living in tents," Mohammed Ibrahim, a community elder of the group of refugees living in the canvas village, said. "We ask whether the international community, or the Afghan President himself, will give us food and shelter."' [28h]

FOOD SHORTAGES

29.25 The World Food Programme reported on food insecurity in an (undated) overview of Afghanistan: 'The 2007-2008 National Risk and Vulnerability Assessment (NRVA) found that 7.4 million people – nearly a third of the population – are unable to get enough food

to live active, healthy lives. Another 8.5 million people, or 37 percent, are on the borderline of food insecurity. Around 400,000 people each year are seriously affected by natural disasters, such as droughts, floods, earthquakes or extreme weather conditions.' [81b]

29.26 The World Food Programme reported on food insecurity in a 'Global Update; Food Security Monitoring,' dated June 2012:

'The drought in 2011 made 2.6 million people in the northern provinces severely food insecure from October 2011 till the harvest in May 2012. Currently the resilience of average households is greatly undermined following the drought coupled with the impact of a harsh and extended winter as well as high fuel prices. Households relying on opium production, as well as those depending on petty trade and sales of prepared foods are the most vulnerable. They are coping by substantially altering their food consumption patterns as well as employing other coping strategies ranging from disposing of assets to out-migration in search of food or work. A 10 percent increase in price of wheat in March 2012, since the same time last year, is greatly reducing the purchasing power of the most vulnerable. High wheat prices are expected to persist due to importing constraints from neighboring Pakistan and Kazakhstan this year. Harvest prospects are generally better than 2011 as winter and spring wheat cultivation has increased due to an early wet season with above normal precipitation levels. However, likely compromising factors include floods, frost, plant pest and diseases and a deterioration of security.' [81a] (p 11)

29.27 The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported on the need for food aid and various interventions by humanitarian organisations in a Humanitarian Bulletin on Afghanistan, dated 30 April 2012:

'The Food Security and Agriculture Clusters (FSAC) continues [sic] to respond to resultant needs of the 2011 drought, required through upcoming harvests, which occur from June through September. These responses cover four interventions: food, cash, wheat seeds and animal feed. Since launch of the drought response, the number of partners in these four areas has doubled from 16 to 32, which reflects the needs and available funding. For food aid interventions in particular, this resulted in the distribution of 117,000 MTs [metric tonnes] of wheat and rice to beneficiaries in the 14 targeted provinces from WFP [World Food Programme], the Red Cross /Red Crescent Movement, and MAIL. Twelve districts remain uncovered by this response. In addition, a variety of cash interventions were provided by 22 organizations for projects in 34 districts, including almost US$9.1 million for cash grants, cash for work, and cash vouchers. One district remains uncovered with this programme...

'Populations forced to deplete assets due to the 2011 drought or harsh winter, those affected by spring floods, or the growing number of displaced families may struggle to maintain access to staple crops and will likely require sustained humanitarian and early recovery assistance. Floods between February and April destroyed productive assets in many parts of the country, including drought-affected areas.' [74c]

ASSISTANCE AND AID

29.28 The International Crisis Group report, Aid and conflict in Afghanistan, 4 August 2011 observed, 'The amount of international aid disbursed since 2001 – [US]$57 billion against $90 billion pledged – is a fraction of what has been spent on the war effort.' However, the paper went on to explain:

'More importantly, it has largely failed to fulfil the international community's pledges to rebuild Afghanistan. Poor planning and oversight have affected projects' effectiveness and sustainability, with local authorities lacking the means to keep projects running, layers of subcontractors reducing the amounts that reach the ground and aid delivery further undermined by corruption in Kabul and bribes paid to insurgent groups to ensure security for development projects.' [21a] (p i)

Non-Government Organisations (NGOs)

Officials are advised to read Civil society, human right sinstitutions, organisations and activists for further information on NGO activity and problems faced by these groups.

29.29 The United States International Grantmaking website reported on the number of NGOs active in Afghanistan, and the information was current at May 2012: 'Non-governmental Organizations (NGOs)…number approximately 2000 (1707 local and 292 foreign NGOs), as of April 2012…' [80a] The Afghan Ministry of Economy website has a list of international NGOs which are currently registered with the Ministry, and these numbered 301 on 24 August 2012. [76a]

The website 'Afghanistan; Peacebuilding' described the NGOs which are active in Afghanistan in an undated piece which was accessed on 24 August 2012:

'The majority of the NGOs are Afghan ones, but the largest programmes are implemented by international or multinational ones. Most NGOs are involved in provision of emergency relief and in running of health, education and agricultural programmes. There are, moreover, a few NGOs that have involved themselves in peace building, human rights and advocacy work. The latter includes civic education for the Constitutional Loya Jirga and the election process.

'There are 4 NGO coordinating bodies, being the Afghan NGOs Coordination Bureau (ANCB), Agency Coordinating Body for Afghan Relief (ACBAR), Islamic Coordination Council (ICC) and the South West Afghanistan and Baluchistan Association for Coordination (SWABAC). Of these, only ACBAR has a formalised collaboration with UNAMA while the others have established links with ATA or local authorities.

'In addition to the NGOs the International Committee of the Red Cross, the International Federation of the Red Cross and the Red Crescent and the Afghan Red Crescent are in involved in a range of protection issues, as mandated for ICRC by the Geneva convention, and rehabilitation and development programmes.' [75a]

Impact of aid

29.30 IRIN examined some of the difficulties involved in international assistance, and the difference between humanitarian aid and development, in an article dated 30 January 2012: 'Much of the problem, aid workers say, lies in the fact that the billions of dollars in development aid invested in the country over the last decade have not been spent cohesively or based on needs, but rather driven by short-term political and military aims.

'Around $57 billion dollars of development assistance have been spent in Afghanistan since 2001, and yet 10 million people are still living on the edge, Keating [Michael Keating, UN humanitarian co-ordinator in Afghanistan] said. "That does raise the question: Have the investments been equitable? Is the money being used in a way that helps these communities reduce their vulnerability and doesn't expose them to repeated humanitarian crisis?"…

'But the minister of rural rehabilitation and development, Jarullah Mansoori, argues that with its budget of $500 million per year, his ministry has made great strides in building communities' resilience to shocks and in managing the impacts of disasters. It has created a central coordinating body, the Afghanistan National Disaster Management Authority; has dug irrigation canals; encouraged rural enterprise development; and improved access to health and education in rural areas. The ministry's flagship National Solidarity Programme has been credited with reaching the local level with cash-for-work or cash-for-assets programmes…

'Another part of the problem has been a lack of understanding of what exactly "humanitarian" means and where the line is drawn. "It's quite blurred," as one field worker put it. "Is any one activity development or humanitarian?"

'The UN Refugee Agency (UNHCR) has been dealing with this question for years, as refugees returning from Iran and Pakistan - given an initial humanitarian assistance - struggle to integrate in the longer term. "Where does humanitarian assistance stop and where does development aid begin?" Suzanne Murray Jones, a senior adviser at UNHCR, has been asking herself. "How do we bridge the gap?"…

'In the meantime, as humanitarians try to return to their more traditional role, they find themselves in a tricky position. Keating recalls an informal settlement he visited in Kabul where people were living with "nothing." "You can't respond on a humanitarian basis endlessly, and yet there is no development activity that we could perceive to address their needs," he said. "They're falling between two stools. I suspect that is true of a very large number of people in rural areas as well."' [27l]

29.31 IRIN commented further on the use of international aid in Afghanistan in an article dated 26 March 2012:

'While donors have poured US$57 billion into Afghanistan since 2001, much of it into the volatile southern provinces of Kandahar and Helmand as part of the international forces' "hearts and minds" strategy in their fight against insurgents, residents of northern Afghanistan complain they have not benefited fairly from development aid.

'"In the south, there is fighting; many people have been killed; and millions of dollars go there," Najibullah told IRIN at the edge of the graveyard. "But we keep calm and support our government, so no development projects come here. People are unhappy about this."

'The gradual drawdown of US-NATO troops, and the planned handover of full security responsibilities to Afghan forces in 2014, has had the aid community worried about a corresponding drop in aid funds. But many aid workers also see the transition as an opportunity to reset aid delivery in Afghanistan, which for too long, they say, has been channelled through the NATO-led Provincial Reconstruction Teams (PRTs) and driven by short-term political and military objectives.

'"A lot of countries have focused efforts in areas where their troops have been operating, or where it has been easier to operate, instead of looking at it from a needs-based approach," said Aidan O'Leary, head of the UN Office for the Coordination of Humanitarian Affairs (OCHA) in Afghanistan. "Going forward… the people who are most vulnerable have to be at the forefront of the agenda."

'The World Bank predicts the reduction in aid flows will have little impact on poverty levels in Afghanistan, because much of the aid was never targeting the poorest to begin with. Aid has been so disproportionately spent on the volatile provinces, said one member of the UN Assistance Mission in Afghanistan (UNAMA), that a northern provincial governor asked him: "Shall we create instability to bring aid here?"…

'"I'm afraid Afghanistan is a perfect example of how messy the international community can be when it comes to coordinated efforts, getting its priorities right, and really looking in one direction," said Laurent Saillard, head of the European Commission's humanitarian aid arm (ECHO) in Afghanistan. "[Some] development actors also have been highly influenced by political decisions… Big players here are trying to impose their views… You have all sorts of actors delivering humanitarian assistance with no competence, no understanding, no concern about the possible repercussions on the security of the very population they were assisting.

'"A lot of aid from the US government, the British government, the Canadians has been spent where their troops were," Saillaird continued. "It was supporting the boys basically… At the end of the day, it did not achieve stability. It did not come to address the basic needs of the population."' [27j]

29.32 In an article dated 8 July 2012, Radio Free Europe/Radio Liberty stated that 'Afghanistan has received nearly $60 billion in aid since 2002, but corruption remains rampant in the country.' [30k]

29.33 The same article continued: 'International donors meeting in Tokyo have pledged some $16 billion in development aid to Afghanistan until 2015. Donors states also vowed to maintain their aid to Kabul through to 2017, at or near levels of the past decade.

'The one-day conference in Tokyo, attended by representatives of over 70 countries and international organizations, was aimed at filling the gap between what Kabul gets from its barely functioning economy and what it needs to develop into a stable country. Kabul generates only about a third of the $6 billion it spends each year, not counting security costs, and is heavily dependent on foreign aid…' [30k]

29.34 The Deputy Minister of Finance at the Afghan Ministry of Finance, Dr Mustafa Mastoor, summarised what he believed to be the impact of international aid in an interview dated November 2011:

'… generally I can say that at this moment the essential services that were absent in the beginning of this regime are existing now. If you compare, we have much better health care services, we provide better educational services at the primary, secondary and even higher levels. We have a better judicial sector, and improvements in other sectors of the economy such as transport, power, water, urban development, and media are good examples to say that aid has had a positive impact on the reconstruction and development of Afghanistan.

'Our revenue has significantly increased since 2001, and the capacity within the government, private sector and the civil society organisations has improved as a result of foreign aid to the country. So we can say that foreign aid has had a significant impact on the reconstruction and development of the country, but it does not mean that we could not have done better.' [77a]

29.35 The Department for International Development (DfID) described the impact of UK aid alone in Afghanistan:

'Over 2011 – 2015, UK aid in Afghanistan will:

'Create 200,000 new jobs for men and women

'Provide technical and vocational education and training for 45,000 young people (15,000 in Helmand)

'Help over 200,000 more children enrol in school – at least 40% of them girls

'Build or upgrade over 47 kilometres of roads in Helmand

'Encourage at least 4.3 million Afghans (1.7m women) to vote in 2013 and 2014 elections

'Help the Afghan Government increase food grain production to six million metric tonnes

'Help the Afghan Government improve public financial management, address corruption and strengthen delivery of basic services

'Reduce the impact of conflict and natural disasters through effective humanitarian aid…' [79a]

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30. FREEDOM OF MOVEMENT

30.01 The US Department of State's Country Report on Human Rights Practices 2011, Afghanistan, 24 May 2012 (USSD report 2011), noted that: 'The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government sometimes limited citizens' movement for security reasons.

'The government cooperated with the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, and other persons of concern but was limited by lack of infrastructure and capacity.

'In-Country Movement: Taxi, truck, and bus drivers reported that security forces operated illegal checkpoints and extorted money and goods from travelers.

'The greatest restriction to movement in some parts of the country was the lack of security. In many areas insurgent violence, banditry, land mines, and IEDs made travel extremely dangerous, especially at night.

'Armed insurgents also operated illegal checkpoints and extorted money and goods. The Taliban imposed nightly curfews on the local populace in regions where it exercised authority, mostly in the southeast.

'Social custom limited women's freedom of movement without male consent or a male chaperone.' [58c] (Section 2.d)

30.02 The same report added: 'Ethnic Hazaras reported occasionally being asked to pay bribes at border crossings where Pashtuns were allowed to pass freely…' [58c] (Section 6)

More information on movement of women (and girls) is available in Women - freedom of movement. Officials are also recommended to read the Security situation section for information about the nature, levels of and location of violence and conflict.

Mines and unexploded ordnance

30.03 The 2009 Landmine and Cluster Munition Monitor Report stated:

'The Islamic Republic of Afghanistan became a State Party to the Mine Ban Treaty on 1 March 2003. It has not adopted national implementation legislation. Afghanistan completed destruction of its known stockpiles of more than 486,000 antipersonnel mines in October 2007, eight months after its treaty deadline. It has discovered or recovered and destroyed tens of thousands of additional mines since then. Taliban forces have used antipersonnel mines sporadically since 2001.' [73a] (Ten-Year Summary)

30.04 The 2009 Landmine Monitor Report added:

'Although some three-quarters of impacted communities are located in 12 of the country's 34 provinces, mines and ERW [Explosive Remnants of War] still pose a formidable challenge to the country's social and economic reconstruction, which is critical for political stabilization. Mine and ERW contamination is particularly concentrated in central and key food-producing eastern provinces, affecting towns and urban commercial areas as well as villages, farm and grazing land, and roads. The ALIS [Afghanistan Landmine Impact Survey] found that the main economic blockages caused by mine/ERW contamination were on pastureland, cropland, and roads. However, the extent of contamination makes battle area clearance and/or demining a prerequisite for most infrastructure and major construction projects.' (Socio-economic impact) 'People are at risk from both mines and ERW, particularly in Helmand and Kandahar provinces, and new contamination in 2008 increased the risk. Risk activities include traveling, recreation, tending animals, and collecting wood/water/food. Children make up almost half of all casualties.' [73a] (Risk profile)

30.05 The Landmine and Cluster Munition Monitor further reported on the landmine situation on 2 November 2011:

'Afghanistan remains one of the countries most contaminated by mines and explosive remnants of war (ERW), mainly the result of the 1992–1996 internal armed conflict, the decade-long war of resistance that followed the Soviet invasion of 1979, and the United States (US)-led coalition's intervention in late 2001, which added considerable quantities of unexploded ordnance (UXO). The Mine Action Coordination Centre for Afghanistan (MACCA) estimated the number of remaining hazards as of 31 March 2011 at 6,545 covering 627km^2 and affecting 2,056 communities…' [73b] (Contamination and Impact)

30.06 The same report continued: 'Afghanistan contends with extensive ERW [explosive remnants of war], including unexploded aircraft bombs, artillery shells, mortars, rockets, and grenades, as well as abandoned explosive ordnance. At the same time, increasing insurgency in the past three years has resulted in additional ERW contamination,

including remotely detonated and victim-activated IEDs or booby-traps, although the precise extent is unknown…

'The UN Assistance Mission in Afghanistan (UNAMA) reported 904 civilian deaths attributed to IEDs in 2010,and another 444 in the first half of 2011, making IEDs the single largest killer of civilians in that period and marking a 17% increase over the same period of 2010, driven largely by increased use of pressure plate IEDs. June 2011 had the highest number of IED attacks ever recorded in a single month.' [73b] (Improvised explosive devices and other explosive remnants of war)

(See also sections on Disability and Medical issues - landmine and ordnance victim assistance. For information on restrictions on movement for women see Women - social and economic rights and Women - single, unaccompanied and widows. See also Security situation for further information about restrictions to freedom of movement.

30.07 Jane's Sentinel Country Risk Assessments, Afghanistan reported on the problem of landmines in a section which was updated in April 2012:

'Soviet forces laid millions of mines during their operations in Afghanistan, and tens of thousands of Afghans have subsequently been crippled by them. In a country so lacking in basic medical facilities, this is an even more severe problem than in other parts of the world.

'The UN Mine Action Centre for Afghanistan (MACA) works with the aim of clearing the country of mines by acting as an umbrella group to a variety of organisations and local non-governmental organisations, but work is interrupted by military operations and insecurity. Currently, there are an estimated 100,000 landmines in Afghanistan. In 2010, the US Army Corps of Engineers awarded a USD60 million contract to EODT, a private contractor, to provide for the clearance of landmines and unexploded munitions throughout Afghanistan.

'Landmines kill or injure an average of 40 Afghans per month, down from 62 a month in late 2008. A new four-year USD20 million Australian investment which was announced in April 2011 is expected to clear more than 7.8 million square metres of land, beginning in the provinces of Khost, Kandahar and Ghor.' [9b] (Security Assessment)

30.08 The Afghanistan Independent Human Rights Commission (AIHRC) outlined the problem of unexploded ordnance in its 'Fifth Report; Situation of Economic and Social Rights in Afghanistan,' published in November 2011:

'Disability of hundreds of thousands of people is a major consequence of over three decades of war and insecurity in Afghanistan. In addition to people who were disabled during the armed conflict, many people were victims of millions of mines and other unexploded ordnance. In 2001, an average number of 138 people were victimized by mines on a monthly basis. This was reduced to 55 people per month in subsequent years,166 but rising insecurity, suicide attacks by Taliban and other armed opposition groups, and improvised electronic device (IED) attacks increased the number of victims.' (p 93)

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31. INTERNALLY DISPLACED PERSONS

31.01 This section should be read in conjunction with Humanitarian issues and Security situation, which provide context to current levels and locations of internally displaced persons. Information about Afghans who have returned from neighbouring and other countries is available in Exit and return.

31.02 A map showing the estimated internally displaced person (IDPs) populations by province of displacement in Afghanistan can be located on page 2 in the Internal Displacement Monitoring Centre (IDMC) report, 'Need to minimise new displacement and increase protection for recently displaced in remote areas,' published on 11 April 2011. [83a]

31.03 Regular updates, including statistics, maps, analysis and reports on IDPs and related matters are available on the following websites:

UNHCR's Country Operations profile – Afghanistan: http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486eb6

Internal Displacement Monitoring Centre: http://www.internal-displacement.org/8025708F004CE90B/(httpCountries)/DFADB5842F9262BF802570A7004BA6F0?OpenDocument

31.04 The Afghanistan Independent Humarn Rights Commission's 'Fifth Report; Situation of Economic and Social Rights in Afghanistan,' dated November/December 2011, stated:

'Internal displacement of hundreds of thousands of Afghan people has been a consequence of more than three decades of war, insecurity, drought, and poverty in the country. After the fall of the Taliban, most IDPs returned to their original places of residence. But there is still a large number of IDPs who lack adequate housing. Deteriorating security situation, inter-factional conflict, military operations, poverty, unemployment, and natural disasters like drought have forced many families into the category of IDPs.

'A survey by MoRR [Ministry of Refugees and Repatriation] puts the number of IDPs at approximately 378,858 people across the country. Despite this, the UNHCR data shows that by the end of August 2011, there were around 73,452 IDP families in the country, comprising almost 472,601 people. Of these, 116,741 had been internally displaced before December 2002, but between June 2009 and August 2011, approximately 302,776 were internally displaced due to the armed conflict. According to UNHCR statistics, there was a sharp increase in internal displacement in 2011 compared to previous years… A joint assessment by Kabul Department of Refugees and Repatriation and UNHCR shows that there are a total of 29 informal settlements in and around Kabul city in which around 2,800 IDP families comprising 13,500 people live, the majority of whom were displaced in 1381 (2002/03) and 1382 (2003/04). Of these, there are over 360 gypsy families who have lived in no shelter their entire lives and currently happen to reside in Chahr Rahi Qanbar and Chaman Babrak.

'These are estimates on IDP statistics as no formal survey has been conducted in these settlements. Most IDPs live in tents or dilapidated houses/buildings. Around 5.4 percent of HRFM [human rights field monitoring] interviewees said that their families were headed/led by IDPs.

'War, insecurity, military operation, local disputes, forced recruitment, poverty, unemployment, lack of housing, lack of food, lack of water, lack of electricity, lack of

health services, lack of the right to property, drought, and natural disasters such as floods, and etc. are the major causes for internal displacement. These factors play different roles in different areas of the country with some being severe in some areas, leading to higher levels of internal displacement from those areas. Most IDPs hail from southern, western, and eastern Afghanistan where insecurity, conflict, and military operation are ongoing. UNHCR data indicates that internal displacement is around 99 and 96 percent in western and southern Afghanistan respectively, which is due to conflict, military operation, and insecurity. These factors are responsible for 93 percent of internal displacement in eastern Afghanistan. In addition, Pakistan's shelling of rockets into the Afghan territory has caused approximately 87 percent of internal displacement in eastern Afghanistan.

'Unemployment, poverty, drought, kuchi-resident disputes, and lack of housing are other major causes of internal displacement, particularly in rural and outlying areas. Disputes between kuchis and local residents are the main reason of internal displacement in the Central Highlands Region. In 1386 (2007/08), around 1,900 families from Behsud and Daimirdad districts of Maidan Wardak province were internally displaced due to these disputes. In 1387 (2008/09), the disputes led to the internal displacement of over 6,000 families and the burning of 84 residential houses. In 1388 (2009/10), kuchis did not come to these areas and as a result, no one was internally displaced. However, in 1389 (2010/11), kuchis once again came to these areas and as a result of their conflict with the local residents, 2,791 local families were internally displaced from their homes in Hesa Awal, Hesa Dowum, and Daimirdad districts and most of them took refuge in Kabul. In 1390 (2011), as a result of similar conflicts in Nahor district of Ghazni province, 36 villages were severely damaged and 782 families were internally displaced after their properties were pillaged.

'Drought is another cause for internal displacement in some parts of the country, especially in northern and central regions. A large group of people who are residents in these areas have been forced to leave their hometowns. Family economy depends on traditional agriculture in rural areas, but drought has made people move to urban areas. According to the relevant Afghan authorities, drought in central areas has caused thousands of families to be displaced from Daikundi, Bamyan, and Maidan Wardak provinces. In addition, about 30 percent of people in most districts of Bamyan province have migrated out of rural areas. Drought has caused a severe water shortage in these areas. Furthermore, over 1,000 families in Jawzjan province were forced to leave their hometowns due to drought. Most arable lands have been destroyed in these areas and people face an acute food shortage. Nimruz province too encounters with severe drought and around 30 percent of Zaranj city residents have been forced to leave their hometowns as a result. People in these areas are forced to buy drinking water.

'Employment-seeking is another factor that has led many IPDs into urban centers. They move to big urban centers due to unemployment in rural areas, because they assume that there are many employment opportunities in cities than in villages. A number of migrants/refugees who repatriate do not return to their original places of residence. The exact number of such people is not available.

'Based on the UNHCR data, a limited number of IDPs, around 3,400 IDPs (less than one percent), returned to their original places of residence in 2011 and were assisted with their reintegration.

'Most IDPs live under difficult conditions, face acute shortages of life's basic needs, and are deprived of work opportunities. Those IDPs, who live in cities, have access to very

limited economic opportunities. According to a joint study of the World Bank and UNHCR in the three cities of Kabul, Herat, and Kandahar, around 70 percent of families have lived in informal settlements for over two years, often in hazardous living circumstances. The absolute majority of these families lack skills necessary for successful integration and participation in urban economic fabric. Heads of IDP families have lower rates of literacy and education than the urban poor. 80 percent of IDP family heads cannot read and write. IDP family women have few skills and low literacy. One in hundred IDP family women is literate, while one in three is literate in urban poor families. IDPs have a very limited access to skills, literary, and work opportunities in urban areas. As a result, most of them are busy in low-quality, unsafe jobs. Around 68 percent of IDP men are daily-wage laborers, 23 percent are self-employed, and 6 percent are employed in the private sector. This is while 49 percent of urban poor are self-employed, 25 percent are daily-wage laborers, and 17 percent are employed in the public sector.

'The increasing presence of returnees and IDPs in urban areas is a significant challenge for the Afghan Government, because they are in need of special attention. Returnees, especially those who lived in migration/asylum for a long time or were born while in migration/asylum, have mostly settled in urban areas and are less inclined to return to rural and outlying areas. First, they lived in urban or semi-urban areas while in migration/asylum and have, therefore, acclimatized with urban living. Second, there are fewer employment opportunities in rural than urban areas. Third, there is not sufficient land and shelter for them in rural areas, especially in mountainous and cold regions, which can suffice their living needs. Fourth, most migrant workers have lost their houses and shelters during their long migration and their lands have even been expropriated by power-holders. Fifth, there are limited education and health facilities in rural areas.

'Most IDPs also have settled in urban areas. They are not interested to return to their rural areas either. In a joint study by the World Bank and UNHCR, over 90 percent of IDPs stated that they intend to live permanently in cities. About 80 percent said that they do not intend to return to their original places of residence due to such problems as unemployment, lack of housing, and food insecurity.

'The Afghan Government has not taken effective measures to resettle returnees and IDPs and provide them with employment opportunities and access to health, education, and food security. The Government has paid inattention towards IDPs and has not allocated any budget whatsoever for their socioeconomic development. Therefore, MoRR has done little practical work, apart of policy-making. Only in 1390 (2011), approximately US$500,000 was allocated and this is one-fourths of MoRR proposed budget. Although MoRR is responsible for coordination work related to the provision of services and aid for returnees, the relevant institutions face a lack of coordination and MoRR has not been able to take effective measures in this respect.' [31a] (p 109-113)

31.05 The United Nations General Assembly Security Council's report, 'The Situation in Afghanistan and its implications for international peace and security,' dated 5 March 2012, stated:

'An estimated 19,300 persons were displaced in December 2011 and January 2012 owing to conflict across the country, further aggravating Afghanistan's deepening displacement crisis and bringing the total number of internally displaced persons in 2011 to almost 500,000, a 45 per cent increase in internally displaced persons owing to conflict compared to 2010.

'Acute vulnerability, with limited shelter options, access to basic services and income generation, coupled with the unusually harsh winter conditions, contributed to the tragic and widely publicized death of children living in informal settlements in Kabul in January and February. More than 30,000 people currently live in 45 informal settlements in and around the capital. Between November 2011 and January 2012, most settlements received non-food items and/or fuel. Work is ongoing to address remaining gaps. The acute vulnerability in the informal settlements provides a snapshot of the harsh realities facing displaced Afghans throughout the country, many of whom are beyond the reach of the humanitarian community. Durable solutions to Afghanistan's displacement crisis require immediate and effective coordinated action by the Government and development actors to ensure that rural development, urban planning and housing, and property rights are adequately addressed.' [18a] (p 12)

31.06 Amnesty International reported on IDPs in an article dated 23 February 2012:

'Half a million Afghans displaced by fighting are struggling to survive in makeshift shelters let down by their government and international donors that look the other way… At least 28 children have died in the harsh winter conditions in the camps around Kabul. The Afghan government estimates more than 40 people have frozen to death in camps across the country.

'"Fleeing war, finding misery: The plight of the internally displaced in Afghanistan" highlights how an escalation in fighting has left half a million Afghans internally displaced with around 400 more joining their ranks every single day. Kabul alone houses up to 35,000 displaced persons in 30 slum areas around the city.

'"Thousands of people are finding themselves living in freezing, cramped conditions and on the brink of starvation, while the Afghan government is not only looking the other way but even preventing help from reaching them," said Horia Mosadiq, Amnesty International's Afghanistan researcher.

'Throughout Afghanistan, UN agencies and humanitarian organisations cannot deliver effective aid to the displaced communities, as they are prohibited from assisting in ways that implies the permanence of settlements. So, instead of digging permanent water wells, they are forced to deliver water to displaced communities in tankers. "Local officials restrict aid efforts because they want to pretend that these people are going to go away. This is a largely hidden but horrific humanitarian and human rights crisis," said Horia Mosadiq…

'Most slum residents told Amnesty International that they had fled their homes to escape conflict. Fighting has spread to parts of the country previously considered peaceful. Civilian deaths have increased every year since 2007 and in 2011, more than 3,000 Afghan civilians died as a result of the conflict, according to the UN Assistance Mission in Afghanistan (UNAMA). The vast majority of civilian casualties are caused by the Taleban and other insurgent groups, but many displaced Afghans told Amnesty International that they had fled in fear of aerial bombardment by the International Security Assistance Force (ISAF) and to avoid being used as human shields by the Taleban…

'Entire communities are now fleeing their homes in search of greater security. "Afghans have real grounds to feel less secure now than at any point in the last ten years," said Horia Mosadiq. "International and Afghan forces should address the impact of conflict on civilians, including displacement. The Taleban must also look to protect civilians, by

ensuring humanitarian access to the areas they control."

'Those Afghans who have fled to the relative safety of cities face problems of a different kind. Housing in Afghanistan's cities is scarce and rents comparatively high. Families construct makeshift dwellings from mud, poles, plywood, plastic sheeting and cardboard, which offer little protection from the elements. Food is scarce in the settlements. Many displaced families told Amnesty International that they could only provide their children with one meal each day at most…

'"Many Afghans have adapted to rural lifestyles that provide them with at least basic food and shelter. When they reach the cities, they are poorly prepared for dealing with a cash-based economy, higher prices, and the complexities of urban life," said Horia Mosadiq. "They can't go back home, but they can't establish a new proper home either."

'Cramped conditions, poor sanitation and few health clinics combine to promote the spread of disease. Most women give birth in difficult and unsanitary slum conditions without skilled birth attendants, increasing the risk of maternal and infant death in a country already ranked among the world's worst. Children in slum communities have little access to education. They may be refused school attendance if they cannot produce a national identification card, a document which the authorities say can only be obtained in their home province. Some are turned away from school simply for wearing dirty clothes…

'Displaced families in makeshift camps are under constant threat of forced eviction. In some cases, families have had to scramble to move belongings before bulldozers level their shelters. "These people are especially vulnerable – they must seek shelter, provide for themselves and their families while coping with the trauma caused by the conflict they have fled," said Horia Mosadiq.

'Under international law, Afghanistan is required to provide for displaced persons' immediate needs and help them to find long term solutions. To fulfil this role, Afghanistan relies on international assistance and the efforts of humanitarian organisations.' [25e]

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32. CITIZENSHIP AND NATIONALITY

32.01 A document produced by the Immigration and Refugee Board of Canada and entitled, 'Afghanistan: Information on citizenship since the fall of the Taliban government (1996-2001),' dated 8 January 2008 and accessed via the Refworld website, noted: 'Article 4 of Afghanistan's Constitution, passed in 2004, states: "The word 'Afghan' applies to every citizen of Afghanistan. No citizen of the nation shall be deprived of his Afghan citizenship. Affairs related to citizenship and asylum shall be regulated by law."' [19c]

32.02 However, the same document added that 'sources consulted by the Research Directorate disagree over the question of which legislation governed citizenship in Afghanistan.

'According to the website of the Joint Electoral Management Body (JEMB) Secretariat, Afghanistan is using citizenship legislation that was passed in 1315 of the Afghan calendar (n.d.a) – a year which converts to 1936 according to the Gregorian calendar

(CalendarHome n.d.). JEMB is a "legal/administrative body" composed of commissioners from the Interim Afghan Electoral Commission and five international electoral experts (JEMB n.d.b). The Office of the United Nations High Commissioner for Refugees (UNHCR) also indicates that Afghanistan's citizenship legislation is currently the aforementioned 1315 legislation (2005).

'In contrast, a report produced by the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD) indicates that the Taliban-era citizenship legislation, passed in 2000, is still valid (Nov. 2007). The ACCORD report quotes Mohammad Aziz Rahjo, who is an associate protection officer at UNHCR Kabul, as the source providing this information (Nov. 2007).

'On the other hand, Citizenship Laws of the World reports that citizenship legislation is based on the Official Gazette of Afghanistan's Ministry of Justice dated 19 March 1992 (US Mar. 2001).

'Furthermore, in a telephone interview conducted by the Research Directorate, an official from the Embassy of the Republic of Afghanistan stated he was not aware of which legislation was currently governing citizenship in Afghanistan (Afghanistan 27 Nov. 2007). However, he indicated that laws governing dual citizenship had recently changed to allow for dual citizenship (ibid.). The Official explained that the decision intended to make it easier for expatriates and refugees to return (ibid.). However, the ACCORD report states that Afghanistan is currently working on developing new citizenship legislation, which will incorporate the concept of dual citizenship (Nov. 2007).' [19c]

32.03 On 30 July 2012, Pajhwok News reported on the position of dual nationality holders, stating:

'The Wolesi Jirga - or lower house of parliament … approved a draft law banning the appointment of a dual nationality-holder Afghan as an ambassador or consul-general… the commission [International Affairs Commission] recently prepared a three-chapter draft law on the appointment of diplomatic staff. Under the 8-article rule, the foreign ministry cannot recruit Afghans with dual citizenship as ambassadors or consuls. "More often than not, the people who have dual nationalities are more committed to their second country," the [Deputy Head of the International Affairs Commission] remarked.

'Another member of the panel, Abdul Qayyum Sajjadi, told Pajhwok Afghan News: "The dual nationality-holders, who are already on such assignments, will automatically lose their positions with the enforcement of the law."' [100c]

32.04 The US State Department Country Report on Human Rights Practices for 2011, Afghanistan, published 24 May 2012, commented on birth registration, stating, 'Citizenship is transmitted by a citizen father to his child. Birth in the country or to a citizen mother alone is not sufficient.' [58c]

IDENTITY CARDS (TAZKIRA) AND BIRTH CERTIFICATES

32.05 Immigration and Refugee Board of Canada's publication entitled, 'Afghanistan: The issuance of tazkira certificates; whether individuals can obtain tazkiras while abroad,' dated 16 December 2011 and accessed via Refworld, explained, 'Tazkiras [also called tazkirah … or tazkera] are Afghan identity cards.' [19e]

32.06 The same response continued:

'Middle East Consultancy Services (MECS), a service based in London, UK that provides research and advice to public and private sectors, went on a fact-finding mission to Afghanistan in October and November of 2011… (MECS 1 Dec. 2011). According to MECS, tazkiras are mandatory, as "it is necessary to have one in order to apply for jobs, attend school or university, or apply for a passport" (MECS n.d.). However, MECS states that "in practice, individuals often only apply for a tazkirah when they need one" (ibid.). In 2005, UNHCR stated that men must have tazkiras, but tazkiras are "optional" for women (May 2005).' [19e]

32.07 The Ireland Refugee Documentation Centre provided information about the Tazkera identity card in a document entitled, 'Afghanistan: Information on Afghan ID Taskeras (Tazkeras/Tazkiras),' dated 10 February 2012, and accessed via Refworld:

'A report published by the Organization for Security and Cooperation in Europe, in a section headed "Voter Registry Based on Civil Registry (National ID Card)", states: "Civil registration in Afghanistan has struggled to evolve from the paper-based taskera system that has existed for some decades. The taskera is a plain paper document that lacks any security features and is considered of limited value as a national identity document." (Organization for Security and Cooperation in Europe (8 December 2009) Islamic Republic of Afghanistan: Presidential and Provincial Council Elections, 20 August 2009, p.57)' [19d]

32.08 The same document referred to a report from the Brookings-Bern Project on Internal Displacement, stating:

'"Legal personality is recognized by the Civil Code, which also provides for the registration of Afghan male citizens and the issuance of a tazkera or national identity card that contains personal and family information along with place of residency, type of occupation, and status of military service. This document serves as an Afghan citizen's primary form of identification and means of accessing legal entitlements and is typically issued by the local population registration department of the Ministry of Interior." (Brookings-Bern Project on Internal Displacement (November 2010) Realizing National Responsibility for the Protection of Internally Displaced Persons in Afghanistan: A Review of Relevant Laws, Policies, and Practices, p.27)' [19d]

32.09 The Ireland Documentation Centre continued, referring to an Immigration and Refugee Board of Canada response to a request for information on tazkiras: '"In correspondence with the Research Directorate, an official at the Canadian High Commission in Pakistan and an official at the Embassy of Afghanistan in Ottawa stated that the Population Registration Department of the Ministry of Interior issues tazkiras. According to the official at the Embassy of Afghanistan, population registration departments are located inside police headquarters in 34 provincial police departments in the country. In consultation with the Canadian mission in Afghanistan, the official at the Canadian High Commission in Pakistan indicates that 'not only provinces but also every district in Afghanistan issues the Tazkera" (Immigration and Refugee Board of Canada (16 December 2011) AFG103918.E – Afghanistan: Afghanistan: The issuance of tazkira certificates; whether individuals can obtain tazkiras while abroad)' [19d]

32.10 The Refugee Documentation Centre continued to describe the procedures when a child is born:

'In consultation with the Canadian mission in Afghanistan, the official at the Canadian High Commission in Pakistan stated that if a child is born in a hospital in Afghanistan,

the hospital will give the parents a yellow card, which the parents will have to take to the population registration office. The population registration office will then "go through files and…check full identification" after which the parents will have to obtain two signatures from government officials such as a doctor, engineer, teacher or chief of the army ibid.). The official at the Embassy of Afghanistan stated that "personal presence" is required to apply for a tazkira. He also indicated that it takes approximately two to three days to obtain a tazkira certificate." (ibid)' [19d]

32.11 The same document continued to describe the Tazkira:

'"According to the High Commission official, Tazkira certificates are only available through the Ministry of Interior, and they have looked the same since 2001. However, the official stated that Tazkira certificates 'are not always fully completed with biographical information and are always completed by hand'. He also noted that 'clerk entries' can vary. The counsellor at the Embassy of Afghanistan indicated that the personal information on the Tazkira certificate includes the bearer's name, father's name, grandfather's name, place and date of birth (Afghanistan 24 Aug. 2011). The United States (US) Department of State indicates that it is the paternal grandfather's name that appears on a Tazkira document. According to the High Commission official, the 'place of birth' field on a Tazkira refers to the birthplace of the applicant's father. The official stated that 'more often than not it is the applicant's father who is applying on behalf of the applicant … as it is a male member of the applicant's immediate family who must attest to the identity of the applicant'." (Immigration and Refugee Board of Canada (16 September 2011) AFG103812.E – Afghanistan: Description and samples of the Tazkira booklet and the Tazkira certificate; information on security features)' [19d]

32.12 The document continued: 'According to the High Commission official, "there is no official Tazkira 'card' to replace or complement the certificate," and the Tazkira certificate is the "only government issued national ID document". However, the official stated that "internal ID cards" that "may contain reference to the owner's Tazkira" may be used by some government offices, the United Nations and non-governmental organizations. The official also stated that during the Communist era, membership cards from the People's Democratic Party of Afghanistan "may have contained information from the Tazkira". To the knowledge of the Canadian High Commission, Tazkiras "are not centralized and do not follow any standard pattern of sequencing or identification". The official explained that "Afghan systems for the registration of different types of documents is not centralized and not computerized. Oftentimes they are records kept locally and issued and recorded by and as in the case of police certificates". The High Commission official stated that Tazkiras are therefore not numbered sequentially according to family members." (ibid)' [19d]

32.13 The Ireland Documentation Centre provided further information about the Tazkira, quoting from a report from the UN Children's Fund (UNICEF): '"Very few children (at the age of travelling) will have a birth certificate; it was not usual in the past. Most Afghans have Tazkera (ID) since Tazkera is mandatory for all Afghan University. Those living in remote areas do not attend school and will not bother to get Tazkera unless they need it. The Tazkera indicates the year of birth, but it does not state day or month." (UN Children's Fund (UNICEF) (February 2010) Children on the Move between Afghanistan and Western Countries, p.16)' [19d]

32.14 The Ireland Documention Centre referred to the proposed electronic Tazkira, quoting an article published on the US Central Command website:

'"The biometrically enabled national identification system, the electronic tazkera, was discussed at length. Current tazkeras contain personally identifying information on a sheet of paper with records kept in handwritten books throughout Afghanistan. The electronic tazkera will have the same data currently on the paper tazkera, plus fingerprints, iris scans and digital images of citizens. The electronic tazkera's use of fingerprints and iris scans which are unique to each individual makes it a more secure and form of identification. 'This is good for security because it will not allow an individual to fake their identity,' said Harward. 'When you get your electronic tazkera you provide all your personally identifiable information, which will forever be associated with your fingerprint or iris scan.' In the future, the electronic tazkera may be used to provide Afghans a national basis for voter registration, motor vehicle registration, business registration, trade licensing, school enrollment and future government services." (US Central Command (31 March 2011) Afghan governors discuss rule of law priorities)' [19d]

32.15 Pajhwok News also reported on new, electronic identity cards in an article of 31 July 2012:

'The country's first computerised identity card would be issued to President Hamid Karzai on December 30 before the nationwide distribution begins, the telecommunication minister announced on Tuesday…According to the joint report by the two ministries [Ministry of Telecommunication and Information Technology and JTR and Ministry of the Interior] at the meeting of cabinet ministers, the process would kick off on December 30th when the first identity card would be issued to Karzai, he said…The whole project would be implemented in three phases at a total cost of $101 million, he said.

'The first phase of the project would start in Kabul and the second phase implemented in 15 provinces within a year, he said, adding the third phase would take about 16 months that would cover 18 provinces.

'Sangin said the implementation of the project would help government enhance security across the country as it would have the correct information on citizens and also help identify the exact population of the country. He said Afghanistan was the first country in the region where electronic identity cards would be issued and these hi-tech cards were free from fraud. The facility would be implemented before 2014 presidential polls, which would help prevent election frauds and eliminate expenses in printing voters' cards.' [100d]

32.16 The US Department of State Trafficking in Persons Report of 2012, covering events in 2011, released in July 202, noted that 'Less than 10 percent of the population have birth certificates, and the government did not undertake any campaigns to document unregistered populations.' [58d] (Country Narratives; Afghanistan)

32.17 In its 'Fifth Report, Situation of Economic and Social Rights in Afghanistan,' dated November/December 2011, the Afghanistan Independent Human Rights Commission (AIHRC) noted that particular groups were less likely to have identification cards:

'National identification establishes a person's national identity, whereby that person can legally enjoy his/her rights and privileges as part of the country's citizenry. Without national identification, a person can be deprived of his/her civil rights in such areas as education, marriage, work, overseas travel, punishment, due process of law, and so on. Birth registration plays a similar role. Unfortunately, people do not attach much

importance to national identification (possessing national ID cards) in rural and outlying areas. People try to obtain national ID cards when they have to do so. Obtaining birth certificates is rare even in urban areas….Parts of kuchi and IDP populations have been unable to receive national ID cards.' [31a]

32.18 The AIHRC identified further problems with identity cards, stating:

'National ID cards have been printed on delicate paper that is very vulnerable and prone to decay. It is therefore difficult to maintain such cards. On the other hand, it is very easy to forge these cards. In addition, the relevant authorities are negligent and inattentive in recording applicants'data in national ID cards and there are mistakes when writing names, fathers' names, age, and other data of applicants on cards. This will cause many problems for the applicants in the future. Authenticity and accuracy are necessary in the issuance of national ID cards and the relevant authorities should pay due attention to it.' [31a]

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33. FORGED AND FRAUDULENTLY OBTAINED OFFICIAL DOCUMENTS

33.01 Country of Origin Information Service (COI) Service has not been able to obtain publicly available information on forged and fraudulent documents other than that provided in this section at the time of writing (October 2012). However, officials are advised to read the section on Corruption, in which sources quoted state that corruption is widespread, and Citizenship and nationality - Tazkiras (ID cards) and birth certificates for further information.

33.02 A letter sent to COI Service from the British High Commission (BHC) in Islamabad, Pakistan, dated 12 August 2010, stated that a Project Officer based in the BHC had carried out some research on whether forged Afghan documents had been obtained in Pakistan. Afghan and other foreign nationals were reportedly using stolen or forged Afghan Passports for facilitated illegal movements and smuggling of goods. The letter said that a United Nations High Commissioner for Refugees (UNHCR) Protection Officer had provided examples that gave an indication on the cost of obtaining such documents. The information from the UNHCR observed that:

"The [most] widely forged document was the [Afghan] national Identity Card (Tazkira), which was even available in Islamabad. The cost for obtaining it ranged from Rs.200-1000. Following issuance of Proof of Registration (PoR) cards in 2007 by NADRA [Pakistan's National Database and Registration Authority] with financial assistance of UNHCR, there are reports of forging this as well. Reportedly forged PoR card can be obtained by paying 2000 to 5000 PKR [Pakistan rupees]." [Annex G]

33.03 As noted it in its 'Fifth Report, Situation of Economic and Social Rights in Afghanistan,' dated November/December 2011, the Afghanistan Independent Human Rights Commission:

'National ID cards have been printed on delicate paper that is very vulnerable and prone to decay. It is therefore difficult to maintain such cards. On the other hand, it is very easy to forge these cards. In addition, the relevant authorities are negligent and inattentive in recording applicants' data in national ID cards and there are mistakes

when writing names, fathers‘ names, age, and other data of applicants on cards. This will cause many problems for the applicants in the future. Authenticity and accuracy are necessary in the issuance of national ID cards and the relevant authorities should pay due attention to it.’ [31a]

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34. EXIT AND RETURN

OVERVIEW

34.01 The United States Department of State’s Country Report on Human Rights Practices for 2011, Afghanistan, published on 24 May 2012, stated: ‘The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government sometimes limited citizens’ movement for security reasons.

‘The government cooperated with the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, and other persons of concern but was limited by lack of infrastructure and capacity.’ [58c] (Section 2.d)

34.02 However, the same report added that ‘Ethnic Hazaras reported occasionally being asked to pay bribes at border crossings where Pashtuns were allowed to pass freely…’ [58c] (Section 6)

34.03 Jane’s Sentinel Country risk Assessment, Afghanistan, updated 26 April 2012, described the Afghan borders with Pakistan and Iran in the Security section, which was dated 26 April 2012:

‘Significant portions of the Pakistan-Afghanistan border, known as the Durand Line, remain disputed… The line, which runs through areas inhabited by the Pashtuns, was never accepted by Afghanistan or the Pashtuns, who endeavoured to create a unified Pashtunistan following partition. Pashtun settlements contiguous to the border have simply disregarded its existence, a practice made easier by its mountainous terrain and lack of border guards. The border is 2,250 km in length, mountainous in parts and cannot be policed under existing conditions. It remains permeable to any who wish to cross it, regardless of foreign pronouncements that it would be a simple matter for Pakistan to “seal” the frontier entirely…

‘With attention focused on the eastern border, Iran quietly announced in February 2007 that it was constructing a wall adjacent to Afghanistan's Nimroz province. The apparently placid response by the governor of Nimroz - "since the wall is erected inside the Iranian territory, it is not the Afghan government's business and we have nothing to do with it" - suggests that this development should not have a notably adverse effect upon Afghan-Iran relations.’ [9b] (Security)

AFGHAN REFUGEES AND ASYLUM-SEEKERS

34.04 The Afghanistan Independent Human Rights Commission’s (AIHRC) ‘Fifth Report; Situation of Economic and Social Rights in Afghanistan,’ dated November/December 2011, stated:

'Although the number of Afghan asylum-seekers in 2010 dropped by around nine percent compared to the previous year, a UNHCR report for the first half of 2011 indicates that Afghanistan with approximately 15,300 asylum claims has again become the largest source country for asylum-seekers in the world. The trend has seen an increase of 20 percent in the first six months of 2011 compared to the same period in 2010.' [31a] (p 101)

34.05 The AIHRC report added:

'Although over five million Afghans have repatriated since 2002, around 5,030,000 Afghans still live overseas, according to statistics provided by the Ministry of Refugees and Repatriation (MoRR). Of these, approximately 62 percent (3,130,000) are registered and the rest unregistered. Of all refugees, 46 percent (2,330,000) live in Iran, 44 percent (2,200,000) in Pakistan, and the remaining in other countries around the world. The majority of unregistered refugees live in Iran and Pakistan. The duration of stay of Afghan refugees in Iran and Pakistan ranges from three to 30 years. Around 80 percent of them have lived there for over 20 years and approximately 50 percent of them have been born there.' [31a] (p 98)

34.06 The same report added, 'Most recently migrated young people leave the country for asylum in Europe, North America, and Australia. Only those who have major family responsibilities and cannot, therefore, leave home for a long time or do not have the necessary economic means for migrating to farther countries leave the country for employment in neighboring and regional countries, especially Iran and Pakistan…' [31a] (p 99)

34.07 The UNHCR Afghanistan Update on Volrep and Border Monitoring, dated October 2012, stated:

'1 January – 31 October: During the first ten months of 2012, a total of 73,526 Afghans voluntary repatriated to Afghanistan of whom 59,423 came from Pakistan, 14,029 from Iran and 74 from NNCs (India: 44, Russian Federation: 11, Ukraine: 10, Kazakstan: 7 and Azerbaijan: 2). The average number of returns, per day in 2012, stands at 242 individuals reflecting an increase of 17% compared to the daily average of 207 individuals during the same period in 2011.

'Repatriation from Pakistan continued through three Voluntary Repatriation Centers (VRCs) located in Khyber Pakhtunkhwa: Chamkani (Peshawar), Timergara (Dir), Bannu (Banu Township) and Baluchistan: Baleli (Quetta). Refugees wishing to repatriate from Iran refer to VRCs located in Soleimankhani, Esfahan, Shiraz, and Mashhad, the Sub-Offices, or directly to the Border Crossing Station (BCS) at Dogharoun. Returning refugees receive their assistance in one of five encashment centres upon return to Afghanistan: Mohmmand Dara (Nangarhar), Kabul (Kabul), Gardez (Paktya), Jamal Mayna (Kandahar) and Herat (Herat)…

'Today, returnees represent about a quarter of the country's estimated population. ' [53d] (p 1)

34.08 The 2012 UNHCR country operations profile – Afghanistan, undated, accessed on 1 September 2012, provided a 'statistical snapshot' as of January 2012 of Afghans refugees outside the country, numbers of Afghan refugees who returned in 2011, and internally displaced persons:

'Originating from Afghanistan (1)

'Refugees 2,664,436 (2)

'Asylum Seekers 37,801 (3)

'Returned Refugees 71,145 (4)

'Internally Displaced Persons (IDPS) 447,547 (5)

'Returned IDPs 75,453 (6)

'Various 952,531 (8)

'Total Population of Concern 4,248,913' [53c]

34.09 The same source provided definitions for notes 1 to 8:

'1. Country or territory of asylum or residence. In the absence of Government estimates, UNHCR has estimated the refugee population in most industrialized countries based on 10 years of asylum-seekers recognition.

'2. Persons recognized as refugees under the 1951 UN Convention/1967 Protocol, the 1969 OAU Convention, in accordance with the UNHCR Statute, persons granted a complementary form of protection and those granted temporary protection. It also includes persons in a refugee-like situation whose status has not yet been verified.

'3. Persons whose application for asylum or refugee status is pending at any stage in the procedure.

'4. Refugees who have returned to their place of origin during the calendar year. Source: Country of origin and asylum.

'5. Persons who are displaced within their country and to whom UNHCR extends protection and/or assistance. It also includes persons who are in an IDP-like situation.

'6. IDPs protected/assisted by UNHCR who have returned to their place of origin during the calendar year.

'7. Refers to persons who are not considered nationals by any country under the operation of its laws.

'8. Persons of concern to UNHCR not included in the previous columns but to whom UNHCR extends protection and/or assistance.

'The data are generally provided by Governments, based on their own definitions and methods of data collection.

'A dash (-) indicates that the value is zero, not available or not applicable.' [53c]

REPATRIATION OF REFUGEES AND FAILED ASYLUM SEEKERS

34.10 The Afghanistan Independent Human Rights Commission commented as follows in its Fifth Report; Situation of Economic and Social Rights in Afghanistan, dated November/December 2011 (AIHRC report 2011):

'Though the repatriation process was accelerated following the downfall of the Taliban, this process slowed down from 2005 onwards. Rising conflict and insecurity, instability, uncertain future, unemployment, poverty, rampant corruption, and Government's failure to provide an adequate standard of living for people caused a new wave of migration in recent years and thousands of people started migrating to or seeking asylum in other countries.' [31a] (p 99)

34.11 The United States Department of State Country Report on Human Rights Practices for 2011, Afghanistan, published in May 2012, stated:

'The government's capacity to absorb returned refugees remained low. Economic difficulties and security concerns discouraged numerous refugees from returning to the country; half as many returned compared with the previous year. Many refugees needed humanitarian assistance upon arrival. According to the AIHRC and the UNHCR, single women among refugee returnees and deportees were referred to safe houses until their families guaranteed their safety. The UNHCR referred 24 women to safe houses as of September.

'Throughout the year, 67,943 refugees were repatriated voluntarily with UNHCR assistance, mainly from Pakistan and Iran, a decrease of 40 percent from 2010. Approximately 2.8 million Afghan refugees lived in Pakistan and Iran during the year.

'Iran continued to deport undocumented economic migrants back to Afghanistan. During the year Iran deported 211,023 undocumented Afghans, a 26 percent decrease compared with 2010 (when 286,662 Afghans were expelled from Iran), through the border points at Islam Qala, Herat province, and Zaranj, Nimroz province.' [58c] (Section 2.d)

34.12 The AIHRC report 2011 described forced repatriations of Afghans in Iran to Afghanistan: 'In the first quarter of the current year [2011], around 25,000 illegal Afghan migrants in Iran were deported to Afghanistan.' [31a] (p 106) The report continued:

'These migrants/refugees were forcibly deported from Iran and as a result, they were deprived of assistance provided by the relevant organizations for voluntarily returning migrants/refugees. Disillusionment, homelessness, unemployment, and lack of food security debilitate these migrants/refugees to reorganize their lives and resume normalcy in living. As a result, their reintegration into the society becomes very difficult. In the light of these challenges, deported migrants/refugees are afflicted with a sense of pessimism and mental disorders that can even lead to domestic violence.

'Based on the AIHRC HRFM [human rights field monitoring] data in 1389 (2010/11), close to 58 percent of returned migrants/refugees have voluntarily repatriated back to their country. Close to 18 percent of them have been deported and over 24 percent have been assisted by the UNHCR and IOM in their return back to Afghanistan.' [31a] (p 106)

34.13 IRIN reported on a new strategy 'for dealing with the most protracted refugee crisis in the world,' agreed by the Afghan, Iranian and Pakistani governments, in an article dated 3 May 2012:

'The so-called Solutions Strategy for Afghan Refugees, to support Voluntary Repatriation, Sustainable Reintegration ad [sic] [and] Assistance to Host Countries is an agreement between the three governments on a way forward for the 2.7 million Afghans registered as refugees in Iran and Pakistan; the estimated 2.4-3.4 million unregistered

Afghans living in the two countries; and the nearly 6 million Afghans – one quarter of its population – who have returned from exile to very difficult circumstances.' [27m]

34.14 IRIN reported that the approach '…seeks to improve conditions in communities of origin in Afghanistan to encourage returns while supporting communities which host Afghan refugees in Iran and Pakistan, and providing Afghans in exile with skills training to help them upon their return to Afghanistan.

'One key component of the plan's implementation is to improve up to 48 areas of high return in Afghanistan by creating "model villages" through coordinated community-based development: building schools, clinics, water canals, providing access to land and shelter, and creating livelihood opportunities. The goal is to improve the quality of life of returnees to the levels enjoyed by their local counterparts and to create an environment in which refugees are more willing to return to their areas of origin…

'But UNHCR says the strategy is not aimed at trucking in masses of people. Its estimate for the number of returns in 2012 is about 120,000, up from last year's 68,000, but far below the numbers during the first half of the last decade.' [27m]

Returns from the United Kingdom

34.15 The Home Office research and statistics publication, Immigration Statistics October - December 2011, released on 23 February 2012, provided data on removals (enforced returns) and voluntary departures from 2004 to 2011 by country of destination. The data in table rv.06 below has been filtered to include statistics for Afghanistan only (N.B. in the table below only the total for non-asylum returns has been included however the publication does include a breakdown of types of return for non-asylum cases):

Table rv.06: Removals and voluntary departures by country of destination and type

Year	**Total removals and voluntary departures**	**Total asylum cases**	Asylum cases: Enforced removals and notified voluntary departures	Asylum cases: Assisted Voluntary Returns	Asylum cases: Other voluntary departures	**Total non-asylum cases**
2004	**597**	**577**	343	234	:	**20**
2005	**938**	**912**	477	427	8	**26**
2006	**976**	**968**	437	518	13	**8**
2007	**986**	**955**	544	373	38	**31**
2008	**877**	**846**	432	340	74	**31**
2009	**1,201**	**1,166**	693	451	22	**35**
2010	**1,474**	**1,422**	919	483	20	**52**
2011	**1,384**	**1,294**	953	333	8	**90**
Total	**8,433**	**8,140**	4,798	3,159	183	**293**

[82a]

34.16 The Home Office research and statistics publication, Immigration Statistics April - June 2012, released on 30 August 2012, provided data on removals (enforced returns) and

voluntary departures, after filtering, to Afghanistan for the first two quarters of 2012 (January – March; April - June):

Table rv.06.q: Removals and voluntary departures by country of destination and type

Quarter 2012	Total enforced removals	Total voluntary departures	Total non-asylum enforced removals	Total non-asylum voluntary departures	Total asylum enforced removals	Total asylum voluntary departures
Q1	119	116	1	7	118	109
2012 Q2	169	88	4	5	165	83
Total	288	204	5	12	283	192

[82b]

Treatment of returnees

34.17 In an article dated 3 May 2012, IRIN reported: 'While refugees may return to Afghanistan with new skills learned abroad, they return to environments where those skills cannot be used, and a recent UNHCR survey found that 60 percent of returnees lived in worse conditions than their local counterparts.' [27m]

34.18 The Afghanistan Independent Human Rights Commission Fifth Report; Situation of Economic and Social Rights in Afghanistan, dated November/December 2011, described the situation for returnees:

'Lack of employment opportunities, poverty, insecurity, lack of an adequate standard of living, lack of health services, lack of education, lack of potable water, and so on are the major problems facing returnees. The Afghan Government encounters many challenges in meeting these needs and has not been able to provide an adequate standard of living for its people. Extreme poverty and unemployment and mounting insecurity not only has delayed the repatriation process in recent years, but also has led to increasing dissatisfaction and disillusionment among returnees over their repatriation back to Afghanistan. The AIHRC HRFM [human rights field monitoring] data in 1388 (2009/10) and 1389 (2010/11) shows that on average around 42 percent of returnees are dissatisfied with their repatriation. The data further indicates that lack of employment opportunities is the major source of returnee dissatisfaction. Insecurity and homelessness are the other major causes of their disillusionment…

'Lengthy migration/asylum duration, especially migration/asylum of persons who left the country at an early age or were born while in migration/asylum, has caused many deep cultural and traditional problems for the Afghan society. Since they have been brought up in other countries'cultures, they feel themselves to be strangers in Afghanistan's indigenous culture and many of them cannot adjust themselves to the customs and traditions governing the Afghan society and way of life. This issue has also caused mental problems for them, leading to their social and cultural ostracism and marginalization.

'Unfortunately societal treatment of them is often disproportionate and rejectionistic. They are humiliated and discriminated against in the state institutions, including

education and higher education institutions. The way they speak and their way of clothing themselves are laughed at and they are harassed. Sometimes the accent and clothing of returnees leads to them being deprived of their rights. These issues give rise to hopelessness, pessimism, and disillusionment among the returnee population, causing them to feel losing their belongingness to their country and society and even leaving the country once more.' [31a] (p 107-109)

See also Section 29: Humanitarian issues

Returnees: information and support

34.19 The UNHCR Afghanistan Update on Volrep and Border Monitoring, dated October 2012, stated

'From the start of UNHCR's assisted voluntary repatriation operation in March 2002 to the end of October 2012, over 5.7 million Afghan refugees have returned home, out of which over 4.6 million have repatriated with assistance from the Ministry of Refugees and Repatriation (MoRR) and UNHCR through the voluntary repatriation (VolRep) programme. Today, returnees represent about a quarter of the country's estimated population.' [53d] (p 1)

34.20 The same UNHCR update stated:

'Between 1 January and 31 October 2012, a total of 3,613 interviews were conducted with returning refugees from Pakistan (3,373) and Iran (240). Interviewees were selected both randomly (2,971) and from among those returnees with evident protection concerns (642) at the first point of contact in Afghanistan at UNHCR transit/Encashment Centres in Kabul, Jalalabad (Mohmand Dara), Kandahar (Jamal Mayna), Gardez and Heart (GTC). This monitoring exercise enables UNHCR to identify return trends, push/pull factors as perceived by the returning refugees and the level of information returnees received to enable them to make an informed decision on return.' [53d] (p 2)

34.21 The results of these interviews showed:

'Pull factors [for returns from Pakistan]: 50.4% of returnees cited improvement of the security situation in some parts of Afghanistan as the primary reason influencing their decision to return followed by none or reduced fear of persecution (14.9%), UNHCR's assistance package (13.6%), employment opportunities (10.8%), the land allocation scheme and/or UNHCR shelter program (7.3%) and improvements in health and education facilities (1.9%).

'Information on the Voluntary Repatriation Program [returnees from Pakistan]: 97.7% of the interviewed returnees from Pakistan reported that they had received adequate information to make an informed decision to return. Information was mainly obtained through the Afghan community (58.0%), visits to Afghanistan (29.3%) and through the media (4.9%). Regarding information on UNHCR's repatriation operation, 60.3% of the interviewed returnees explained that they had been informed about UNHCR's repatriation operation by members of the Afghan community, 16.2% reported that they obtained information directly from UNHCR, 12.6% stated that they had visited Afghanistan, whereas 10.4% were informed through the media (TV, Radio and Newspaper)…

'Reasons for not returning to place of origin [returnees from Pakistan]: Out of a total of 3,373 respondents, 1,013 returnees stated that they do not intend to repatriate to their place of origin due to the lack of housing (55.4%), insecurity (23.6%), lack of land (12.0%), lack of livelihood/income generation opportunities (4.6%), lack of public services (1.6%), personal disputes (1.2%) and other reasons (1.4%).' [53d] (p 2)

34.22 The same UNHCR Update further stated:

'Pull factors [returns from Iran]: 93.2% cited improvements of the security situation in some parts of Afghanistan as the primary reason influencing their decision to return, followed by none or reduced fear of persecution (1.7%) and employment opportunities (1.7%).

'Information on the Voluntary Repatriation Program [returns from Iran]: 84.2% of the interviewed returnees from Iran reported that they had received adequate information to make an informed decision to return. Information was mainly obtained through the Afghan community (79.2%), directly from UNHCR (4.6%), through the media (2.9%) and other sources (5.4%). Regarding information on UNHCR's repatriation operation, 76.7% of the interviewed returnees stated that they have received information about UNHCR's repatriation operation by members of the Afghan community, 6.7% cited that they obtained information directly from UNHCR, through the media (2.9%) and 5.8% from other sources.

'Reasons for not returning to place of origin [returnees from Iran]: Out of a total of 240 respondents, 71 returnees stated that they do not intend to repatriate to their area of origin due to the following reasons: lack of public services (74.7%), lack of livelihoods / income generation opportunities (9.9%), lack of housing (8.5%), personal disputes (2.8%), fear of persecution (2.8%) and insecurity (1.3%).' [53d] (p 3)

34.23 IOM provided the following undated information, published in 2012, 'IOM: Serving the People of Afghanistan for 20 Years:'

'IOM helped 13,201 Afghans to return home from over 20 countries between 2002-2011, 4,290 of whom received individually-tailored assistance such as employment referrals, training, and assistance in setting up small businesses. Some 7,819 vulnerable members of communities receiving large numbers of returning migrants also benefitted from community development projects across the country.

'Neighbouring Iran and Pakistan house overwhelming numbers of undocumented Afghans. Since 2008, IOM has assisted 300,000 deported Afghans by providing reception assistance at the Iranian border and reintegration assistance such as permanent housing, income generation and business skills training especially catered to widows, female heads of household and women seeking employment.
Afghanistan remains a major source, transit and destination country for victims of trafficking. 534 victims of trafficking have received protection, rehabilitation and reintegration assistance from IOM. 50 percent of these were women…

'Between 2002-2011, at least 1,400 Afghan experts living abroad, 200 of whom were women, returned to Afghanistan from more than 30 countries to participate in rebuilding their nation. IOM provided relocation assistance including a special support package for female experts and helped them to secure placements in key development-related positions within ministries, government institutions and the private sector.' [6b] (IOM in recent years)

34.24 The Afghan Ministry of Returnees and Repatriations provided the following undated information on its website, accessed on 8 February 2013:

'Vision: To ensure volunteer and gradual repatriation of Refugees and Internally Displaced Persons (IDPs), and to ensure proper livelihood and legal condition for their re-integration by joint efforts with related governmental and nongovernmental organizations.

'Goal: To ensure honorable volunteer and gradual repatriation of refugees, their resettling and re-integration, capacity building, finding solution for unemployment, providing facilities for professional training, and legal support provision according to International laws (Universal declaration of human rights, international convention of 1951, protocol of 1967, universal agreements and tripartite agreements between Afghanistan, host countries and UNHCR).

'Mission: The MoRR, based on its strategic goals, tries to provide the Afghan repatriates and IDPs opportunity of settling and to get initial re-integration support, including legal support, employment opportunity and professional-technical training in their place if origin.

'This Ministry has obligated itself, based on negotiations with host countries, UNHCR, and IOM, to ensure repatriation of Afghan refugees both from neighboring and other countries, on volunteer basis, gradual, safe and honorable repatriation to the country of origin.

'After the initial assistance during the course of reintegration, MoRR is trying its best to re-integrate millions of repatriates and IDPs and provide opportunity for their active participation in the process of rehabilitation, reconstruction of their settling areas, stabilization of their socio-economic condition and finally for the reconstruction of the country.

'Strengthening cooperation and coordination in activities of related governmental and international agencies like UNHCR and IOM concerning the process of providing services in their places of origin after their reintegration.

'Besides provision of settling, capacity building of staff is one of the top priorities in MoRR, The Ministry has five top priorities:

- Volunteer and gradual repatriation
- legal support to the repatriated with for example ownership of land
- solutions on employment and vocational training, initial support to re-integration
- building capacity among staff
- establishing and construction of basic infrastructures like: health clinics; schools; bridges and culverts; water resources; roads; and other essential needs in residential areas of repatriates in close cooperation with government related and International organizations.' [129] (About Ministry)

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Annex A - Chronology of major events

The following is taken from British Broadcasting Corporation (BBC) Afghanistan Profile: Timeline, updated as of 21 June 2011 **[28b]** but which is regularly updated.

1919 Afghanistan regains independence after third war against British forces trying to bring country under their sphere of influence.

1926 Amanullah proclaims himself king and attempts to introduce social reforms leading to opposition from conservative forces.

1929 Amanullah flees after civil unrest over his reforms.

1933 Zahir Shah becomes king and Afghanistan remains a monarchy for next four decades.

1953 General Mohammed Daud becomes prime minister. Turns to Soviet Union for economic and military assistance. Introduces a number of social reforms, such as abolition of purdah (practice of secluding women from public view)

1963 Mohammed Daud forced to resign as prime minister.

1964 Constitutional monarchy introduced – but leads to political polarisation and power struggles.

1973 Mohammed Daud seizes power in a coup and declares a republic. Tries to play off USSR against Western powers. His style alienates left-wing factions who join forces against him.

1978 General Daud is overthrown and killed in a coup by leftist People's Democratic Party. But party's Khalq and Parcham factions fall out, leading to purging or exile of most Parcham leaders. At the same time, conservative Islamic and ethnic leaders who objected to social changes begin armed revolt in countryside.

1979 Power struggle between leftist leaders Hafizullah Amin and Nur Mohammed Taraki in Kabul won by Amin. Revolts in countryside continue and Afghan army faces collapse. Soviet Union finally sends in troops to help remove Amin, who is executed.

1980 Babrak Karmal, leader of the People's Democratic Party Parcham faction, is installed as ruler, backed by Soviet troops. But anti-regime resistance intensifies with various mujahedin groups fighting Soviet forces. US, Pakistan, China, Iran and Saudi Arabia supply money and arms.

1985 Mujahedin come together in Pakistan to form alliance against Soviet forces. Half of Afghan population now estimated to be displaced by war, with many fleeing to neighbouring Iran or Pakistan. New Soviet leader Mikhail Gorbachev says he will withdraw troops from Afghanistan.

1986 US begins supplying mujahedin with Stinger missiles, enabling them to shoot down Soviet helicopter gunships. Babrak Karmal replaced by Najibullah as head of Soviet-backed regime.

1988 Afghanistan, USSR, the US and Pakistan sign peace accords and Soviet Union begins pulling out troops.

1989 Last Soviet troops leave, but civil war continues as mujahedin push to overthrow Najibullah.

1991 The US and USSR agree to end military aid to both sides.

1992 Resistance closes in on Kabul and Najibullah falls from power. Rival militias vie for influence.

1993 Mujahedin factions agree on formation of a government with ethnic Tajik, Burhanuddin Rabbani, proclaimed president.

1994 Factional contests continue and the Pashtun-dominated Taleban emerge as major challenge to the Rabbani government.

1996 Taleban seize control of Kabul and introduce hardline version of Islam, banning women from work, and introducing Islamic punishments, which include stoning to death and amputations. Rabbani flees to join anti-Taleban northern alliance.

1997 Taleban recognised as legitimate rulers by Pakistan and Saudi Arabia. Most other countries continue to regard Rabbani as head of state. Taleban now control about two-thirds of country.

1998 Earthquakes kill thousands of people. US launches missile strikes at suspected bases of militant Osama bin Laden, accused of bombing US embassies in Africa.

1999 UN imposes an air embargo and financial sanctions to force Afghanistan to hand over Osama bin Laden for trial.

2001

January UN imposes further sanctions on Taleban to force them to hand over Osama bin Laden.

March Taleban blow up giant Buddha statues in defiance of international efforts to save them.

April Mullah Mohammad Rabbani, the second most powerful Taleban leader after the supreme commander, Mullah Mohammad Omar, dies of liver cancer.

May Taleban order religious minorities to wear tags identifying themselves as non-Muslims, and Hindu women to veil themselves like other Afghan women.

September Eight foreign aid workers on trial in the Supreme Court for promoting Christianity. This follows months of tension between Taleban and aid agencies.

Ahmad Shah Masood, legendary guerrilla and leader of the main opposition to the Taleban, is killed, apparently by assassins posing as journalists.

October USA, Britain launch air strikes against Afghanistan after Taleban refuse to hand over Osama bin Laden, held responsible for the September 11 attacks on America.

November Opposition forces seize Mazar-e Sharif and within days march into Kabul and other key cities.

5 December Afghan groups agree deal in Bonn for interim government.

7 December Taleban finally give up last stronghold of Kandahar, but Mullah Omar remains at large.

22 December Pashtun royalist Hamid Karzai is sworn in as head of a 30 member interim power-sharing government.

2002

January First contingent of foreign peacekeepers in place

April Former king Zahir Shah returns, but says he makes no claim to the throne.

May UN Security Council extends mandate of International Security Assistance Force (ISAF) until December 2002.

Allied forces continue their military campaign to find remnants of Al-Qaeda and Taleban forces in the south-east.

June Loya Jirga, or grand council, elects Hamid Karzai as interim head of state. Karzai picks members of his administration which is to serve until 2004.

July Vice-President Haji Abdul Qadir is assassinated by gunmen in Kabul.

US air raid in Uruzgan province kills 48 civilians, many of them members of a wedding party.

September Karzai narrowly escapes an assassination attempt in Kandahar, his home town.

December President Karzai and Pakistani, [and] Turkmen leaders sign agreement paving way for construction of gas pipeline through Afghanistan, carrying Turkmen gas to Pakistan.

Asian Development Bank resumes lending to Afghanistan after 23-year gap.

2003 August: NATO takes control of security in Kabul. It is the organisation's first operational commitment outside Europe in its history.

2004

January Grand assembly – or Loya Jirga – adopts new constitution which provides for strong presidency.

March Afghanistan secures $8.2bn (£4.5bn) in aid over three years.

April Fighting in northwest between regional commander and provincial governor allied to government.

Twenty people, including two aid workers and a police chief, are killed in incidents in the south. Taleban militants are suspected.

First execution since the fall of the Taleban is carried out.

June Eleven Chinese construction workers killed by gunmen in Kunduz.

September: Rocket fired at helicopter carrying President Karzai misses its target; it is the most serious attempt on his life since September 2002.

October/November Presidential elections: Hamid Karzai is declared the winner, with 55 per cent of the vote. He is sworn in, amid tight security, in

2005

February Several hundred people are killed in the harshest winter weather in a decade.

May Details emerge of alleged prisoner abuse by US forces at detention centres in Afghanistan

September First parliamentary and provincial elections in more than 30 years

December New parliament holds its inaugural session.

2006

January More than 30 people are killed in a series of suicide attacks in southern Kandahar province.

February International donors meeting in London pledge more than $10bn (£5.7bn) in reconstruction aid over five years.

May Violent anti-US protests in Kabul, the worst since the fall of the Taleban in 2001, erupt after a US military vehicle crashes and kills several people.

May–June Scores of people are killed in battles between Taleban fighters and Afghan and coalition forces in the south during an offensive known as Operation Mountain Thrust.

October NATO assumes responsibility for security across the whole of Afghanistan.

2007

March Mullah Obaidullah Akhund, the third most senior member of the Taleban's leadership council is arrested, according to Pakistan authorites.

Afghan President Hamid Karzai signs a controversial bill which providsweeping amnesty for war crimes committed over more than two decades of conflict in Afghanistan.

May Taleban's most senior military commander, Mullah Dadullah, is killed during fighting with US, Afghan forces.

Afghan and Pakistani troops clash on the border in the worst violence in decades in a simmering border dispute.

July Former king Zahir Shah dies.

November Forty-one people killed after suicide attack on a parliamentary delegation in Baghlan.

2008

February Prince Harry's tour of duty in Afghanistan comes to an end after spending ten weeks on the front-line in Helmand Province.

June 350 Taleban militants break out of Kandahar prison.

July More than 40 are killed in suicide attack on Indian Embassy in Kabul.

British Defence Secretary Des Browne announces British troop numbers in Afghanistan to increase by 230 to new high of more than 8,000 by spring 2009.

August Ten French soldiers killed in an ambush by Taleban fighters. President Karzai accuses Afghan and US-led coalition forces of killing at least 89 civilians in an air strike in the western province of His. He later sacks two senior military commanders over the strike.

September President Bush sends an extra 4,500 US troops to Afghanistan, in a move he described as a 'quiet surge'.

October Germany extends Afghanistan mission to 2009 and boosts troop numbers in Afghanistan by 1,000, to 4,500.

November Taleban militants reject an offer of peace talks from President Karzai, saying there can be no negotiations until foreign troops leave Afghanistan.

December President Karzai and new Pakistani President Asif Ali Zardari agree to form joint strategy to fight militants operating in their border regions.

2009

March Afghanistan's Election Commission rejects President Karzai's call for an April presidential vote, saying it will take place on 20 August.

President Hamid Karzai signed a new law that legalises rape within marriage and bans wives from stepping outside their homes without their husbands' permission.

August Elections are held, but are marred by widespread Taliban attacks, patchy turnout and claims of serious fraud. Accusations of vote rigging and concerns over the low voter turnout cast doubt on the legitimacy of the polls.

2010

February Nato-led forces launch major offensive, Operation Moshtarak, in bid to secure government control of southern Helmand province.

President Karzai angers Western diplomats by issuing a decree giving him total control of the UN-backed Electoral Complaints Commission, which helped expose massive fraud in the October presidential election.

Top Afghan Taliban military commander Mullah Abdul Ghani Baradar is captured in Pakistan

April President Karzai says that foreign observers were responsible for fraud in last year's disputed poll, and accuses UN and EU officials of involvement in a plot to put a puppet government in power. The White House calls his remarks "genuinely troubling".

July Major international conference endorses President Karzai's timetable for control of security to be transferred from foreign to Afghan forces by 2014.

Whistleblowing website Wikileaks publishes thousands of classified US military documents relating to Afghanistan.

General David Petraeus takes command of US, ISAF forces.

August Dutch troops quit.

Karzai bans foreign security firms.

September Afghans brave wave of Taliban attacks to vote in parliamentary elections on 18 September; turnout estimated at 40%.

2011

May Following the death of Al-Qaeda leader, Osama Bin Laden in early May 2011, Ayman al-Zawahiri who was serving as second-in-command of Al-Qaeda, was appointed head of the militant organisation. **[28t]**

July On 17 July the NATO [North Atlantic Treaty Organisation] handed over security control of the central Afghan province of Bamiyan to Afghan forces. This was the first of seven areas to be passed to local security forces under transition of power before foreign troops end combat operations in 2014. **[29m]**

September Burhanuddin Rabbani, the former Afghan President, was killed in a suicide attack on 20 September. **[49c]**

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Annex B

POLITICAL ORGANISATIONS AND OTHER GROUPS (UPDATE TO ICTOBER 2011)

Information on major Political organisations in Afghanistan was sourced from the International Council on Security and Development (ICOS) report *Afghanistan's Presidential Election: Power to the People, or the Powerful?*, April 2009 **[10b] (p44-46)** A full list of licensed political parties can be located on the Afghanistan Ministry of Justice website.

MAIN POLIITICAL ORGANISATIONS

National United Front of Afghanistan (UNF)

In March 2007, in a significant political development, several influential figures of the last thirty years in Afghanistan decided to form a new coalition called the National United Front of Afghanistan (Jabhe-ye-Motahed-e-Milli: UNF).

Members and Objectives
The Party is comprised of the following key members:

- Former Commerce Minister, Sayed Mustafa Kazimi
- Former President, Burhanuddin Rabbani
- Speaker of the Lower House, Yunus Qanuni
- Minister for Energy and Water, Ismail Khan
- Communist-era Minister, (Sayed) Mohammad Gulabzoy
- Military aide to President Hamid Karzai, Abdul Rashid Dostum

Former communist party leader turned-Parliamentarian Noor-ul-Haq Ulumi was added to the list in a recent announcement and so were First Vice President Zia Masood, former Afghan Defense Minister Marshal Mohammad Qasim Fahim and Mustafa Zahir, the grandson of Afghanistan's former king Zahir Shah…

The key stated aim of the new coalition is to bring changes to the Constitution in order to diminish Presidential powers and enhance the role of Parliament, thereby allowing the UNF more means to preserve its local interests… **[10b] (p44)**

National Democratic Front (NDF)

Members
Based on the former National Front for Democracy, the NDF is composed of some 13 parties, some of which are of secular inclination. As of mid-2005 these were:

- Afghanistan Work and Development Party
- Afghanistan Liberal Party
- Afghanistan People's Welfare Party
- Afghanistan People's Prosperity Party
- Afghanistan Understanding and Democracy Party
- National Unity of Afghanistan Party
- Freedom and Democracy Movement
- Afghanistan People's Ideal Party
- Afghanistan National Progress Party
- Afghanistan Ethnic Groups' Solidarity Party

- Afghanistan Republican Party
- Young Afghanistan Islamic Party
- Afghanistan People's Liberation Party

International and Local Support
The National Democratic Front has received Western backing, most particularly US support. However, it is argued that the Front is unlikely to find much support in rural areas and other sectarian strongholds. **[10b] (p45)**

Payman-e Kabul (Kabul Accord)

Establishment and Objectives
In 2002, the Revolutionary Organisation of the Toilers of Afghanistan and five other former leftist and Maoist groups forged an alliance called Payman-e Kabul (Kabul Accord). The members of the alliance envision the creation of a modern political party with a social democrat ideology.

Current composition
Nowadays the Payman-e Kabul represents a grouping of leftist liberal parties. There is no visible dominant leader and the constituent parties are wary of each other's power base and appeal to urban youth. **[10b] (p46)**

Afghan Mellat (Afghan Social Democratic Party)

Establishment and Objectives
The Afghan Social Democratic Party or Afghan Mellat (Afghan Nation) is an officially registered social democratic party created in the sixties by Ghulam Mohammad Farhad, a German-educated ethnic Pashtun who defended the superior rights of the Pashtun people over a 'Greater Afghanistan' (which includes the Pashtun regions of Pakistan) and advocated the 'Pashtunisation' of the country. It is regularly branded as an ultranationalist or crypto-fascist group.

Current composition
Since its creation the party has been through many internal splits and struggles over its ideological principles, but after Anwar al-Haq Ahadi assumed the leadership in 1995, the party abandoned most of its most hardline rhetoric and has presented a relatively united front. Despite attempts to reach out to other groups, the Mellat Party still maintains that the Pashtos deserve special rights.

Since the fall of the Taliban the party has supported President Karzai, even endorsing his 2004 candidacy and in turn the President has rewarded Ahadi with the Ministry of Finance. It also has a reduced presence in the Lower House of Parliament. **[10b] (p46)**

OTHER POLITICAL GROUPS

The "Northern Alliance"

The Congressional Research Service (CRS) report, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy,* 22 September 2011, accessed on 6 October 2011, stated:

"The Taliban's policies caused different Afghan factions to ally with the ousted President Rabbani and Masud and their ally in the Herat area, Ismail Khan - the Tajik core of the anti-Taliban opposition - into a broader 'Northern Alliance.' In the Alliance were Uzbek, Hazara

Shiite, and even some Pashtun Islamist factions discussed in Table 6 [of the report]. Virtually all the figures mentioned remain key players in politics in Afghanistan, sometimes allied with and at other times feuding with President Hamid Karzai.

- **"Uzbeks/General Dostam**. One major faction was the Uzbek militia (the Junbush-Melli, or National Islamic Movement of Afghanistan) of General Abdul Rashid Dostam. Frequently referred to by some Afghans as one of the 'warlords' who gained power during the anti-Soviet war, Dostam first joined those seeking to oust Rabbani during his 1992-1996 presidency, but later joined Rabbani's Northern Alliance against the Taliban.

- **"Hazara Shiites**. Members of Hazara tribes, mostly Shiite Muslims, are prominent in Bamiyan, Dai Kundi, and Ghazni provinces (central Afghanistan) and are always fearful of, and subject to some extent to, repression by Pashtuns and other larger ethnic factions. The Hazaras have tended to serve in working class and domestic household jobs, although more recently they have been prominent in technology jobs in Kabul, raising their economic status. They are also increasingly cohesive politically, leading to gains in the September 2010 parliamentary elections. During the various Afghan wars, the main Hazara Shiite militia was Hizb-e-Wahdat (Unity Party, composed of eight different groups). Hizb-e-Wahdat suffered a major setback in 1995 when the Taliban captured and killed its leader Abdul Ali Mazari. One of Karzai's vice president's Karim Khalili, is a Hazara. Another prominent Hazara faction leader is Mohammad Mohaqeq.

- **"Pashtun Islamists/Sayyaf**. Abd-i-Rab Rasul Sayyaf, now a leading Islamic conservative in parliament, headed a Pashtun-dominated hardline Islamist mujahedin faction called the Islamic Union for the Liberation of Afghanistan (Ittihad Islami) during the anti-Soviet war. Even though he is an Islamist conservative, Sayyaf viewed the Taliban as selling out Afghanistan to Al Qaeda and he joined the Northern Alliance." (Congressional Research Service, updated 22 September 2011, accessed on 6 October 2011) **[22a] (p7)**

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Annex C

OPPOSITION ARMED GROUPS (UPDATED TO OCTOBER 2011)

Information on opposition armed groups was sourced from The Congressional Research Service (CRS) report, Afghanistan: Post-Taliban Governance, Security, and U.S. Policy. **[22a]** and the Afghanistan Rights Monitor (ARM) Mid-Year Report Civilian Casualties of Conflict January-June 2010 **[103a]** unless otherwise indicated.

The Taliban ("Quetta Shura Taliban")

The CRS report, dated 22 September 2011, stated:

"The core of the insurgency remains the Taliban movement centered around Mullah Umar, who led the Taliban regime during 1996-2001. He and many of his top advisers reportedly run the insurgency from their safe haven in Pakistan, possibly the city of Quetta, according to Afghan officials, thus accounting for the term usually applied to Umar and his aides: 'Quetta Shura Taliban' (QST). Some, such as Mullah Dadullah, his son Mansoor, and Mullah Usmani have been killed or captured. Others, such as Mullah Hassan Rahmani, former Taliban governor of Qandahar, are said to have come under some Pakistani pressure to refrain from militant activities…

"Some believe that Umar and his inner circle blame their past association with Al Qaeda for their loss of power and want to distance themselves from Al Qaeda. Other experts see continuing close association that is likely to continue were the Taliban movement to return to power. It is unclear how this internal Taliban debate might be affected by the death of Al Qaeda founder Osama bin Laden on May 1, 2011. Some within the movement might argue that his removal from the regional picture might lessen international military pressure on the Taliban. Others might argue that his death will lead to a weakening of Al Qaeda in the immediate region and association with Al Qaeda has little value to the Taliban effort. Even before the death of bin Laden, U.S. officials argued that the successes produced by the U.S. 'surge' in Afghanistan were causing some Taliban leaders to mull the concept of a political settlement. 'Preliminary' talks were reported as of March 2011 with figures purporting to represent the QST, as discussed later in the section on 'reconciliation.'" **[ ] (p16-17)**

Al Qaeda/Bin Laden

The CRS report, dated 22 September 2011, stated:

"U.S. officials have long considered Al Qaeda to have been largely expelled from Afghanistan itself. This view was enhanced by the May 1, 2011, death of bin Laden. U.S. commanders have, for several years, characterized any Al Qaeda militants in Afghanistan as facilitators of militant incursions into Afghanistan rather than active fighters in the Afghan insurgency. Then-Director of Central Intelligence (now Defense Secretary) Leon Panetta said on June 27, 2010, that Al Qaeda fighters in Afghanistan itself might number 50-100. Contradicting those comments to some extent, NATO/ISAF officials said in October 2010, that Al Qaeda cells may be moving back into remote areas of Kunar and Nuristan provinces, particularly in areas vacated by U.S.-led forces. Press reports in April 2011 added that some Al Qaeda training camps may have been established inside Afghanistan, but then top U.S. and NATO commander in Afghanistan General Petraeus tried to refute these stories on April 10, 2011, by saying that the Al Qaeda presence in Afghanistan remains small at 'less than 100 or so.' Some of the Al Qaeda fighters are believed to belong to Al Qaeda affiliates such as the Islamic Movement of Uzbekistan (IMU)…

"U.S. efforts to find Al Qaeda leaders are expected to now focus on his close ally Ayman al-Zawahiri, who is also presumed to be on the Pakistani side of the border and who was named new leader of Al Qaeda in June 2011. CNN reported October 18, 2010, that assessments from

the U.S.-led coalition said Zawahiri (and bin Laden) was likely in a settled area near the border with Afghanistan, and not living in a very remote uninhabited area. A U.S. strike reportedly missed Zawahiri by a few hours in the village of Damadola, Pakistan, in January 2006, suggesting that there was intelligence on his movements. Many observers say that Zawahiri is not well liked within Al Qaeda and may have trouble holding the leading figures of the group together. Other senior Al Qaeda leaders are either in or are allowed to transit or reside in Iran. Among them are Al Qaeda's former spokesman, Kuwait-born Sulayman Abu Ghaith, as well as Sayf al Adl." **[22a] (p17-18)**

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Hikmatyar Faction

The CRS report, dated 22 September 2011, stated:

"Another 'high value target' identified by U.S. commanders is the faction of former mujahedin party leader Gulbuddin Hikmatyar (Hizb-e-Islami Gulbuddin, HIG) allied with Al Qaeda and Taliban insurgents. As noted above, Hikmatyar was one of the main U.S.-backed mujahedin leaders during the Soviet occupation era. Hikmatyar's faction received extensive U.S. support against the Soviet Union, but is now active against U.S. and Afghan forces in Kunar, Nuristan, Kapisa, and Nangarhar provinces, north and east of Kabul. On February 19, 2003, the U.S. government formally designated Hikmatyar as a 'Specially Designated Global Terrorist,' under the authority of Executive Order 13224, subjecting it to financial and other U.S. sanctions. It is not designated as a 'Foreign Terrorist Organization' (FTO).

"Hikmatyar has expressed a willingness to discuss a cease-fire with the Karzai government since 2007, and several of Karzai's key allies in the National Assembly are members of a moderate wing of Hikmatyar's party. While U.S. commanders continue to battle Hikmatyar's militia, on March 22, 2010, both the Afghan government and Hikmatyar representatives confirmed talks in Kabul, including meetings with Karzai. The speaker of the lower house, Abdul Raouf Ibrahimi, is said to be a member of this group. In January 2010, Hikmatyar outlined specific conditions for a possible reconciliation with Karzai, including elections under a neutral caretaker government following a U.S. withdrawal. Some close to Hikmatyar apparently attended the consultative peace loya jirga on June 2-4, 2010, which discussed the reconciliation issue..." **[22a] (p18-19)**

The Afghanistan Rights Monitor (ARM) *Mid-Year Report Civilian Casualties of Conflict January-June 2010* stated:

"The Hizb-e-Islami Hikmatyar (HIH) insurgent group is the oldest militant gang with deep ideological, political and strategic ties with the ISI and other Pakistani military establishments. It also receives financial support from extremist individuals and groups in the wealthy Arab countries. HIH fighters are active in the northern provinces of Kunduz and Baghlan and in Logar, Kunar and Maidan Wardak provinces. Gulboddin Hekmatyar, Hizb's reclusive leader and a veteran Jehadi leader backed by Washington in 1980s against the Soviets, has long used armed violence for political gains. Compared to the IEA and the HG, the HIH is less active on the battle ground but is more active in attacking soft targets such as female students and civilian government employees." **[103a] (p9)**

Haqqani Faction

The CRS report, dated 22 September 2011, stated:

"Another militant faction, cited repeatedly as a major threat to stabilization efforts in Afghanistan, is the 'Haqqani Network' led by Jalaludin Haqqani. As a mujahedin commander during the U.S.-backed war against the Soviet Union, he was a U.S. ally. He subsequently joined the Taliban regime (1996-2011) and served as Minister of Tribal Affairs in that government. Since the ousting of the Taliban regime in 2001, he has been a staunch opponent of the Karzai government and his faction is believed closer to Al Qaeda than to the ousted Taliban leadership in part because one of his wives is purportedly Arab. Press reports indicate that the few Al Qaeda fighters that are in Afghanistan are mostly embedded with Haqqani fighters. Now led mostly by his sons, Siraj (or Sirajjudin) and Badruddin, the faction is most active around its key objective, Khost city, capital of Khost Province. Another Haqqani brother, Mohammad, was reportedly killed by a U.S. unmanned vehicle strike in late February 2010, although Mohammad was not thought to be a key militant commander. On August 16, 2011, the Obama Administration designated a Haqqani member, Mullah Sangeen Zadran, 'shadow governor' of Paktika Province, as a Specially Designated Global Terrorist (SDGT). It is estimated that there may be as many as 3,000 Haqqani fighters.

"Suggesting it may act as a tool of Pakistani interests, the Haqqani network has primarily targeted Indian interests. It claimed responsibility for two attacks on India's embassy in Kabul (July 2008 and October 2009), and reportedly was involved, possibly with other groups, on the December 2009 attack on a CIA base in Khost that killed seven CIA officers. U.S. officials attribute the June 28, 2011, attack on the Intercontinental Hotel in Kabul and a September 10, 2011, truck bombing in Wardak Province to the group. U.S. officials say the attacks on the U.S. Embassy and ISAF [international Security Assistance Force] headquarters in Kabul on September 13, 2011, were the work of the faction as well. Some believe the group may have also been responsible for the September 20 killing of Professor Rabbani. That the faction has a degree of protection in the North Waziristan area of Pakistan and alleged ties to Pakistan's Inter-Services Intelligence Directorate (ISI) were causes of sharp U.S. criticism of Pakistan - in particular by Secretary of Defense Panetta and Joint Chiefs of Staff Chairman Mullen - following the September 2011 attacks on the U.S. Embassy. Admiral Mullen testified before the Senate Armed Services Committee on September 22, 2011, that the Haqqani network acts 'as a veritable arm' of the ISI. The ISI is believed to see the Haqqanis as a potential ally in any new Afghan political structure that might be produced by a political settlement in Afghanistan.

"In addition to pressing Pakistan to deny the group safehaven, U.S. officials say they are continuing to pressure the Haqqani network with military action in Afghanistan and air strikes on the Pakistani side of the border, as well as with direct ground action, such as a raid in late July 2011 that reportedly killed over 80 Haqqani network militants. During a visit to Afghanistan on July 31, 2011, Chairman of the Joint Chiefs of Staff Mullen said that recent U.S. efforts to prevent the movement of Haqqani fighters from Pakistan into Afghanistan were yielding successes.

"Pakistan reportedly arrested a minor family member (Nasruddin Haqqani) in December 2010 – a possible indication that Pakistan senses U.S. pressure for increased action against the network. However, the faction is viewed as resilient and able to tap a seemingly infinite pool of recruits.

"The faction has generally been considered least amenable to a political settlement with the Afghan government, but it is possible that the May 1, 2011, raid that killed Osama bin Laden will reinforce those within the faction who might want to reassess that stance. To facilitate such a reassessment by the faction, in July 2010, General Petraeus advocated that the Haqqani network be named as an FTO [Foreign Terrorist Organization] under the Immigration and

Naturalization Act. Such a move would be intended to signal to Pakistan that it should not continue to support the Haqqani network. In May 2011, there were reports that ISI [Pakistan Inter Services Intelligence] is pushing the Haqqani network to join nascent settlement talks under way between the Afghan government and other insurgent factions. Siraj Haqqani said after the September 13, 2011, attacks on the U.S. Embassy that the faction might, at some point, participate in settlement talks, although many doubt that intent in light of the recent high profile attacks by the group." **[22a] (p19-20)**

The Afghanistan Rights Monitor (ARM) *Mid-Year Report Civilian Casualties of Conflict January-June 2010* stated that the Haqqani Group had:

"… regularly and systematically targeted Indian diplomatic and nondiplomatic facilities and personnel in Afghanistan. The group was reportedly behind a high-profile attack on a private guesthouse in Kabul city on 26 February [2010] in which several Indian nationals were residing. The HG takes almost all of its operational directives from outside Afghanistan and does not interact with local people. The HG is more of a criminal proxy initiated, backed and managed by the Pakistani Inter-Services Intelligence (ISI) for specific anti-Indian objectives. **[103a] (p9)**

See also Section 10: Security forces

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Annex D

PROMINENT PEOPLE (UPDATED TO OCTOBER 2011)

Information on governmental departments and staff can be located on the website of the Islamic Republic of Afghanistan Office of the President. **[30]**

Hamid Karzai (President)

"Hamid Karzai, who was sworn in as Afghanistan's first elected president in December 2004, is a moderate Pashtun leader from Kandahar.

"A charismatic and stylish member of the influential Popolzai tribe, he has built up a considerable international profile, especially in the West and is backed by the United States. But some at home view his closeness to America with suspicion and distrust. He initially supported the Taleban but hardened against them after the assassination of his father, a former politician, for which the Taleban was widely blamed." (BBC News, 20 November 2008) **[28o]**

Yunnus Qanuni

"Former minister, Mr Qanuni is now the Speaker of the Wolesi Jirga, the lower house of parliament. Seen by some as the most serious contender to Mr Karzai, he stood against him in the presidential elections of 2004.

"A key figure in the Northern Alliance in the immediate aftermath of the fall of the Taleban, Mr Qanuni first held the powerful post of interior minister but later moved to the education ministry. Differences with President Karzai led to his resignation from the cabinet, following which he formed his own political party, Afghanistan-e-Naween. Though unable to hold together a political alliance which could provide a formidable challenge to the Karzai government, Mr Qanuni has been too powerful to be completely marginalised." (BBC News, 20 November 2008) **[28o]**

Sibghatullah Mojaddedi

"A former mujahideen leader, Mr Mojadidi is the Speaker of the upper house of parliament, the Meshrano Jirga. He has played an important and influential part since the fall of the Taleban.

"He was made chairman of the constitutional Loya Jirga in 2003, a delicate process which involved reconciling the interests of Afghanistan's different ethnic groups. Since March 2005, he has headed Afghanistan's National Peace Commission, the body for implementing the process of national reconciliation through the surrender and absorption of former Taleban members." (BBC News, 20 November 2008) **[28o]**

General Rashid Dostum

"The Uzbek general who was one of the most powerful warlords with an independent military base in the north remains a powerful figure in the country. Mr Dostum still heads the Junbesh-e Melli Islami (National Islamic Movement), a predominantly Uzbek militia faction. He was one of the most high-profile candidates to challenge Mr Karzai in the presidential elections in October 2004.

"A veteran of many wars, he has displayed an uncanny ability to switch sides and stay on the right side of those in power. In the 1980s Gen Dostum backed the invading forces of the Soviet Union against the mujahideen rebels. He then played a prominent role in the civil war that destroyed much of the capital, Kabul, and left thousands dead. In 2001, while helping the United States, his militias were accused of suffocating hundreds of Taleban prisoners to death by locking them inside shipping containers." (BBC News, 20 November 2008) **[28o]**

Marshall Mohammed Qasim Fahim

"The former defence minister used to be one of the most powerful men in the country but has been sidelined. He lost his place in the cabinet and is now a member of the upper house. Gen Fahim commanded thousands of men loyal to the Tajik-dominated Northern Alliance that helped topple the Taleban in late 2001. He was widely expected to be named as one of President Karzai's running mates in the 2004 presidential poll, but ended up backing the main challenger, fellow Tajik Yunus Qanuni.

"He was head of intelligence of the Northern Alliance and succeeded General Ahmad Shah Masood, who was assassinated shortly before the 11 September attacks on the US." (BBC News, 20 November 2008) **[28o]**

General Atta Mohammad

"An arch rival of Gen Dostum, Atta Mohammad is the governor of the northern province of Balkh. Their bitter history goes back to the days of the Soviet occupation, when they fought on opposite sides. A former teacher, Gen Atta briefly joined forces with Gen Dostum to recapture Mazar-e-Sharif from the Taleban in 2001. For now, he remains a key regional player in Afghanistan with considerable influence." (BBC News, 20 November 2008) **[28o]**

Gul Agha Sherzai

"Nangarhar province Governor Gul Agha Sherzai commands considerable loyalty among the Pashtuns in Kandahar, the city he controlled before the Taleban took power in 1994. Within hours of the Northern Alliance taking control of Kabul in 2001, Sherzai entered and took control of the southern city. In December 2004, he was appointed as governor of Kandahar with an added, though symbolic, portfolio of minister adviser to Mr Karzai. His reappointment became controversial and human rights groups have accused Mr Sherzai of involvement in the drugs trade. Mr Sherzai was made governor of Nangarhar as part of a series of reshuffles viewed as an attempt to curb the power of the warlords." (BBC News, 20 November 2008) **[28o]**

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Masooda Jalal

"The only female candidate in the October 2003 [Sic] [2004] presidential elections, Dr Jalal was the subject of much media attention. A qualified paediatrician from Kabul, she was treating children when the Taleban came to power in 1996 and stopped women from working. Ms Jalal made her presence felt when she challenged President Karzai in the first loya jirga (grand council) after the Taleban were ousted. She was appointed minister for women's affairs in December 2004, but was dropped in the reshuffle of April 2006." (BBC News, 20 November 2008) **[28o]**

Abdul Rassoul Sayyaf

"A former mujahideen leader, Mr Sayyaf is now an elected member of parliament. Leader of the Islamic Union for the Liberation of Afghanistan, he was the only anti Taleban Pashtun leader to be part of the Northern Alliance. A hardliner, he is believed to have formed his party with Saudi backing. A former professor of Islamic law, Mr Sayyaf was the chairman of the first rebel alliance in 1980." (BBC News, 20 November 2008) **[28o]**

Gulbuddin Hekmatyar

The BBC News description of Gulbuddin Hekmatyar on 20 November 2008 stated:

"Leader of the Hezb-e Islami faction, Mr Hekmatyar is a warlord who is in hiding – evading American forces – and is believed to be somewhere along the Afghan-Pakistan border. He is opposed to President Karzai and the presence of US-led foreign forces in Afghanistan and is blamed for carrying out several major attacks in the country.

"The US labelled him a terrorist in 2003. Hekmatyar's Hezb-e-Islami was the strongest force during the years of Soviet occupation. This was largely because his party was the main benefactor of the seven official mujahideen groups recognised by Pakistan and US intelligence agencies for the channelling of money and arms. He later joined forces with General Dostum because he felt his power had been slighted by the mujahideen administration which ran the country from 1992 to 1996.

"The fighting between him and Kabul's administration at the time, controlled by the murdered Afghan commander, Ahmad Shah Masood, is said to have resulted in the deaths of more than 25,000 civilians. The faction of his party which broke away to participate in the electoral process garnered the largest number of seats." **[28o]**

Hazrat Ali

An International Council on Security and Development (Formerly known as the 'Senlis Council') report published in April 2009 described Hazrat Ali as:

"Born in 1964, he is a member of the Pashai minority. His emergence as an important leader came during the Soviet occupation – he was an Afghan army commander under the Soviet puppet regime. During the war against the Taliban he is said to have aligned with Ahmad Shah Massoud. Following the fall of the Taliban he set up the Eastern Shura (local provisional government) in the Jalalabad/Tora Bora area, where he was the 'Minister of Law and Order'. In 2001, the Pentagon is said to have asked the Shura for military help in finding Bin Laden and Al-Qaeda.

"He was appointed as police chief for Jalalabad by Karzai. In the late 2005 Wolesi Jirga election he won a seat for Nangarhar. He has a following in Nangarhar province but remains a controversial figure in many areas. He has become less prominent on the Afghan political scene in the last period." **[10b] (p32)**

Ahmed Shah Masoud [Massood] (General)

BBC News recorded on 8 September 2004 that "Commander Masood [Masoud] – known as the Lion of the Panjshir – was killed three years ago in a suicide bomb attack by two men posing as journalists. That attack – just before the 11 September [2001] bombings in the United States – was subsequently blamed on al-Qaeda and its Taleban allies. Masood remains a powerful

symbol. He was famed as a military strategist during the war against the Soviet Union and gained his nom de guerre from his dogged resistance in the Panjshir valley." **[28p]**

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Annex E

GLOSSARY OF AFGHAN WORDS AND PHRASES REFERRED IN THE MAIN NARRATIVE

BAAD Giving away a girl as "compensation" to settle a dispute between tribes or families

BACCHA BAAZI Men using harems of young boys for social and sexual entertainment

[BACHA BAZI]

BURQA Burqa is a piece of clothing that covers a woman from head to foot

HIZB –I- ISLAMI Faction led by Gulbuddin Hekmatyar was one of the most prominent of the seven Mujahedeen factions fighting the Soviet Union during the 1980s. Currently this faction is engaged in armed opposition against the Afghan authorities and international forces.

JIRGA A Pashto phrase which means a gathering of tribal elders

MAHRAM Male chaperone

MALIK Village representative, landlord

MULLAH Religious leader

MUJAHADEEN Muslim guerrilla warriors engaged in jihad (holy war)

PASHTUNWALI The Pashtun code of conduct

QARYADARS Village representative

SHARIA LAW Devine law of Islam, found in the Quran and Sunna

SHI'A The second largest denomination of Islam after Sunni. In Afghanistan, Shias constitutes around 10 per cent of the total population.

SHURA A Dari phrase meaning a council of elders

ULEMA Educated religious leaders and arbiters of Sharia law

WALI provincial governor

WOLUSWAL District Governor

ZINA Act of sexual intercourse outside of a valid marriage (Article 427, Penal Code) [18c] (piii)

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Annex F

LIST OF ABBREVIATIONS

AI	Amnesty International
ANDS	Afghanistan National Development Strategy
ASOP	Afghanistan Social Outreach Program
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
DPO	Disabled Persons Organisation
EU	European Union
EBRD	European Bank for Reconstruction and Development
ERW	Explosive Remnants of War
FCO	Foreign and Commonwealth Office (UK)
FGM	Female Genital Mutilation
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDLG	Independent Directorate for Local Government
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
MoIC	Ministry of Information and Culture
MoPH	Ministry of Public Health
MoLSA	Ministry of Labour and Social Affairs
MSF	Médecins sans Frontières
MoWA	Ministry of Women's Affairs
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organisation for Security and Cooperation in Europe
RSF	Reporters sans Frontières
STD	Sexually Transmitted Disease
STC	Save The Children
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime

UNPF	United Nations Population Fund
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

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Annex G

British
High Commission
Islamabad

12 August 2010

Subject: Obtaining forged Afghan documents in Pakistan

I, [deleted], Project Officer, British High Commission, have done some research on "Forged Afghan documents being obtained in Pakistan". Based on this research, Afghan and foreigners are reportedly using stolen or forged Afghan Passports for facilitated illegal movements and smuggling of goods. Illegal usage of Afghan passports includes the following scenarios:

Passports:

- Duplicate passports being manufactured in Pakistan, Iran and India and later sold on in the black market; and
- Passports being stolen from Afghan consulate

Visas:

- Visas being forged in Pakistan and
- Pakistani visas (also used by Afghan) being forged in Pakistan

Afghan documents being issued (Authentic or non-Authentic) in Pakistan and information such as to what extent they are being issued.

We've also been informed by a number of caseworkers that some asylum applicants that have been interviewed have said that they have obtained their documents in Pakistan. On this issue, following information could be obtained;

"Afghans used to had Pass Book (Identity Card/registration card) issued by Commissionerate Afghan Refugees (CAR) in the camps. Though the possibility of forging this document was minimal but the likelihood of bribing the CAR officials for obtaining/replacing could have not been ruled out. This document is no more issued (attachment 1).

The second attachment is the Ration Card issued to Afghan refugees for obtaining food support. This document was also forged in the past to receive food assistance in the camps. The food assistance stopped in 1995."

Source of the Information: [deleted], Protection Officer, UNHCR

According to the Information Centre on Asylum and Migration of the German Federal Office for the Recognition of Foreign Refugees, most asylum applicants from Pakistan obtained forged and/or falsified travel documents from traffickers who made all of the travel arrangements and supplied them with a passport, visa and flight tickets. The German Federal Office went on to say that;

- The traffickers doing their "business" in Pakistan are mostly Pakistani nationals. Occasionally, also Afghan, Indian and Iranian citizens appear in this context.
- The costs for trafficking – including the supply of the necessary documents – are mostly paid in Pakistani rupees. The sums claimed are up to 1.2 Mio. Rupees [$28,243.80 CAD (Universal Currency Converter 18 June 2004)]. US-$ or Euro play a minor role in this context.

Source of the Information: Germany. Federal Office for the Recognition of Foreign Refugees. Correspondence from the Information Centre on Asylum and Migration. 30 March 2004
http://www.unhcr.org/refworld/country,,IRBC,,PAK,,4784deefc,0.html

The following cases are from a non-exhaustive list of examples of cases of where fraudulent or forged documents have been used, as reported by various media sources from 2004 – 2007:

- A Pakistani man was caught at the Dubai airport trying to smuggle an Afghan woman and several children to Britain; authorities found that the visas stamped in the Pakistani passports of the Afghan passengers were forged (ibid. 17 June 2005);

- One Afghan national attempting to travel with a Pakistani passport and a Pakistani national attempting to travel with an Afghan passport were arrested at the Peshawar airport; the Afghan national also had a fake national identity card (ibid. 12 Oct. 2005);

Source of the Information: *The Daily Times* [Lahore]. 17 June -12 October 2005. "6 Travelers Caught at Airports."
http://www.unhcr.org/refworld/country,,IRBC,,PAK,,4784deefc,0.html

Costs to obtain a fraudulent document, where are they being obtained?

The widely forged document was the national Identity Card (Tazkira), which was even available in Islamabad. The cost for obtaining it ranged from Rs.200-1000. .

Following issuance of Proof of Registration (PoR) cards in 2007 by NADRA with financial assistance of UNHCR, there are reports of forging this as well. Reportedly forged PoR card can be obtained by paying 2000 to 5000 PKR. Sample PoR card is attached for easy reference. (Attachedment-3)

Source of the Information: [deleted], Protection Officer, UNHCR

Afghan Consulate Officials in Pakistan selling passports

The following excerpts are from a webpage, indicating involvement of Afghan consulate in illegal sale of documents and prevalence of fraudulent documents in Pakistan.

Zahedi is a journalist active with Kabulpress.org. During his recent visit to Quetta, he offered to help a family member who needed a document to confirm their nationality from the Afghan Consulate there. Initially, the staff refused to provide this document, but pressing further, he met with the second in command of the Consul, Mr. Pashtun. He was told that he could have the letter if he paid 30,000 Pakistani Rupees, which is $372 U.S.

A young man, about 25 years old, said that he had been denied an Afghan passport, but met with Mr. Pashtun, and after paying Mr. Pashtun 9,000 Rupees received his passport

The consul has a secret price list for documents. A passport can be had for 9,000 rupees and 3 photos. A one-page letter from embassy to embassy confirming an individual is an Afghan citizen costs 30,000-50,000 rupees. A to-whom-it may-concern letter confirming Afghan citizenship costs 5,000 rupees.

Source of the Information:http://kabulpress.org/my/spip.php?article3611

ANNEX H

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